COMMISSION DECISION No 379/84/ECSC

of 15 February 1984

defining the powers of officials and agents of the Commission instructed to carry out the checks provided for in the ECSC Treaty and decisions taken in application thereof

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 47 thereof,

Whereas it is necessary to define the scope of the powers to obtain information and carry out checks provided for in the first paragraph of Article 47 of the Treaty, without prejudice to the rights and powers referred to in the fourth paragraph of Article 86;

Whereas it is the task of the Commission to ensure that the objectives set out in the Treaty are attained, and in particular that undertakings fulfil the obligations imposed on them by the provisions of the Treaty and the decisions taken in application thereof;

Whereas in order to determine whether undertakings are acting in accordance with such obligations, it is necessary to carry out physical inspections and checks on their books;

Whereas such checks and inspections can be effective only if the facts and operations of which the Commission may need to have cognisance can be ascertained from undertakings' business records, including records held in automated systems of any kind; whereas the use of data-processing techniques is likely to facilitate the execution of the inspections for both parties;

Whereas undertakings must not be allowed to evade their obligations with regard to inspections by depositing their business records away from the undertaking; whereas they must therefore also permit access to such records in these cases;

Whereas it is not always possible to evaluate the material inspected whilst on the undertaking's premises and in such cases it is necessary to make copies or photocopies of or take extracts from the books or business records concerned;

Whereas in order for inspections to be rapid and effective, undertakings' managers or representatives should be required to give oral explanations on the spot to the officials or agents of the Commission;

Whereas, to ensure that all required information is collected, the Commission's officials or agents must be allowed to enter any premises, land or means of transport of the undertaking concerned, and of any third party with whom its books or business records have been deposited, and in so doing to have sight of the said books and business records so as to be able to select all those that are relevant and are to be produced for inspection;

Whereas, in order that inspections can be conducted efficiently, undertakings must actively assist the Commission's officials or agents in carrying out their duties;

Whereas the information required may be determined only according to the purpose for which the check in question is intended;

Whereas checks should be allowed to proceed rapidly, smoothly and without interruption; whereas they should therefore be possible upon simple production of an authorization in writing from the Commission, without an individual decision being required for this purpose;

Whereas this Decision is without prejudice to the various other Decisions in force concerning inspections,

HAS ADOPTED THIS DECISION:

Article 1

1. Officials and agents of the Commission instructed to carry out the checks on undertakings provided for in the first paragraph of Article 47 of the Treaty are hereby empowered:

(a) to examine books and business records to the extent necessary for the purpose of the check, including records held in automated systems of any kind, wherever such books or business records are kept;

(b) to take copies or photocopies of or extracts from the books and business records, including data stored in automated systems of any kind;

(c) to require oral explanations on the spot;

(d) to enter any premises, land or means of transport of undertakings, and of any third party with whom books or business records have been deposited, and in so doing to have sight of the said books and business records so as to be able to select all those that are relevant and are to be produced for inspection.

2. Undertakings shall assist officials and agents of the Commission in carrying out their duties.

Article 2

Officials and agents of the Commission instructed to carry out checks shall exercise their powers upon production of an authorization in writing specifying the purpose of the check.

Article 3

Undertakings shall comply with the obligations imposed by Article 1 of this Decision without an individual decision being required for that purpose, failure to do so rendering them liable to the fines and penalties provided for in the third paragraph of Article 47 of the Treaty.

Article 4

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Decision shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 February 1984.

For the Commission

Frans ANDRIESSEN

Member of the Commission