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(Acts whose publication is obligatory)

COMMISSION DECISION No 2804/81/ECSC

of 23 September 1981

amending for the second time Decision No 1831/81/ECSC establishing for undertakings in the iron and steel industry a monitoring system and a new system of production quotas in respect of certain products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 1831/81/ECSC of 24 June 1981 (1), as last amended by Commission Decision No 1832/81/ECSC (2), and in particular Article 16 (1) thereof,

Whereas:

1. When the Commission adopted Decision No 1832/81/ECSC, it observed that there had been no improvement in market conditions – on the contrary, the latest orders and information concerning economic trends pointed to a possible deterioration in the situation; the market situation was the same for both concrete reinforcing bars and merchant bars, both of which were covered by the system of production quotas introduced by Decision No 1831/81/ECSC, where they had been defined as Categories V and VI respectively; consequently, the Commission set the same production quota for each of these categories, based on the same reference production figures and the same rate of abatement, the latter having been laid down by Commission Decision No 1833/81/ECSC (3).

Concrete reinforcing bars are used exclusively by the construction industry, which has been in an extremely difficult economic situation since 1980. Since the summer of 1981 there has been a sudden severe deterioration in the situation, while the merchant bars market has remained unaffected.

Given the diverging trends on these markets, the Commission must fix different rates of abatement for concrete reinforcing bars and merchant bars respectively and set separate quotas for Categories V and VI with effect from the fourth quarter of 1981. Consequently, the reference production figures will have to be calculated separately for each of the categories concerned and Decision No 1831/81/ECSC will require to be amended accordingly.

The sudden, severe deterioration in the concrete reinforcing bars sector constitutes a radical change in the iron and steel market, as provided for by Article 16 (1) of Decision No 1831/81/ECSC.

2. The application of Decision No 1831/81/ECSC has encountered unforeseen difficulties in the sense of Article 16 (1) in the cases described below.

3. Certain undertakings' percentage share of deliveries, as compared with their total production, has changed owing to major differences between the undertakings' sales patterns over the period during which Decision No 2794/80/ECSC applied and those which existed over the best 12 months. Moreover, the undertakings' deliveries to the common market compared with its total production during the 12 best months represent much less than 100 % despite the fact that their exports have been very low.

Where this creates serious difficulties for an undertaking, the Commission must be able to take appropriate measures to correct the reference quantities or the part of the quota which may be placed on the common market in accordance with Article 8.

4. The Commission must be empowered to authorize the carry-over of unused quotas in their entirety whenever an undertaking has been unable to attain its quota owing to serious disruption of production for at least four weeks as a result of *force majeure,* e.g. a technical accident or a fire, or strike action of the same duration.

(1) OJ No L 180, 1. 7. 1981, p. 1.
(2) OJ No L 184, 4. 7. 1981, p. 1.
(3) OJ No L 184, 4. 7. 1981, p. 6.

5. In view of the fact that different undertakings have received the decisions concerning quotas for the third quarter of 1981 at different times, it is necessary to provide, by way of exception, for the third quarter of 1981, an appropriate extension of the deadlines set in Article 11 (4) for the exchange or sale of quotas and in Article 14 for the submission of requests for an adjustment to the reference production.

6. Decision No 2794/80/ECSC provided for considerable relaxation of the general rules of the quota system in order to help companies which faced exceptional difficulties as a result of that system. Decision No 1831/81/ECSC, as amended by Decision No 1832/81/ECSC, does not contain any such flexible measures, since the general rules themselves, and in particular the methods of calculation used, take better account of the specific situations of the individual undertakings.

However, the lack of fully detailed information relating to undertakings whose plants are located in Greece has made it impossible for the Commission to determine the exact nature and seriousness of the problems that they face. Article 16 of Decision No 1831/81/ECSC provides for adjustments in the method of application of the Decision wherever necessary. Although there are still no comprehensive data available, there is now clearly a danger that the current measures, and in particular Article 14, might not allow such undertakings to overcome the exceptional difficulties created by the specific situation in that country.

In Greece, industry as a whole is still in process of development; this implies that major structural changes will follow. New industries are emerging and expanding. In such a situation, the steel industry can play a particularly important part in the industrialization of the country. However, the construction industry is a decisive element in steel consumption and the cyclical variations in that industry force the Greek steel industry to make constant efforts to adjust, with concomitant fluctuations in production and investment. The fact that the new system of production quotas does not contain such a far-reaching derogation clause as its predecessor must not be allowed to jeopardize the success of such important efforts to adjust or to make adjustment impossible. However, the Commission should relax the quotas only where individual undertakings or categories of products face specific difficulties.

7. The definition of one of the products in Category I a has shown itself to be incomplete. Consequently, some parts of the Decision must be amended under the procedure provided for by Article 16 (1).

8. Also, the definition of the producers covered by Article 7 has given rise to different interpretations. This category must therefore be clearly defined.

HAS ADOPTED THIS DECISION:

Article 1

Decision No 1831/81/ECSC is hereby amended as follows:

1. The first sentence of Article 7 (1) shall be replaced by the following:

'The production of the 12 best months shall be taken as the reference production of products falling into Categories Ia, Ib, Ic and Id by undertakings not engaged in the production of hot-rolled wide strip and narrow strip rolled on specialized mills.'

2. In Article 7 (2) after the words 'Categories Ia' there shall be added the words 'third and fourth indents'.

3. Article 7a shall be amended as follows:

(i) The existing text of the Article shall be designated paragraph 1 and the opening words, i.e. 'The reference production for Categories V and VI shall be calculated as follows' shall be replaced by the following:

'1. In order to provide a basis for fixing the production quotas for the third quarter of 1981, the reference production for Categories V and VI shall be calculated as follows'.

(ii) A second paragraph shall be added to Article 7a, as follows:

'2. In order to provide a basis for fixing the production quotas with effect from the fourth quarter of 1981, the reference production for Categories V and VI shall be calculated as follows:

(a) as regards the reference production for Category V:

— account shall be taken of the quotas allocated by the Commission during the period of application of Decision No 2794/80/ECSC, including all the adjustments granted for the products in Group IV, as defined in Article 2 of the abovementioned Decision, with the exception of the products included in Categories IV (wire rod) and VI (merchant bars) of this Decision,

— these quotas shall be used to reconstitute the relevant reference production figures on the basis of the abatement rates in force during the three quarters in question,

— the ratios between these reconstituted reference production figures and the reference production figures established pursuant to Article 4 (1) of the abovementioned Decision (excluding wire rod and merchant bars) shall constitute the correction factors,

— the average of these correction factors shall be applied to the reference production calculated in accordance with Article 4 (1) (excluding wire rod and merchant bars) in respect of the third quarter of 1981, in order to determine the reference production corrected for that quarter,

— the sum total of the reconstituted reference production figures for the three quarters during which the abovementioned Decision applied and the corrected reference production figures for the third quarter of 1981 shall constitute the annual corrected reference production;

(b) as regards the reference production for Category VI:

— account shall be taken of the quotas allocated by the Commission during the period of application of Decision No 2794/80/ECSC, including all the adjustments granted for the products in Group IV, as defined in Article 2 of the abovementioned Decision, with the exception of the products included in Categories IV (wire rod) and V (concrete reinforcing bars) of this Decision,

— these quotas shall be used to reconstitute the relevant reference production figures on the basis of the abatement rates in force during the three quarters in question,

— the ratios between these reconstituted reference production figures and the reference figures established pursuant to Article 4 (1) of the abovementioned Decision (excluding wire rod and concrete reinforcing bars) shall constitute the correction factors,

— the average of these correction factors shall be applied to the reference production calculated in accordance with Article 4 (1) (excluding wire rod and concrete reinforcing bars) in respect of the third quarter of 1981, in order to determine the reference production corrected for that quarter,

— the sum total of the reconstituted reference production figures for the three quarters during which the abovementioned Decision applied and the corrected reference production figures for the third quarter of 1981 shall constitute the annual corrected reference production.

In the case of undertakings which did not come under the production quota system during the fourth quarter of 1980, the calculations referred to in the first, second and third indents of subparagraphs (a) and (b) above shall be based on the first and second quarter of 1981.

The calculations referred to in the fourth indent of subparagraphs (a) and (b) shall be made for the fourth quarter of 1980 and for the third quarter of 1981. The aggregate of the reconstituted reference production figures for the first and second quarters of 1981 and of the corrected reference production figures for the fourth quarter of 1980 and the third quarter of 1981 shall represent the annual corrected reference production of those undertakings.'

4. The existing text of Article 8 shall be designated paragraph 1 and a second paragraph shall be inserted as follows:

'2. If an undertaking can prove that the reference quantities fixed in accordance with paragraph 1 have caused it grave difficulty, the Commission may make appropriate adjustments to the reference quantities for the undertaking concerned in cases where:

— there has been a change of more than 20 % in the percentage of the undertaking's total deliveries as compared with its total production owing to differences between the undertaking's sales pattern over the period during which Decision 2794/80/ECSC applied and that which existed over the 12 best months, or

— the undertaking did not export more than 5 % of its total production to non-Community countries over the 12 best months and its deliveries to the common market account for less than 90 % of its total production over the best 12 months.'

5. The following text shall be added to Article 11 (3):

'Where an undertaking is unable to attain its production quotas during the quarter in question and can prove that this is the result of *force majeure,* the Commission may authorize the undertaking concerned to carry over the unused quotas in their entirety.'

6. The following shall be added to Article 11 (4):

'As an exceptional measure for the third quarter of 1981 the deadline shall be extended from two months to the end of this quarter.'

7. The following shall be added to Article 14:

'By way of exception, for the third quarter of 1981, the request may be made during the month following the date on which the undertaking has received the notification of its quotas.'

8. The following shall be inserted after Article 14:

'Article 14a

Where the Commission finds, following receipt of a request from an undertaking whose plants are located in Greece, that the production quota system is causing the undertaking concerned exceptional difficulties likely to prevent it from adapting to the structural developments in that country's economy, the Commission shall make an appropriate adjustment to the reference production figures for the undertaking and products in question.'

9. The words 'hot-rolled wide strip for processing into . . .' shall be inserted in front of the words 'cold-rolled plate of 3 mm and over' or 'cold-rolled material of 3 mm or over' in the following places:

— Article 1, second paragraph, fifth indent,

— Annex I, second page, fourth indent, next to line '167' in the 'Questionnaire Eurostat 2.13' column,

— Annex II, questionnaire 313, second page, next to code '11104',

— Annex II, questionnaire 314, second page, next to code '11104',

— Annex III, questionnaire 371, first page, next to code '11104' in the 'In the Community incl. national markets' column,

— Annex III, questionnaire 375, first page, next to code '11104' in the 'In the Community incl. national markets' column.

The words 'first and second indents' in the first and second subparagraphs of Article 11 (6) shall be replaced by 'first, second or fifth indent'.

Article 2

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, 23 September 1981.

For the Commission
Étienne DAVIGNON
Vice-President