

Council Decision 2003/77/EC (1 February 2003)

Caption: Council Decision of 1 February 2003 laying down multiannual financial guidelines for managing the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel (2003/77/EC).

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Council Decision of 1 February 2003 laying down multiannual financial guidelines for managing the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel (2003/77/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Protocol annexed to the Treaty establishing the European Community on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel,

Having regard to Council Decision 2003/76/EC of 1 February 2003 establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel⁽¹⁾, and in particular Article 2(2) thereof,

Having regard to the proposal from the Commission⁽²⁾,

Having regard to the opinion of the European Parliament⁽³⁾,

Whereas:

(1) For the purposes of the Protocol annexed to the Treaty establishing the European Community on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, the Commission shall manage the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel.

(2) The management of these assets should be aimed at the highest possible yield that is compatible with security.

(3) The entire capital of the Assets of the Research Fund for Coal and Steel, yielded by the liquidation, should be preserved intact.

(4) The management of the transferred assets should take account of the experience gained in conducting the financial operations of the European Coal and Steel Community, and the multiannual financial guidelines for managing the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel should therefore be based on this experience,

HAS ADOPTED THIS DECISION:

Article 1

The multiannual financial guidelines for managing the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel (hereinafter referred to as the 'financial guidelines') are set out in the Annex.

Article 2

The financial guidelines shall be reviewed or supplemented, if appropriate, every five years, first period ending on 31 December 2007. To this end, and at the latest in the first six months of the last year of each five-year period, the Commission shall reassess the operation and effectiveness of the financial guidelines and shall propose any appropriate amendments.

If it sees fit, the Commission may carry out such reassessment and shall submit proposals for any appropriate amendments to the Council before the expiry of the five-year period.

Article 3

This Decision shall take effect on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 24 July 2002.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 1 February 2003.

For the Council
The President
G. PAPANDREOU

Annex – Financial guidelines for managing the Assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel

1. Use of Funds

(a) The assets of the ECSC in liquidation, including both its loan portfolio and its investments, shall be used as necessary to meet the remaining obligations of the ECSC, in terms of its outstanding borrowings, of its commitments resulting from previous operating budgets, and of any unforeseeable liability.

(b) To the extent that the assets of the ECSC in liquidation are not needed to meet obligations as described in (a), they shall be invested so as to provide income to be used to fund the continuation of research in the sectors related to the coal and steel industry.

(c) The Assets of the Research Fund for Coal and Steel shall be invested so as to provide income to be used to fund the continuation of research in the sectors related to the coal and steel industry.

2. Allocation of Assets

Pursuant to point 1, the Commission will allocate the assets between the following three categories:

(a) reserves needed to provide an assurance to the creditors of the ECSC that all of its outstanding borrowings and the interest thereon will be paid in full on their due date, thus enabling the obligor to maintain its 'AAA' rating or its equivalent;

(b) funds needed to guarantee the disbursement of all amounts legally engaged under the Operating Budget of the ECSC prior to the end of the ECSC Treaty;

(c) to the extent that funds are no longer needed for the above purposes (due either to the reimbursement of borrowings or payment of interest without call on the reserves or the eventual cancellation of budgetary obligations) such funds will be allocated to investment categories.

3. Investment categories

The assets referred to in point 2 are to be invested in such a way as to ensure that funds are available as and when needed, while still generating the highest return available, consistent with maintaining a high degree of

security and stability over the long-term.

(a) To obtain these objectives, investment in the following asset categories only shall be permitted:

(i) term deposits with authorised banks;

(ii) money market instruments, with a final maturity of less than one year, issued by authorised banks or by other categories of authorised issuers;

(iii) fixed and floating rate bonds, with a maturity not exceeding 10 years, provided that they are issued by any of the categories of authorised issuers;

(iv) equity shareholdings in authorised collective investment funds, provided that such investments are limited to funds whose aim is to respond to the performance of a financial index and only for the investments referred to in point 2(c).

(b) The Commission may also make use of the following operations in respect of the asset categories set out in (a):

(i) repurchase and reverse repurchase agreements, provided the counterparts are authorised for such transactions, and provided that:

– securities held under such contracts may not be re-sold to parties other than the contracting counterparty prior to the contractual deadline, and

– the Commission remains in a position to re-purchase securities that it may have sold at the contractual deadline;

(ii) bond lending operations, but only under the conditions and procedures laid down by recognised clearing systems such as Clearstream and Euroclear, or by leading financial institutions specialising in this type of operations, subject to prudential rules considered as being equivalent to Community rules.

(c) ‘Authorised’ counterparts, as the term is used in these guidelines are those selected by the Commission under its rules and procedures referred to in point 7.

4. Investment limits

(a) The investment shall be limited to the following amounts:

(i) for bonds issued or guaranteed by Member States or institutions of the Union, EUR 250 million per Member State or institution;

(ii) for bonds issued or guaranteed by other sovereign or supranational borrowers, with a credit rating of not less than ‘AA’ or its equivalent, EUR 100 million per issuer or guarantor;

(iii) for deposits with and/or debt instruments of an authorised bank, the lower of either EUR 100 million per

bank or 5 % of the bank's own funds;

(iv) for bonds of corporate issuers with a credit rating of not less than 'AAA' or its equivalent, EUR 50 million per issuer;

(v) for bonds of corporate issuers with a credit rating of not less than 'AA' or its equivalent, EUR 25 million per issuer;

(vi) for holdings of collective investment funds with a credit rating of not less than 'AA' or its equivalent, EUR 25 million for each such vehicle.

(b) The investment in any single bond issue, subject to the limits given in (a), shall not be more than 20 % of the total amount of such issue.

(c) The investment in any single counterparty, subject to the limits given in (a), and cumulated between instruments where necessary, shall not be more than 20 % of the total assets.

(d) The ratings referred to in these guidelines shall be those applied by at least one of the major international credit rating agencies, as generally understood.

5. Transfer to the budget of the European Union

The net revenue will be committed to the general budget of the European Union as dedicated revenue and will be transferred from the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel when necessary to meet the obligations from the budget line directed to research programmes for sectors related to the coal and steel industry.

6. Accounting

The management of the funds shall be accounted for in the annual profit-and-loss account and the annual balance sheet prepared for the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel. These shall be based upon generally accepted accounting principles similar to those provided for the ECSC, and in particular Fourth Council Directives 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies⁽⁴⁾ and Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions⁽⁵⁾. The accounts will be approved by the Commission and examined by the Court of Auditors. The Commission shall engage external firms to carry out an annual audit of its accounts.

7. Management procedures

The Commission shall carry out, in relation to the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel, the abovementioned management operations in accordance with these guidelines and under its internal rules and procedures in force for the ECSC at the time of its dissolution or as modified thereafter.

A detailed report on management operations carried out under these guidelines shall be drawn up every three months and sent to the Member States.

⁽¹⁾ See page 22 of this Official Journal.

⁽²⁾ OJ C 180, 26.6.2001, p. 10.

⁽³⁾ OJ C 177, 25.7.2002, p. 28.

- ⁽⁴⁾ OJ L 222, 14.8.1978, p.11. Directive as last amended by Directive 2001/65/EC (OJ L 283, 27.10.2001, p. 28).
- ⁽⁵⁾ OJ L 372, 31.12.1986, p.1. Directive as last amended by Directive 2001/65/EC.