Proposal for a Council Decision laying down multiannual financial guidelines for managing the assets of the 'ECSC in liquidation'

(2001/C 531 E/11)

(Text with EEA relevance)

COM(2000) 520 final

(Submitted by the Commission on 20 September 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Decision [. . ./. . ./ECSC] of the representatives of the governments of the Member States meeting within the Council on [...] concerning the financial consequences of the expiry of the Treaty establishing the European Coal and Steel Community, and in particular Article 3, paragraph 2, thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Whereas:

(1) For the purposes of the Decision [. . ./. . ./ECSC], the Commission shall manage the assets of the 'ECSC in liquidation' or, after the liquidation, the 'Assets of the Coal and Steel Research Fund'.

(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 Coal and Steel Research Fund', 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 these multiannual financial guidelines for the management of the assets of the 'ECSC in liquidation' should therefore be based on this experience,

HAS DECIDED AS FOLLOWS:

Article 1

The multiannual Financial Guidelines for the management of the assets of the 'ECSC in liquidation', or, after the liquidation, the 'Assets of the Coal and Steel Research Fund', hereinafter called 'Financial Guidelines', are set out in the Annex.

Article 2

If need be, the Financial Guidelines shall be reviewed or supplemented every five years, commencing from 1 January 2008. To this end, and at the latest in the first semester 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 propose any appropriate amendments before the expiry of the five-year period.

Article 3

This Decision shall take effect on 24 July 2002.

ANNEX

FINANCIAL GUIDELINES FOR THE INVESTMENT OF THE ASSETS OF THE 'ECSC IN LIQUIDATION' TRANSFERRED BY THE MEMBER STATES TO THE COMMISSION

1. **Introduction**

The Member States of the European Coal and Steel Community (ECSC), meeting in the Council, have transmitted to the European Community the assets of the ECSC, which is to be wound up, after the expiry of the Treaty, on 23 July 2002. They have charged the European Community with the task of using these assets to discharge all legal liabilities of the ECSC, and have agreed that these assets are to be managed according to their instructions in such a way as to complete this task and to provide funds for the benefit of financing continuing research in the coal and steel sectors.

The following financial guidelines are to be followed when managing these assets in order to provide for the discharge of the liabilities, and to the extent of any eventual surplus to finance the research activities.

2. **Use of funds**

All the assets of the 'ECSC in liquidation', including both its loan portfolio and its investments, are to be used as follows:

— first, such assets as necessary shall be used to meet the remaining obligations of the ECSC, both in terms of its outstanding borrowings [1] and of its commitments resulting from previous operating budgets; and

— secondly, to the extent that such assets are not needed to meet obligations as described above, they should be invested so as to provide income to be used to fund the continuation of research in the coal and steel industries.

3. **Allocation of assets**

Following from point 2 above, the Commission will allocate the financial assets received from the Member States between the following three categories:

(i) 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;

(ii) 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;

(iii) 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 a long-term investment category.

4. **Investment categories**

Financial assets allocated under this scheme 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, the following investment instruments shall be permitted, subject to the exposure limits set out below:

(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 as set out in these guidelines;

(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 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 3(iii) above.

[1] In the event of a non-performing loan, any shortfall is made good by the application of ECSC's assets.

(b) The Commission may also make use of the following operations:

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

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

(b) 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 (formerly CEDEL) and Euroclear, or by leading financial institutions specialising in this type of operation.

(c) The Commission may not undertake the following operations:

(i) purchases of precious metals or certificates representing precious metals;

(ii) purchases of real estate, except buildings occupied by EU institutions;

(iii) buying or selling of derivatives contracts.

5. **Investment limits**

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

— for obligations issued or guaranteed by Member States or institutions of the EU, EUR 250 million per Member State or institution;

— for obligations issued or guaranteed by other sovereign or supranational borrowers, with a credit rating of not less than 'AA-' or equivalent, EUR 100 million;

— for deposits with and/or monetary instruments of an authorised bank, the lower of either EUR 100 million or 5 % of the bank's own funds;

— for obligations of corporate issuers with a credit rating of not less than 'AAA', EUR 50 million;

— for obligations of corporate issuers with a credit rating of not less than 'AA-' or equivalent, EUR 25 million;

— for holdings of collective investment vehicles with a credit rating of not less than 'AA-' or equivalent, EUR 25 million for each such vehicle.

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

(c) Not more than 20 % of the total amount held shall be invested in respect of any single issuer.

(d) The abovementioned ratings should be those applied by at least one of the major international credit rating agencies, as generally understood.

6. **Transfer to EU budget**

The net balance of the income will be committed to the general budget of the EU as dedicated revenue and will be disbursed by the fund as necessary to meet the obligations from the budget line directed to research programmes for the coal and steel sectors.

7. **Investment procedures**

The Commission shall carry out, on behalf of 'ECSC in liquidation', the abovementioned investment operations according to the regulations and procedures in force for the ECSC at the time of its dissolution subject to change by the Commission, which is required by best market practice.

8. **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'. These shall be based upon generally accepted accounting principles similar to those provided for the ECSC. The accounts will be approved by the Commission and certified by the Court of Auditors. The Commission may employ an external firm to carry out an annual audit of its accounts.