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Proposal for a

COUNCIL DECISION

amending Decision 2003/77/EC 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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

According to the Annex to Council Decision 2003/77/EC of 1 February 2003[1], "(a). assets of the ECSC [European Coal and Steel Community] in liquidation 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."

Given the absence of remaining outstanding borrowings and the decline of commitments of the ECSC[2], investment activity for the purposes of generating income to fund research becomes the increasingly predominant focus of the ECSC in liquidation. Council Decision 2003/77/EC provides that the Commission shall manage the assets of the ECSC in liquidation in order 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" (*point 3 of the Annex to the Council Decision 2003/77/EC*).

The European Commission uses the returns on ECSC in liquidation to support research projects in the steel and coal sectors. However, the ability of the portfolio to generate sufficient returns to finance a meaningful research programme has come under pressure in recent years as a result of the secular decline in financial market returns. Even before the recent market deterioration caused by the Covid-19 pandemic, the portfolio was generating lower returns due to the lower interest rate environment prevailing after the financial crisis. The Covid-19 crisis has exacerbated this longer-term structural decline in expected returns. The ECSC portfolio has weathered relatively well the acute market contraction following the Covid-19 crisis, compared to peer funds, due to its relatively conservative composition. Nevertheless, this crisis will have lasting effects on expected returns and strengthens the need to look for alternative means to put the assets of the fund to work in support of EU policies.

It is against this backdrop that the Commission wishes to strengthen support for collaborative research projects in the coal and steel sector, while at the same time proposing to amend Council Decision 2008/376 to bring it in line with the objectives of the Green Deal. The Commission also wishes to support large breakthrough research projects leading to near zero-carbon steel making processes by 2030 and research projects for managing the just transition for the coal sector. A steady annual budget of EUR [111 million] is considered adequate for a programme of this nature. This is needed to provide meaningful support to worthwhile projects on the scale needed to cover of running the scheme.

Provision of regular annual allocations until the year 2027 of EUR [111 million] calls for changes in the way that the resources of the assets of the ECSC in liquidation are used and invested. The proposed changes to the current Decision will allow this level of support to

[1] OJ L 29, 5.2.2003, p.25.

[2] A new and relatively large liability came into existence with the entry into force, on 31/01/2020, of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 384I, 12.11.2019, p. 1) (Article 145 of the same). However, the magnitude of the amount is known and its impact very limited in time (five annual instalments over 2021-2025).

collaborative research projects and breakthrough research projects in the steel sector and research projects for managing the just transition for the coal sector. While these annual allocations will gradually reduce the overall amount of invested assets, a reasonable amount of investable assets will remain though for the period after 2027.

- **Recent performance and outlook for the invested assets of ECSC in liquidation:**

As of 31.03.2020, the portfolio amounts to c. EUR 1.5 BN. The size of the portfolio decreased slightly since 30.06.2012, as total returns and new contributions received were outweighed by outflows to fund research in sectors related to the coal and steel industry.

Since 2003 and until recently, the assets of the ECSC in liquidation have generated a positive return, which combined with resources available through a smoothing mechanism, has allowed annual support to research projects of EUR 50 million. As of end 2017, the performance of the portfolio since the adoption of Council Decision 2003/77/EC, as amended by Council Decision 2008/750/EC[3], has been positive: amounts were disbursed as and when requested and the return of the portfolio has been satisfactory given the market environment and generally restrictive guidelines. During the period from 01 July 2012 to 31 December 2017, the portfolio provided a cumulative positive return of +8.5%.

The return on the invested assets has consistently outperformed its benchmark, and has proved a superior alternative to investment at risk-free prevailing interest rates, which have turned negative in recent years. Indeed, the portfolio has never previously recorded annual negative performance over its life, and has gained 80% cumulated return since inception. Going forward, however, the currently low (and often negative) level of bond yields foreshadows lower expected returns in the short to medium-term and it will be challenging to even deliver positive returns.

In addition, the portfolio will further decline as established in the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the "Withdrawal Agreement") by an estimated EUR [250] million[4].

In view of this context, a different approach to the use of ECSC assets is called for in order to meet the policy objectives. This proposal puts forward two main changes:

- In line with the proposal for an amendment to Decision 2003/76/EC to allow the resources of the portfolio to be sold where necessary in order to enable payments related to an annual allocation of EUR [111 million] until the year 2027. Depending on investment conditions and evolution of the size of the portfolio, this will entail a gradual reduction of the volume of assets under management;
- To diversify the eligible investments in the portfolio in order to strengthen its risk-return performance. It is proposed to enlarge the universe of eligible assets in order to enhance expected returns for a given level of risk.

[3] OJ L 255, 23.9.2008, p. 28–30.

[4] The exact amount will be established at the beginning of 2021. According to Article 145(1) of the Withdrawal Agreement, "*The Union shall be liable to the United Kingdom for its share of the net assets of the European Coal and Steel Community in liquidation on 31 December 2020*".

- **Proposed changes to permit use of the assets where necessary to provide annual allocation of EUR [111 million]**

It is proposed to modify Decision 2003/77/EC to explicitly allow, starting from 1 January 2021[5], outflows in connection with an annual allocation of up to EUR [111 million] until the year 2027 to support research projects in the steel and coal sectors outside the research framework programme. The annual allocation will be established according to the criteria laid down in the revised Council Decision 2003/76/EC. The payment requests concerning the said allocation will be honoured by having recourse to the net revenue on investments and the withdrawal of assets from the ECSC in liquidation.

The annual allocation should be explicitly enshrined in the Decision in order to allow a predictable flow of resources, at sufficient scale to enable continuation of desired support for collaborative research in the steel and coal sectors.

To date, the assets of the ECSC in liquidation have been managed on the basis that the return on the assets invested would be the means whereby research projects would be financed. This is reflected in the language of section 1 ("use of funds") of the Annex to the Council Decision 2003/77/EC and in recital 3 to the Decision which foresees that the "entire capital of the Assets of the Research Fund for Coal and Steel … should be preserved intact".

For the reasons explained above, such an approach should be amended in order to meet the needs of providing the required level of payment that is needed to make viable a meaningful research programme for the steel and coal sectors.

The premise that assets of the ECSC in liquidation can generate a stable income sufficient to finance the RFCS if kept intact is no longer tenable given the lasting change in financial market conditions. To this end, it is necessary to update the Decision to better reflect the needs of the underlying policy that is to be served by the ECSC in liquidation, and the challenges of generating returns on the level needed against the backdrop of current market conditions.

The payments would be made each year once the relevant projects have been identified, always within the limits of the annual allocation of EUR [111 million]. The annual amount that can be allocated from the ECSC in liquidation would be of EUR [111 million] in order to allow sustained use of resources for financing research into the future.

- **Proposed changes to enable diversification of eligible assets:**

Traditionally, the ECSC assets have predominantly been invested in euro-denominated sovereign and supra-national debt. This investment universe has been able to deliver steady positive returns while maintaining portfolio risk at reduced levels. In recent years, economic and market conditions have changed in ways that have durably reduced the opportunities to earn returns on investments in sovereign and supranational debt. Looking ahead, the financial markets in general and the euro bond markets in particular will remain challenging due to strongly low/negative yields (in particular for securities from issuers with the highest credit quality) and reduced liquidity, driven inter alia by the ECB's accommodative monetary policy and its bond purchase programmes. Any increases in interest rates from this low base will lead to downwards revaluation of existing assets, implying the risk of very low or negative returns until reinvestments at higher yields gradually offset the initial revaluation effect.

The present proposal seeks to render the ECSC portfolio more resilient faced with these challenges, by enlarging the scope for investing in other asset classes and using other

[5] A deferred date of application is proposed for the amendment in order to avoid interference with the application of Article 145 of the Withdrawal Agreement.

investment techniques to protect the portfolio from exclusive dependence on fixed income securities.

Notwithstanding the envisaged withdrawals until 2027, the investment horizon of the remaining funds is rather long-term, which enables further diversification. The ECSC portfolio has to date been relatively free of material liabilities and has not been subject to outflows on a scale that has qualitatively altered the investment horizon or volume of assets in the portfolio. This situation will change following the introduction of payments related to the annual allocation to finance the research programme. However, predictable payments of this magnitude should not materially impact the investment horizon or risk tolerance of the remaining assets in the portfolio and also the payments will be made over a horizon of several years.

As a result of its longer investment horizon, the portfolio has a greater capacity to hold assets where required to allow values to recover. In view of this, it is proposed to enlarge the investment universe of the financial guidelines in order to mitigate the impact from low or negative yields as much as possible and enhance the diversification and resilience of the portfolio while pursuing a conservative investment policy that delivers capital preservation with a high degree of confidence and enhances return where possible when consistent with this goal. Over a long-term horizon, the widening of eligible assets classes should help to deliver the stable and predictable management of the portfolio – including the predictable payments made from the assets and related to the annual allocation – and reduce the rate of reduction of the underlying resources through the payment of annual instalments.

The Commission proposes to enlarge the Financial Guidelines in order to broaden the eligible universe of available assets/instruments and possible combinations of risk exposures (e.g. interest and credit risk and some limited equities market risk). New investment opportunities will allow the portfolio to be managed more efficiently (in terms of diversification and risk-return trade-off) and support expected returns over the medium to long term.

It should be underlined that portfolio diversification entails exposure to new sources of market volatility which may weigh on performance over the short-to-medium term. However, given the longer investment horizon of a significant part of the assets, the ECSC portfolio is well-placed to absorb short periods of underperformance in one or other asset class, so as to reap the enhanced risk-adjusted return opportunities over the longer-term. It should also be understood that diversification is not a guarantee against potential negative performance for a certain period given that the benefits of diversification may be outweighed by underperformance in its core asset class (sovereign and supranational bonds). These general caveats are an inherent feature of asset management and are reported here to give a balanced view of the range of possible outcomes. Overall, the Commission, as a responsible steward of EU funds, believes that enlargement of the eligible investment universe represents an appropriate way to improve the longer-term performance of the invested ECSC assets.

In view of the preceding, the Commission puts forward this proposal for a Council Decision to amend Decision 2003/77/EC laying down multiannual financial guidelines for managing the assets of the ECSC in liquidation. The assets shall be managed in accordance with prudential rules and the principles of sound financial management and in accordance with the rules and procedures set out by the Accounting Officer of the Commission.

As explained above, the Decision proposes to change the Decision governing the management of the assets of ECSC in liquidation to allow possible investment in:

- A wider range of money market (MM) instruments (notably MM Funds);

- A broader range of debt and credit related securities;
- Exposure to equity markets and equity-like products (notably through appropriate instruments such as Exchange-Traded Funds);
- The possibility to deploy standard investment techniques such as interest rate futures to manage maturity;
- The possibility to invest in hedged US$ investments.

The Decision would not entail any automatic recourse to use of these assets or instruments. Instead, the Decision would merely authorise the Commission to make such investments when market conditions are propitious and if such investments are in line with the investment horizon of the investments, taking into account the payments related to the annual allocation until 2027. The Commission will exercise prudence and due diligence in making use of these enlarged investment possibilities so as to maximise the probability of positive outcomes. It will report on the decision to use these powers in its annual reports, explaining the reasons to expand the investment universe and to reporting on observed outcomes once performance data allow.

The asset selection will include both a negative screening (a list of activities excluded for treasury investment purposes on ethical or moral grounds) and a positive screening (to favour integration of positive environmental, social and governance considerations in the selection of investments). Environmental, Social, and Governance (ESG) practices of an investment are becoming more and more important and the Commission intends to lead by example in this area.

• Consistency with other Union policies:

The proposal is linked to Council Decision 2003/76/EC 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. The Council has recently decided on the possibility for the reuse of decommitted amounts for research.[6] Council Decision 2003/76/EC will be amended in parallel taking into account the proposed modifications of Council Decision 2003/77/EC.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis giving the EU the right to act is the Treaty on the Functioning of the European Union and the Protocol annexed to the EU Treaties on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, and in particular the second paragraph of Article 2 thereof).

• Subsidiarity (for non-exclusive competence)

The measures implementing the Protocol are established in a Council decision the revision of which belongs to the Commission exclusive right of initiative.

[6] Council Decision (EU) 2018/599 of 16 April 2018 amending Decision 2003/76/EC 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 (OJ L 101, 20.4.2018, p. 1–2).

- **Proportionality**

The proposal contains ancillary provisions and is thus necessary for the functioning of the asset management carried out by the Commission for ECSC in liquidation and subsequently for the Assets of the Research Fund for Coal and Steel.

- **Choice of the instrument**

A Council Decision amending the existing Council Decision 2003/77/EC is a "measure establishing multiannual financial guidelines for managing the assets of the Research Fund for Coal and Steel" as foreseen in Article 2(2) of Protocol No. 37.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The proposal is based on the results of the five yearly report, which foresees a regular review of the appropriateness of the guidelines. The most recent five yearly report was published on 2 March 2018 (COM(2018) 84 final).

- **Stakeholder consultations**

Not applicable. The main stakeholders are Member States, who will be consulted during the legislative process in the Council.

- **Collection and use of expertise**

In 2014 a peer review of the asset management operations carried out by the Commission (including the ECSC in liquidation portfolio) was undertaken by the World Bank. Results from this peer review as regards the framework of the guidelines have been taken into account in the drafting of this proposal for revision.

More recently, a review by the Court of Auditors on the European Coal and Steel Community released on September 2019[7] concluded that funding the Research Fund for Coal and Steel on the sole basis of assets management revenue is not sustainable in the current interest rate environment.

- **Impact assessment**

An impact assessment is not necessary for the proposed revision, as the expected economic, environmental or social impacts are not likely to be significant.

- **Regulatory fitness and simplification**

The proposal is based on the results of the five yearly report, which foresees a regular review of the appropriateness of the guidelines.

- **Fundamental rights**

The proposal is in line with the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposal does not create any new liabilities to be charged to the General Budget under the multiannual financial framework.

[7] *Ibidem.*p.11-12, 17

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

As foreseen, in Point 7 of the financial guidelines, the Commission is reporting on the management operations carried out under these financial guidelines to the Member States every six months.

In addition, a Financial Report is drawn up each year, accompanied by the audited financial statements, which reports on the results of the whole year.

Finally, the Commission reports specifically on the application of the financial guidelines every five years (Article 2).

• Explanatory documents (for directives)

Not applicable

• Detailed explanation of the provisions of the proposal to allow more diversification of eligible assets

The current financial guidelines implement a relatively restrictive approach to the definition of eligible assets. They refer for example to absolute and nominal limit amounts (e.g. maximum EUR 250 million per EU Member State), credit ratings (e.g. minimum credit rating of AA, except for EU Member States and EU Institutions) or maximum maturity (e.g. maximum 10.5 years remaining at purchase).

These restrictions eliminate large portions of financial markets.

For example,

- the rating restrictions exclude almost entirely the corporate and financial bond market, which could offer diversification and higher returns and which could be helpful to mitigate the impact of negative rates[8] in the current environment;
- similar considerations arise in relation to the maturity restrictions, preventing investments in longer-dated bonds which could offer similar benefits[9]. Modifying these restrictions would allow diversified asset allocations with higher expected returns for the portfolio, while keeping overall portfolio risk at similar levels as currently thanks to favourable correlation effects.

Following the financial crisis of 2008, the market conditions for fixed income asset managers became more difficult due to the low, and often negative, interest rate environment that took hold, especially for investments with lower credit risk. In this context, it is very challenging for fixed income asset managers to generate a positive performance, especially over medium / long term investment horizons. In 2020, the situation worsened even more with the coronavirus crisis, which may extend the low/negative rates environment further into the future.

To limit the negative consequences of those factors, it is important for asset managers to have access to the broadest investment universe possible. In this way, the asset managers can enhance diversification and benefit from asset classes exhibiting different return patterns and lower correlations. Over long investment horizons, highly diversified portfolios should perform better than less diversified portfolios, for similar levels of risk.

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8 Refer to point D below for a more sophisticated way to manage interest rate risk/duration.

9 The benefit of longer-term bonds inter alia depends on the steepness of the yield curve at the time of investment. Another benefit of longer-term bonds is higher convexity; in simple terms, their market values gain more for a given reduction in rates compared to the induced losses for an equivalent increase in rates.

Therefore, it is proposed to change the current financial guidelines in the following ways.

A. Adjust the absolute limits, ratings and maturity restrictions

It is proposed to adopt a more dynamic approach as regards the technical aspects of implementation that need some flexibility (such as determining risk, maturity and concentration limits).

This would allow calibrating them more regularly to the evolving market conditions and would build on the recent Commission guidelines adopted for the Common Provisioning Fund[10], one of the other major portfolios managed by the Commission. The assets shall be managed on the basis of an investment strategy that is expressed in the form of a Strategic Asset Allocation, reflecting the investment objectives and the risk tolerance. The investment strategy shall be reflected in a strategic benchmark. The benchmark shall be set in line with industry practices.

Risk tolerance could also be defined in broader terms (e.g. by listing the eligible asset categories and specific risk parameters such as Value-at-Risk). Limits could be better expressed in terms of market rather than notional value and defined as maximum percentage exposures of the total portfolio market value. This defines exposures more precisely, as due to the low or negative yield environment many securities are priced significantly above par (100%) and the nominal values might no longer reflect the true economic value of such exposures. Another reason why a market value, percentage based limit approach has become more relevant is in case the total portfolio market value changes, either due to market valuation or caused by in- or outflows.

The concentration limits could be refined to allow differentiation between safer and riskier credit exposures, for example by allowing larger exposures only to highest quality (high grade[11]) issuers.

It is proposed to define the eligible instruments within the Asset Management Guidelines whereas the benchmark and the specific investments limits will be defined within the European Commission internal documents.

B. Allow investments in other currencies

Currently, the Financial Guidelines are silent on the eligibility of foreign currency investments. In this context it should be noted that euro denominated investments represent only c. 25% of the world bond market.

It is therefore proposed to explicitly allow investments in hedged US$ denominated securities issued by sovereigns, supranationals, sub-sovereigns and agencies.

In particular, investing (partially) in highly liquid bonds denominated in US dollars issued by such entities would allow access to large and liquid markets, such as the US government debt market. This could be helpful given the above-mentioned liquidity constraints in the euro bond markets. Furthermore, it would allow obtaining different yield curve exposures, with possibly higher carry/roll down opportunities.

The risk of losses due to the fluctuation of the foreign exchange rate could be hedged. Instruments exist to hedge such currency risk, but the current Financial Guidelines are silent

[10] C(2020) 1896 final

[11] Term used to refer to credit ratings of AA-/Aa3 or higher.

on this type of operation. The Commission may decide, subject to the agreement of the Accounting Officer, that hedged investments in other currencies (than US$) can become explicitly eligible according to the criteria spelled out in the Annex to the Decision. The actual use of such instruments would be limited in scope and would take into account the relevant costs and prevailing market conditions.

C. Broaden the scope of collective investment vehicles

In 2014, an evaluation of the Commission's treasury and asset management activities was carried out by a team of specialists from the World Bank. The World Bank reviewed in detail the processes used by the Commission, and concluded that the Commission achieves its objectives in the management of the portfolios under its responsibility, in compliance with sound industry standards. The World Bank also proposed a few recommendations to further improve the investment process and returns.

In particular, for funds with long-term horizons, the World Bank put forward the idea of investing a certain percentage of such funds into equity holdings, possibly via collective investment funds. These instruments, if selected carefully, allow gaining well-diversified equity exposure. As equities have relatively lower correlation to fixed income investments, they would enhance the risk-return profile of the portfolio over a long-term horizon. On the other hand, allocations to equities may increase the volatility of the portfolio returns in short- to medium-term.

Collective investment vehicles are already mentioned in the current guidelines, but are associated with a credit rating requirement of not less than AA, which *de facto* implies mostly short-term fixed-income collective vehicles only, excluding the majority of the fixed-income and equity funds that have no credit rating.

It is therefore proposed to clarify the scope of eligible asset classes and collective investment vehicles in order to allow equity as well as broader fixed-income investments including in such well-diversified vehicles.

In summary, it is proposed to make several types of collective investment vehicles eligible (e.g. Money Market Funds, Exchange Traded Funds or Mutual funds). These can to various degrees offer diversified exposure to broad market indices, certain geographic sectors and/or particular asset classes such as fixed income and/or equities.

D. Allow other hedging instruments to manage interest rate risk

Interest rates derivatives represent tools to efficiently manage interest rate risk and are frequently used nowadays by public financial institutions. Typically these markets are also liquid – for example, during the financial crisis, the futures' market remained highly liquid in contrast to the cash government bonds' market. The use of such instruments would be framed with robust risk procedures and IT systems in order to monitor and cope with the related operational workflows and intrinsic risk of this market.

As explained above, the Decision would not entail any automatic recourse to use of those assets or instruments. Instead, the Decision would merely authorise the Commission to make such investments when market conditions are propitious. The Commission will exercise prudence and due diligence in making use of these enlarged investment powers so as to maximise the probability of positive outcomes. It will report on the decision to use these powers in its annual reports, explaining the reasons to expand the investment universe and to reporting on observed outcomes once performance data allow.

E. Integration of Environmental, Social, and Governance criteria

As the Environmental, Social, and Governance (ESG) practices of an investment are becoming more and more important and the Commission has to lead by example in this area, the Decision would highlight their importance in the asset selection process. It would include both a positive screening (to favour integration of environmental, social and governance considerations in the selection of investments) and a negative screening (a list of activities excluded for treasury investment purposes on ethical or moral grounds).

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Protocol No 37 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union[1], and in particular Article 2(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament[2],

Whereas:

(1) To be climate-neutral by 2050, the European Union needs ‘climate and resource frontrunners’ to develop the first commercial applications of breakthrough technologies in key industrial sectors by 2030, and a zero-carbon steel making process by 2030.

(2) Pursuant to Council Decision 2003/76/EC[3], the Commission is to manage the assets of the European Coal and Steel Community (ECSC) in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel in such a manner as to ensure a long-term return. Council Decision 2003/77/EC[4] lays down the multiannual financial guidelines for managing those assets. According to Article 2 of Decision 2003/77/EC, the Commission is to review or supplement those guidelines and reassess their operation and effectiveness.

(3) In order to provide meaningful support to worthwhile collaborative research projects that have the critical mass and Union added value for improving the sustainability, competitiveness, health, safety and working conditions in the sectors related to the

[1] Protocol No 37 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union (OJ C 202, 7.6.2016, p. 327).

[2] OJ C , , p. .

[3] 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 (L 29, 5.2.2003, p. 22).

[4] Council Decision 2003/77/EC 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 (OJ 29 ,5.2.2003, p. 25).

coal and steel industry, there is a need to ensure that payments related to the annual allocation as defined and established in [Article 2 of] Decision 2003/76/EC until the year 2027 are provided to fund such projects. Such payments should be financed by the net revenue from the investments and by the proceeds generated by selling part of the assets up to the annual amount set out by the designated service of the Commission based on Decision 2003/76/EC and Decision 2008/376/EC.

(4) The experience gained over the most recent five-year period of implementation of the financial guidelines (2012-2017) and developments in financial market conditions show a need to adapt those guidelines.

(5) The assets remaining after the withdrawals until 2027 related to the annual allocation established by Decision 2003/76/EC should be managed on the basis of a longer-term investment horizon, enabling further diversification.

(6) On average, investing a large part of the assets over the longer term is consistent with higher expected returns, keeping in mind the possibilities of increased fluctuations over the short term. Notwithstanding this, the investments should aim to ensure a sufficient amount of liquid assets for the annual payments requested by the designated service of the Commission based on Decision 2003/76/EC and Decision 2008/376/EC.

(7) The financial guidelines should enable a more flexible approach as regards the technical aspects of implementation and should determine appropriate investment instruments to achieve the investment objectives.

(8) Each asset class should not be considered alone, but by the role it plays in a diversified portfolio. Diversification between asset classes historically leads to increased returns for the same level of risk. The correlation between assets is important in making decisions related to the allocation of assets within the context of overall investment risk and return.

(9) The assets of the ECSC in liquidation and, upon completion of the liquidation, the assets of the Research Fund for Coal and Steel should be managed on the basis of an investment strategy that should be expressed in the form of a strategic asset allocation / benchmark, reflecting the investment objectives and the risk tolerance of the assets. The benchmark provides long-term investment guidance to the portfolio managers, under the form of allocations to different asset classes.

(10) The financial guidelines should allow investments in highly liquid bonds denominated in US dollars issued by sovereigns, supranationals, sub-sovereigns and government agencies in order to enhance diversification, while hedging – at an appropriate degree – the risks of losses due to the fluctuation of the foreign exchange rate. The Commission should have the possibility to decide, subject to the agreement of the accounting officer of the Commission, on investments in other assets denominated in currencies of other advanced economies and/or other Member States. Such decisions should be based on a fully substantiated demonstration of the advantages of the investment in question for the performance of the assets. The financial guidelines should broaden the scope of eligible investments to offer the possibility of diversified exposure to broad market indices, certain geographic sectors and particular asset classes.

(11) The financial guidelines should allow other financial instruments such as futures, forwards and swaps in order to manage risks and exposures such as interest rate and currency risk.

(12) Environmental, Social, and Governance (ESG) practices of an investment are becoming more and more important and should be taken into account for the investment decisions. Decision 2003/77/EC should be amended also so as to introduce ESG practices by including a positive screening, favouring the integration of environmental, social and governance considerations in the selection of investments, and a negative screening, containing a list of activities excluded for treasury investment purposes on ethical or moral grounds.

(13) The annual report from the Commission to the Member States on management operations carried out under the financial guidelines, should provide information on the allocation to the different asset classes. The annual report should also explain any major change to the strategic asset allocation.

(14) Decision 2003/77/EC should therefore be amended accordingly.

(15) Given the structural linkage with Decision 2003/76/EC, this amendment should apply only from the date on which Decision [XXXX/XX] Amending Decision 2003/76/EC 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[5] starts applying. Taking into consideration Article 145 of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[6], it is appropriate that this amendment only applies on or after 1 January 2021,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/77/EC is amended as follows:

(1) the following Article 1a is inserted:

"Article 1a

The assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel shall be managed to provide annual payments within the limits of the annual allocation of EUR [111 million] to finance collaborative research in the sectors related to the coal and steel industry. The annual payments shall be financed by the net revenue from the investments and by the proceeds generated by selling part of the assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel, up to the annual amount set out by the designated service of the Commission based on Decision 2003/76/EC and Decision 2008/376/EC.';

(2) the Annex is replaced by the text in the Annex to this Decision.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

5 OJ , , p. .

6 Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 384I, 12.11.2019, p. 1).

It shall apply from the date on which Decision [XXXX/XX] Amending Decision 2003/76/EC 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[7] applies or from 1 January 2021, whichever is the later.

Done at Brussels,

For the Council
The President

[7] OJ , , p. .