

COMMUNICATION FROM THE COMMISSION**Rescue and restructuring aid and closure aid for the steel sector***(notified under document No C(2002) 315)**(2002/C 70/05)***(Text with EEA relevance)****1. RESCUE AND RESTRUCTURING AID FOR FIRMS IN DIFFICULTY**

In its Communication to the Council, the European Parliament, and the ECSC Consultative Committee on 'The state of the competitiveness of the steel industry in the EU' ⁽¹⁾ adopted on 5 October 1999, the Commission stated that it is important that strict rules are maintained for the steel sector after the expiry of the ECSC Treaty on 23 July 2002. The European Parliament, Member States, the ECSC Consultative Committee and steel companies and their associations have also requested strict rules for State aid to the steel industry.

The Commission considers that this objective may be attained by focusing on the types of State aid that, from the experience of the past and taking into account the features of the steel industry, have most distortive effects on competition in this sector. This is the case of investment aid and rescue and restructuring aid.

As for investment aid, the revised multisectoral framework on regional aid for large investment projects ⁽²⁾ ('the multisectoral framework') provides for a prohibition of this type of aid to the steel sector.

As for rescue and restructuring aid, the Commission bears in mind the fact that, in the last decisions adopted in 1993 on the basis of Article 95 of the ECSC Treaty, the Commission and the Council agreed that no further decisions of this nature would be taken to rescue Community steel firms. Following this, steel companies have been acting on the market on the assumption that no further restructuring aid was available to them. If this state of affairs were to change in future, there is no guarantee that steel firms would not relax their efforts towards costs reduction and increased competitiveness, thereby endangering the enormous efforts already made.

In these circumstances, the Commission considers that rescue aid and restructuring aid for firms in difficulty in the steel sector as defined in Annex B of the multisectoral framework, are not compatible with the common market.

2. CLOSURE AID

By virtue of Article 87(3)(c) of the EC Treaty, aid to facilitate the development of certain economic activities may be

considered to be compatible with the common market. The Commission considers that, taking into account the existing overcapacities at European and world level and the consequent inefficiencies as well as the prohibition of rescue and restructuring aid to the steel industry, aid to facilitate structural adjustment can contribute to the development of a healthier steel industry. Therefore, the following aid for firms in the steel industry as defined in Annex B of the multicultural framework may be regarded as compatible with the common market:

2.1. Aid to cover payments payable by steel firms to workers made redundant or accepting early retirement provided that:

- the payments actually arise from the partial or total closure of steel plants which have not already been taken into account for approval of aid,
- the payments do not exceed those customarily granted under the rules in force in the Member States, and
- the aid does not exceed 50 % of those payments.

2.2. Aid to steel firms which permanently cease production of steel products, provided that:

- the firms became legal entities before 1 January 2002,
- they regularly produced steel products up to the date of notification of the aid concerned,
- they have not reorganised their production or plant structure since 1 January 2002,
- they close and scrap the installations used to manufacture steel products within six months of the cessation of production or approval of the aid by the Commission, whichever is the later,
- the closure of their plants has not already been taken into account for approval of aid, and
- the amount of the aid does not exceed the residual book value of the plants to be closed, ignoring that portion of any revaluation since 1 January 2002 which exceeds the national inflation rate.

⁽¹⁾ COM(1999) 453 final.

⁽²⁾ OJ C 70, 19.3.2002.

2.3. Aid to steel firms which satisfy the conditions set out in point 2.2 but which are directly or indirectly controlled by, or which themselves directly or indirectly control, a firm that is itself a steel firm may be deemed compatible with the common market provided that:

- the firm to be closed has been effectively and legally separated from the corporate structure for at least six months before payment of the aid,
- the accounts of the firm to be closed have been independently certified, by an auditor accepted by the Commission, to be a true and accurate account of the assets and liabilities of that firm, and
- there is a genuine and verifiable reduction in production capacity such as to yield an appreciable benefit over time for the industry as a whole in terms of a reduction in the production capacity for steel products over a period of five years following the date of the aided closure or the date of the last payment of aid approved under this point, if later.

3. NOTIFICATION OBLIGATION

All plans to grant aid for rescuing and restructuring firms in difficulty belonging to the steel industry and for closure aid to that sector shall be notified individually.

4. APPROPRIATE MEASURES

- 4.1. The Commission proposes as an appropriate measure pursuant to Article 88(1) of the EC Treaty, to exclude from the scope of their existing schemes for rescuing and restructuring firms in difficulties, as defined by the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽¹⁾, aid to firms belonging to the steel sector, as defined by Annex B to the multisectoral framework, as from 24 July 2002.
- 4.2. Member States are invited to give their explicit agreement to the proposed appropriate measures within 20 working days from the date on which the letter is notified to them. In the absence of any reply, the Commission will assume that the Member State in question does not agree with the proposed measures.

5. APPLICATION OF THIS COMMUNICATION

This Communication will be applicable from 24 July 2002 for a period ending on 31 December 2009.

6. NON-NOTIFIED AID GRANTED TO THE STEEL INDUSTRY

The Commission will examine the compatibility with the common market of aid granted to the steel industry without its authorisation on the basis of the criteria in force at the time the aid was granted.

⁽¹⁾ OJ C 288, 9.10.1999, p. 2.