EC/Bulgaria Europe agreement: public aid to restructuring the steel products sector, additional protocol

2002/0214(CNS) - 31/03/2010 - Follow-up document

The Commission presents the third monitoring report on steel restructuring in Bulgaria.

To recall, in Protocol 2 to the Europe Agreement, the EU agreed on transitional arrangements for restructuring aid to allow Bulgaria to complete the restructuring process in the steel industry. Bulgaria was allowed to grant State aid for restructuring purposes under certain conditions. Protocol 2 was amended to **extend the restructuring period until the end of 2008**. This third and final monitoring report assesses the results achieved by the end of 2008, the last year of restructuring. In its previous reports, the Commission had noted non-compliance with the restructuring objectives listed in the Protocol concerning viability, technological and environmental investment, sales, cost reduction and productivity. Since then, the Bulgarian authorities have informed the Commission that the implementation of the Individual Business Plan (IBP) for Kremikovtzi AD ceased on 6 August 2008 following the announcement of insolvency and the opening of a bankruptcy procedure by the Sofia City Court. The company's operations are currently being supervised by a receiver appointed by the Court.

Conclusions: the Commission states that the lack of capital for modernisation investment and the lack of working capital were the main reasons why the company did not succeed in reaching viability. It highlights that these developments were not due to the economic crisis. Already in the first half of 2008 and in 2007, the company operated several facilities below the IBP capacity targets, mainly due to the lack of working capital. The same reason hindered the implementation of the investment programme. In the first half of 2008, operational performance was marked by a severe fall in sales volumes and amounts, combined with an increasing deterioration in operational conditions, causing losses. The situation cannot be explained by the global crisis, since company conditions already began to deteriorate in 2007, when the steel market was experiencing exceptional growth. In view of the findings, the Commission concludes that the provisions of Protocol 2 to the Europe Agreement and EU-Bulgaria Association Council Decision 3 /2006 amending this Protocol were only respected in relation to the amount of restructuring aid granted and net capacity reduction. However, the Commission notes that the restructuring benchmarks (viability, productivity and cost reduction) were not achieved and were far below agreed targets.

The Commission concludes that **the National Restructuring Programme (NRP) and the IBP were not fully implemented and therefore are not in compliance with requirements of Protocol 2**. As a legal consequence of the beneficiary's failure to achieve the restructuring goals, Bulgaria has undertaken to claim **reimbursement of the aid** as agreed in the EU-Bulgaria Association Council Decision 3/2006 amending Protocol 2 to the Europe Agreement.

The recovery obligation resulting from this commitment has been acknowledged by the Bulgarian State aid authorities, who have initiated recovery proceedings. The recovery order has been challenged during the bankruptcy procedure. The Commission has explained in detail the practical and legal consequences ensuing for the Bulgarian authorities. This final report confirms the initial Commission assessment. In this respect, the Commission should be kept informed of developments in the insolvency procedure, in particular regarding the claim for the reimbursement of State aid.

In parallel, the Commission will issue a decision sui generis in accordance with EU-Bulgaria Association Council Decision 3/2006 amending Protocol 2 to the Europe Agreement, and shall decide whether the

restructuring programme and the plans are fully implemented and are in compliance with the requirements of Protocol 2 to the Europe Agreement.