Basic information

2002/0214(CNS) CNS - Consultation procedure Decision	Procedure completed
EC/Bulgaria Europe agreement: public aid to restructuring the steel products sector, additional protocol **Subject** 6.40.02 Relations with central and eastern Europe **Geographical area** Bulgaria	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ITRE Industry, External Trade, Research, Energy	WESTENDORP Y CABEZA Carlos (PSE)	26/11/2002

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs, Human Rights, Common Security, Defense	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2603	2004-09-13

Key events

Date	Event	Reference	Summary
22/07/2002	Initial legislative proposal published	10827/2002	Summary
14/10/2002	Legislative proposal published	12685/2002	Summary
21/10/2002	Committee referral announced in Parliament		
26/11/2002	Vote in committee		Summary
26/11/2002	Committee report tabled for plenary, 1st reading/single reading	A5-0414/2002	
17/12/2002	Decision by Parliament	T5-0599/2002	Summary
13/09/2004	Act adopted by Council after consultation of Parliament		
13/09/2004	End of procedure in Parliament		
15/03/2005	Final act published in Official Journal		

Technical information

Procedure reference	2002/0214(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 087-p3 EC Treaty (after Amsterdam) EC 300-p2/3-a1 Rules of Procedure EP 52-p1
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/5/16742

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0414/2002	26/11/2002	
Text adopted by Parliament, 1st reading/single reading		T5-0599/2002 OJ C 031 05.02.2004, p. 0027-0081 E	17/12/2002	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	10753/2002	22/07/2002	Summary
Initial legislative proposal	10827/2002	22/07/2002	Summary
Legislative proposal	12685/2002	14/10/2002	Summary

European Commission

Document type	Reference	Date	Summary
Follow-up document	COM(2008)0511	12/08/2008	Summary
Follow-up document	COM(2010)0125	31/03/2010	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2005/0208
OJ L 068 15.03.2005, p. 0041

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

2002/0214(CNS) - 17/12/2002 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Carlos WESTENDORP Y CABEZA (PES, Spain) and approved the conclusion of the Additional Protocol to the Europe Agreement.

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

2002/0214(CNS) - 22/07/2002 - Initial legislative proposal

PURPOSE : to present the additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, with regard to an extension of the period laid down in Article 9(4) of Protocol 2 to the Europe Agreement. CONTENT : Article 9(4) of Protocol 2 to the Europe Agreement stipulates that during the first five years after the entry into force of the Agreement, and by way of derogation from paragraph 1(iii) of the same Article, Bulgaria may exceptionally, as regards ECSC steel products grant public aid for restructuring purposes, provided that it leads to the viability of the benefiting firms under normal market conditions at the end of the restructuring period. The amount and intensity of such aid are strictly limited to what is absolutely necessary in order to restore such viability and are progressively reduced. The restructuring programme should be linked to a global rationalisation and reduction of overall production capacity in Bulgaria. The initial period of five years expired on 31 December 1997. Bulgaria requested the extension of the above mentioned period in October 1997. This extension should be granted for an additional period of 8 years starting on 1 January 1998 or until the date of Bulgaria's accession to the European Union, which ever comes first. The Commission shall regularly monitor the implementation of the plans on behalf of the Community and the National State Aid Monitoring Authority (the Competition Council) shall do so for the Republic of Bulgaria.

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

2002/0214(CNS) - 12/08/2008 - Follow-up document

PURPOSE: to present the first monitoring report on steel reconstruction in Bulgaria and Romania.

CONTENT: this report describes the progress in restructuring made by Bulgarian and Romanian steel companies that are subject to the requirements set out in the specific chapters of the Europe Agreement and the Treaty of Accession respectively. More specifically these obligations, both for the respective governments and for individual companies, are set out in:

- Protocol 2 to the Europe Agreement which refers to the restructuring of the Bulgarian steel industry and EU-Bulgaria Association Council Decision 3/2006 dated 29 December 2006 amending the Protocol 2 to the Europe Agreement, and
- Annex VII of the Accession Treaty which refers to the restructuring of Romanian steel industry.

These provisions outline the conditions for a transitional regime for state aid given for steel restructuring. Although state aids for restructuring the steel industry are expressly forbidden under EU law, the European Union agreed on transitional arrangements for according certain aids which would allow these new Member States to complete this task while minimising social and market disturbance. Strict conditions are attached to the granting of this aid, notably the achievement of viability by the companies concerned.

The duration of the arrangements applicable to the transitional period lasts until 31 December 2008. The above mentioned Protocol and Annex also set out detailed provisions for monitoring and reporting on the associated obligations. This report to the Council is part of these provisions, and refers to the results achieved in the year 2006.

Restructuring exercise: the exception to the EU rules on state aid was conditional on the fulfilment of certain obligations, negotiated between the EU and Bulgaria and Romania. The precondition for granting state aid was the preparation of National Restructuring Programmes (NRP) consisting of a national steel sector plan and individual business plans (IBP) for each benefiting company. The purpose of the steel restructuring programmes was to show that the conditions for granting of restructuring aid are observed and that the NRP leads to the viability of companies. Based on the information provided by Bulgarian and Romanian authorities in their 6-monthly reports, the Commission has assessed the progress in the implementation of measures envisaged in the NRPs and companies' IBPs. The scope of information provided includes data on production, capacity, investments,

employment, productivity, financial results and the environment. The report notes that the steel sector in Bulgaria accounts for 2% of total industry employment and 3% of GDP, and in Romania for 4% of total industry employment and 4% of GDP.

Conclusions: following the presentation of NRPs, important steps in the restructuring of the steel industry in both countries have been taken. Existing plants are being modernised so as to adapt production to the quality of steel required by the EU and export markets. Changes in management structures took place in parallel with the ongoing concentration processes, especially in Romania.

However, in spite of these efforts, the Commission has identified delays, sometimes significant, in the implementation of the obligations and requirements as specified in the respective Decisions and Protocols. The Commission will in its next and final monitoring report thoroughly analyse whether the problems identified regarding the implementation of the restructuring plans are mainly due to the firms themselves or whether they have to be attributed to exceptional and unforeseeable circumstances for which the company is not responsible. This will include a further assessment of the possible impact of recent raw materials price increases.

Bulgaria: at the moment, the only beneficiary company concerned, Kremikovtzi, is entering into a situation of serious non-compliance with its commitments to the Bulgarian government and to the Commission. The non-compliance concerns technological and environmental investments, sales, cost reduction and productivity which affect the viability, efficiency and effectiveness of the business management. Moreover, the Commission encountered difficulties in obtaining appropriate and consistent data related to the restructuring of the company. Even in the exceptionally favourable current world steel market conditions, achievement of viability under the conditions prescribed by the end of 2008 looks a very difficult challenge for the company. The Commission will closely monitor the areas where delays and lack of compliance were registered and will report accordingly in its future progress reports.

Romania: the monitoring process is being carried out with sufficient respect for the mutual obligations of the government and the companies concerned. Focusing on 2006 results, all six companies have improved their results comparing to the previous year. Nevertheless, the degree of compliance with the viability benchmarks is falling behind the commitments adopted in the respective IBPs. In order to achieve viability, restructuring efforts for all companies should be intensified in particularly with regard to implementation of the cost reduction strategies, improvement of their business management and sales strategies in order to profit from favourable market conditions. These are fundamental requirements for achieving the objectives of the IBPs in 2007 and in 2008.

Follow up: the Commission considers it necessary to intensify the restructuring process so as to enable the beneficiary companies to achieve viability in 2008. The Commission recalls that the provisions of the EU-Bulgaria Accession Council and Protocol to the Accession Treaty with Romania clearly stipulate that, other than the aid planned, **no further state aid for restructuring shall be granted**. Any additional restructuring aid would, therefore, be incompatible with their respective provisions. In the case of non-compliance with the conditions applicable to state aid already granted, namely, non-compliance with EC viability benchmarks, the Commission will take the necessary measures to recover any such aid.

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

2002/0214(CNS) - 22/07/2002 - Document attached to the procedure

This proposal for a Council Decision concerns the signature and provisional application of an Additional Protocol to the Europe Agreement establishing an association between European Communities and their Member States, of the on part, and the Republic of Bulgaria, of the other part, with regard to an extension of the period laid down in Article 9(4) of Protocol 2 to the Europe Agreement. The contents of this Protocol are laid down in the Annex to this proposal. Please refer to the previous text for a summary. It should be noted that the Protocol shall provisionally apply from the day of its signature.

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

2002/0214(CNS) - 14/10/2002 - Legislative proposal

This proposal for a Council Decision concerns the formal conclusion of the Additional Protocol to the European Agreement establishing an association between the European Communities and their Member States and Bulgaria. This draft decision is in accordance with the draft of 22 July 2002 (please refer to the former initial proposal). It is stated that Council shall decide, with a qualifed majority, on the Commission's proposal, with a view to deciding the conformity of the restructuring programme and the business plans listed in the Protocol.

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.