

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(94) 725 final

Brussels, 31.05.1994

Commission Report to the Council on Monitoring of
Article 95 ECSC Steel Cases

ORIGINAL ARCHIVED COPY



EUROPEAN COMMISSION
DIRECTORATE-GENERAL IV - COMPETITION

State aid II
Steel, non-ferrous metals, mining, shipbuilding, cars and synthetic fibers

Brussels, 29.IV.1999
D(99)/427

NOTE FOR THE ATTENTION OF VÉRONIQUE JANSSEN

Subject : Your request for documents SEC(94)725 and SEC(94)903

Mme Houtman has transmitted to us your request for the documents in reference. We have attached a copy of them. Please note that these documents are not anymore considered confidential and that, even if they are not public documents, they have been widely distributed in the past.

Philip Owen

Commission Report to the Council on Monitoring of
Article 95 ECSC Steel Cases

At its meeting on 22 December 1993 the Council formally gave its unanimous assent to the authorisation of aids under Article 95 ECSC to the following steel companies:

Corporación de la Siderurgia Integral (CSI)
Ekostahl
Ilva
Sidenor
Siderurgia Nacional
Sächsische Edelstahlwerke GmbH (Freital)

In addition to specific conditions attached to the authorisation of aid in particular cases, a number of general conditions were imposed in relation to all cases. These included the following:

- capacity closures must be definitive and irreversible. Closed installations must therefore be scrapped or sold for use outside Europe. In addition there should be no increase in capacity for crude steel and hot-rolled finished products remaining under the aided restructuring plan, other than resulting from productivity improvements, for a period of at least five years starting from the date of the last capacity closure or of the last payment of aid in respect of investments under the plan, whichever is the later;
- the beneficiary company should not obtain an unfair advantage over other companies in the sector by being provided at the outset with net financial charges below 3.5% of annual turnover;
- the beneficiary company or its legal successor should not be allowed to claim or be granted tax reduction or relief on past losses covered by aid under the restructuring plan;
- any additional loans must be on normal commercial conditions and no debt holidays or friendly treatment of debts accorded;
- the aid should not be used for unfair competition practices;
- all the restructuring measures must be carried out according to the timetable; and
- there will be strict monitoring arrangements, with which the Member States concerned must co-operate fully.

In accordance with the monitoring arrangements agreed, Member States concerned should supply the Commission twice a year, and not later than 15 March and 15 September respectively, with reports containing full information in accordance with the enclosed annex 1 on each beneficiary company and its restructuring. The first report should reach the Commission by 15 March 1994 and the last report by 15 September 1998 unless the Commission decides otherwise.

The Commission shall, on the basis of these reports, draw up half-yearly reports to be submitted to the Council not later than 1st May and 1st November respectively, in order to allow discussion in the Council if appropriate.

The four Member States concerned (Germany, Italy, Portugal and Spain) were reminded of their reporting obligations by Commission letter dated 1 March and in most cases submitted reports by the 15 March deadline. Supplementary information was requested where necessary and in some cases is still awaited.

The purpose of this communication is to present the Commission's report on the basis of the information contained in the reports submitted by the Member States and supplementary information provided subsequently. The material is intended essentially to reflect the position as at 31 December 1993 (with financial information based on the provisional accounts for that year). Information is, however, also included where appropriate on developments since then.

Separate reports on each company are attached at annexes 2 - 7. The information contained therein should be treated in the strictest confidence in accordance with Article 47 ECSC. At this early stage, following so soon after the Council decision, it would be premature to draw any firm conclusions, on the basis of these reports alone, about the restructuring process and whether or not the conditions attached to the authorisation of aid are being respected. The reports should instead form the basic starting point for future monitoring work.

However, a number of aspects requiring further examination have been identified and these will be closely followed up and covered as necessary in subsequent reports.

Monitoring of Article 95 ECSC Treaty steel cases

EKO Stahl AG, Eisenhüttenstadt/Brandenburg

I. Background

1. The decisions

On 4 November 1993, the German Government notified the Commission of the intention of Treuhandanstalt to privatize the East-German steel company EKO Stahl AG and of the intended state aid connected herewith. It asked the Commission to approve the aid that may not be deemed compatible with Commission Decision 3855/91/ECSC (Steel Aids Code) applying Article 95 ECSC Treaty. It submitted a modified notification on 12 November 1993.

On 17 November 1993¹ the Commission decided to submit to the Council of Ministers a communication putting forward the proposal for its unanimous assent under Article 95 ECSC Treaty to approve aids associated with the privatization and restructuring of the company.

The Council of Ministers adopted its unanimous assent on 22 December 1993.

The Commission adopted its final decision, approving the aid intended under Article 95 ECSC Treaty, on 12 April 1994².

2. The privatization and restructuring plan

The privatization and restructuring plan submitted provides for the change of corporate form of EKO Stahl from a public company (Aktiengesellschaft) into a private limited company (Gesellschaft mit beschränkter Haftung), 100% held by Treuhandanstalt, and the purchase of 60% of the shares by the Italian Riva group.

The restructuring plan envisages the modernization of the existing pig iron facilities (investment 280 Mio DM), crude steel facilities (investment 150 Mio DM) and cold-rolling and re-treatment facilities (investment 270 Mio DM) without changing their current capacities

¹ Document SEC (93) 1803 final

Document SEC (94) 418 final

and the installation of a new hot-wide-strip mill with a capacity of 900 kt/y (investment 400 Mio DM). The total investment intended amount to 1,100 Mio DM.

The restructuring plan envisages employment reductions of some 600 persons from 3,500 in 1993 to 1,900 in 1996. It is designed to achieve viability of the company by 1998.

The Commission identified total aids of 813 Mio DM (163 Mio DM to cover a part of the losses accumulated until privatization, 300 Mio DM to cover losses during the restructuring after privatization, 350 Mio DM investment aid to contribute to the total investment of 1,100 Mio DM), connected with the privatization and restructuring plan, that are incompatible with the ECSC Treaty and Commission Decision 3855/91/ECSC (Steel Aids Code). These aids have been approved under Article 95 ECSC Treaty. 300 Mio DM investment aid may be deemed compatible with the orderly functioning of the Common Market under Article 5 indent 3 of the Steel Aids Code. These aids will be subject of a separate decision of the Commission.

II. First Monitoring report

1. Precedents

The Commission, by letter dated March 1994, reminded the German Government that the final decision under Article 95 ECSC Treaty will also contain the obligation of Germany to supply the Commission twice a year, and not later than 15 March and 15 September respectively, with reports containing full information in accordance with an Annex of the decision, as adopted by the Council during its meeting on 17 December 1993. The Commission requested the first monitoring report, that following the agreement of the Council, falls due on 15 March 1994 and is intended to reflect the position of the company in question as at 31 December 1993.

The reply of the German Government has been received on 15 March 1994. It pointed out that the privatization of EKO Stahl will come into force only by 1 May 1994 and that therefore it was not possible to report on the implementation of the restructuring plan. The German Government informed the Commission about the final privatization contract and submitted a copy of it.

The Commission recalled that the first monitoring report should show the situation of the company, notwithstanding its privatization and the commencement of the restructuring as provided by the plan, as at 31 December 1993 and requested the information needed to be submitted as soon as possible.

The German Government submitted its additional report on 14 April 1994.

2. Developments since December 1993

By communication dated 15 March 1994 the German Government informed the Commission of the decision of Treuhandanstalt, adopted mid February 1994, to sell 100% of the shares of EKO Stahl GmbH immediately to Riva. The initial concept provided for a purchase of only 60% of the shares by Riva and an option of Treuhandanstalt to sell the remaining 40% after the restructuring period. The final privatization contract was concluded on 1 March 1994 and will enter into force on 1 May 1994.

Riva will take over 100% of the shares by 1 May 1994 through its dutch Oder Staal Financien B.V.. The purchase price for the additional 40% will be fixed on the basis of the market value (earning capacity value) established by independent accountants on the basis of the situation on 31 December 1993. There will be no maximum price as in the previous drafts. Riva will pay a 20 Mio DM down payment which will be set off the final purchase price. It is also the minimum price to be paid by Riva, also in case a lower and even negative market value will be established by the end of 1998. The purchase price will be paid in four semi-annual tranches starting on 1 July 1999. For the time between 1 May 1994 and 31 December 1998, Riva would not have to pay interest on the value of the 40% stake, because this value is negative. For the indulgence after 31 December 1998 Riva shall pay market interest rate.

The provisions of the final privatization contract have been examined. There are no additional aids to be identified compared to the draft initially submitted. The provisions concerning the evaluation and payment of the additional 40% stake are advantageous for Treuhandanstalt compared to the provisions concerning the 60% stake, for which a negative purchase price had been agreed due to the actual negative earning capacity value.

3. The situation of EKO Stahl as at 31 December 1993

a) Capacity reductions

In 1993 the company did not carry out capacity reductions. There are no capacity reductions intended under the restructuring plan, except the dismantling of a hot-rolling mill of another East-German steel undertaking, which shall take place on 30 June 1994 at the latest, to provide the necessary counterpart for aid in line with the Commission's decision of 12 April 1994.

b) Investments

The company invested 103.6 Mio DM during 1993 to modernize the existing cold-rolling facilities in line with the restructuring

plan. The investment has been financed by investment aid granted by THA, which will be treated as part of the total aid of 813 Mio DM approved by the Commission.

c) Reduction of workforce

The number of employees actually working in the EKO steel works was decreased in 1993 from 3,475 down to 3,041, i.e. a total reduction of 434 employees. The number of persons under special contracts and arrangements (permanent not active, job creation measures, re-education and qualification measures, trainees) was reduced from 1,909 down to 1,150, i.e. a reduction of 759 persons.

The redundancies caused costs for social plan allowances of 1.55 Mio DM. These costs were covered by the company and are part of the total losses outlined under f).

d) Production in 1993

The production of the company in 1993 was as follows:

	kt/month average	total kt/year
pig iron	86.9	1,042.8
crude steel	97.5	1,170.0
semi finished products	94.2	1,130.4
flat steel (cold-rolled products)	82.2	986.4

e) Sales

Of its annual turnover in 1993 (1,011.6 Mio DM) the company achieved 641.2 Mio DM (63%) on the German market, 99.2 Mio DM (9.3%) were achieved on the markets of other Member States of the Community, the remaining 271.2 Mio DM were achieved on third Country's market (60% of these sales were delivered to Eastern Europe including CIS).

The average prices for the different product groups were given in the report. The Commission compared these prices with the average prices and considers them to be within the normal range.

f) Financial Performance

The German Government provided a full range of financial ratios in line with the Commission request. The figures given show the weak financial situation of the company at the outset of its restructuring. The losses suffered in 1993 amount to 158.8 Mio DM net, i.e. 15.7% of annual turnover. The total losses accumulated until the end of 1993 are mainly covered by the total of 501.3 Mio DM loans granted by banks and the only current shareholder THA. Detailed information on the exact terms and conditions of the loans is still outstanding. The Commission will, as in the other Article 95 cases, examine the conditions of the loans thoroughly in order to determine whether they are provided on market terms or whether state aid is involved. If that is the case, the Commission would examine if such aids are in conformity with the Article 95 ECSC decision.

g) Privatization

The privatization contract with the Riva group has been signed on 1 March 1994 and will enter into force on 1 May 1994. For details see above II.2.

Monitoring of Article 95 ECSC steel cases

Sächsische Edelstahlwerke Freital GmbH, Freital/Sachsen

I. Background

1. The decisions

On 18 January 1993, the German Government notified the Commission of its intention to grant aid to Sächsische Edelstahlwerke GmbH Freital (hereinafter referred to as "SEW Freital"), a steel undertaking located in the territory of the former GDR. The company had been held by Treuhandanstalt since 1990 and was sold to Boschgotthardshütte O. Breyer GmbH, Siegen, hereinafter referred to as "BGH"), by contract concluded 23 December 1992.

The privatization provisions include aid elements that are incompatible with the ECSC Treaty and Commission Decision 3855/91/ECSC (Steel Aids Code) as well as those that may be deemed compatible with the orderly functioning of the Common Market in line with Article 5 indent 3 of the Steel Aids Code.

On 28 April 1993, the Commission decided to submit to the Council of Ministers a communication putting forward the proposal for its unanimous assent under Article 95 ECSC Treaty to approve aids associated with the privatization of the company, that cannot be approved under the provisions of the Steel Aids Code¹. On 28 July 1993 it approved to be granted under general regional aid schemes in line with Article 5 Steel Aids Code².

The Council of Ministers adopted its unanimous assent under Article 95 ECSC Treaty on 22 December 1993.

The Commission adopted its final decision, approving a total amount of 274 Mio DM of aid under Article 95 ECSC Treaty, on 12 April 1994³.

2. The restructuring plan

The restructuring plan of the purchaser provides for a reduction of the hot-rolling capacity of the company by at least 160 kt/y and a reduction of the crude steel capacity by 100 kt/y. The company will close down all existing hot-rolling facilities and replace them by a merchant bar mill with a capacity of 180 kt/y of which

Document SEC (93) 637 final

State Aid No. N 54/93, SG (93) D/14183

3 Document SEC (94) 451 final

some parts will be provided by BGH at no charges. It will close down all its remaining crude steel facilities and replace them by an electric arc furnace with a capacity of 200 kt/y. The total investment planned during the restructuring period amounts to 250 Mio DM of which 210 Mio DM concern its ECSC activities.

The capacity reduction will be accompanied by a reduction in workforce from 2,150 at the beginning of 1993 down to 1,100 by the end of the restructuring period in 1996.

II. First Monitoring report

1. Precedents

The Commission, by letter dated 1 March 1994, reminded the German Government that the final decision under Article 9 of the ECSC Treaty will also contain the obligation of Germany to supply the Commission twice a year, and not later than 15 March and 15 September respectively, with reports containing full information in accordance with an Annex of the decision, as adopted by the Council during its meeting on 17 December 1993. The Commission requested the first monitoring report, that, following the agreement of the Council, falls due on 15 March 1994 and is intended to reflect the position of the company as at 31 December 1993.

The reply of the German Government has been received on 25 March 1994. After a preliminary examination, the Commission, by letter dated 6 April 1994, asked for some additional information in line with its request dated 1 March 1994. No reply of the German Government has been received until the drafting of this report was completed (21.4.1994).

2. The situation of SEW Freital as at 31 December 1993

a) Capacity reductions

Until 31 December 1993, the company closed down four of five electric arc furnaces, thus reducing the total crude steel capacity from 300 kt/y down to 145 kt/y. The installations have been scrapped.

It is intended to close down the remaining electric arc furnace during the first half of 1996. The hot-rolling mill for medium sizes is planned to be closed during the second half of 1994, the mill for fine sizes will be closed down by the end of 1995.

These installations will be scrapped or sold outside Europe. There is a Chinese company interested to buy the hot-rolling mill for medium sizes.

b) Investments

The implementation of the investment plan as contained in the privatization contract could only be started in August 1993, after the approval of investments aids under regional aid schemes by the Commission. The first tranche of investments covers 53.2 Mio DM of which 36.2 Mio DM has been spend until 31 December 1993. The company received 21.1 Mio DM investment aids under the Joint Task Improvement of the regional economic structure on 28 December 1993. The Commission asked the German Government to provide more details about the investments carried out. No reply has been received until the drafting of this report was completed (21.4.1994).

c) Reduction of workforce

In 1993 the company released 990 workers, reducing the total workforce from 2,066 down to 1,076 persons. The total costs for these measures amounted to 8.78 Mio DM of which 7.57 Mio DM were covered by Treuhandanstalt, 1.16 Mio DM were covered by means under Article 56 ECSC, the remaining 0.04 Mio DM were covered by the company itself.

d) Production in 1993

	t/month average	total kt/y
crude steel	1,990	23.88
finished products	1,635	19.62
whereof:		
hot-rolled semi-finished products	675	8.1 kt/y
ingots	960	11.52 kt/y

The average prices for hot-rolled semi-finished products and ingots were given in the report. The Commission considers them to be within the normal range. 10% of the production were sold outside Germany.

e) Financial performance

The company reduced its annual turnover from 105.5 Mio DM in 1992 down to 58.2 Mio DM in 1993. At the same time it reduced its annual losses from 124 Mio DM in 1992 down to 20 Mio DM in 1993.

The company does not prepare financial ratios as requested by the Commission. The annual balance sheet and profit and loss account for 1993 has not been tested so far. A provisional version has not been submitted until the drafting of this report was completed (21.4.1994) to the Commission despite its request.

f) Privatization

The purchase price of 2 Mio DM has been paid during the first week of January 1993.

The new only shareholder of Sächsische Edelstahlwerke GmbH Freital is SEW Edelstahl GmbH & Co Holding (limited partnership) of which Boschgotthardtshütte O. Breyer GmbH is limited partner. SEW Edelstahl Verwaltungs-GmbH is the personal liable partner.

Debts accumulated until 31 December 1992 were covered by Treuhandanstalt. It paid 97.2 Mio DM for outstanding liabilities of suppliers and necessary maintenance. The amount paid to cover bank loans has not been given in the monitoring report. The Commission requested details concerning the loss compensation by THA. A reply has not been received by the time the drafting of this report was completed (21.4.1994).

New bank loans will be taken in 1994. The terms and conditions of these loans will be examined thoroughly so as to assess whether they contain any state aid elements.

3. Conclusion

a) Aids

The Commission approved the following aids under Article 95 ECSC Treaty:

- a maximum amount of 34 Mio DM to cover costs related to the release of 1,056 workers,
- a maximum amount of 189 Mio DM to cover debts accumulated until privatization (i.e. end of 1992)
- a maximum amount of 42 Mio DM for repair and maintenance of installations,
- a maximum amount of 9 Mio DM to guarantee the valuation of certain assets.

According to the report submitted to the Commission, Treuhandanstalt already paid 7,57 Mio DM in connection with the release of 990 workers.

A total amount of 97.2 Mio DM has been paid to cover debts accumulated until privatization and for repair and maintenance. In addition, it paid an unknown amount to cover bank loans as of 31 December 1992.

The Commission asked the German Government to provide more detailed information concerning these payments but did not receive an answer by the time this report was completed (21.4.1994).

This additional information, as well as the annual balance sheet, is necessary to establish whether the company had a minimum of financial charges of 3.5 % net at its outset after privatization in January 1993, as it is requested by the Commission decision.

b) Implementation of restructuring plan

The implementation of the restructuring and investment plan was started in August 1993 after the approval of the aids under Article 5 Steel Aids Code. They are in line with the investment plan which has been part of the privatization contract.

The company already closed the main part of its crude steel facilities and scrapped them in line with the provisions of the final decision of the Commission under Article 95 ECSC Treaty.

Monitoring of Article 95 ECSC steel cases

Siderurgia Nacional

I. Background

1. The decisions

On 30 July 1993, the Portuguese Government notified the Commission of its intention to grant aid to Siderurgia Nacional, the only steel undertaking in Portugal with a significant industrial weight. The aid is part of a restructuring plan aiming at the privatization of the company.

On 10 November 1993, the Commission decided to submit to the Council of Ministers a communication putting forward the proposal for its unanimous assent under Article 95 ECSC Treaty to approve aids connected with the restructuring plan that are incompatible with the ECSC Treaty and Commission Decision 3855/91/ECSC (Steel Aids Code)¹

The Portuguese Government also notified the Commission of its intention to grant social aids of up to 17.09 bn Esc and environmental aid of up to 1 bn Esc in the framework of the restructuring of the company. These measures will be subject of a separate decision of the Commission under the Steel Aids Code.

The Council of Ministers adopted its unanimous assent under Article 95 ECSC Treaty on 22 December 1993.

The Commission adopted its final decision, approving a total amount of 60.12 bn Esc (of which 38 bn Esc are earmarked for a capital injection and 22.12 bn Esc for debt write-off) under Article 95 ECSC Treaty, on 12 April 1994².

2. The restructuring plan

The restructuring plan provides for the creation of three different companies, specialised in long products (SN longos), flat products (SN planos) and services (SN Servicos). Siderurgia Nacional S.A. will be transformed into a SGPS (a corporate form especially for holdings), under which the new three companies will be held until their privatization.

¹ Document SEC (93) 1747 final

² Document SEC (94) 420 final

It further provides for the replacement of the existing blast furnace of the Seixal plant for long products by an electric arc furnace with a maximum capacity of 900 kt/y. The light and medium section mills of this plant are to be closed by the end of 1995, thus reducing the hot-rolling capacity by 140 kt/y.

The capacity reduction will be accompanied by a reduction of workforce from 3,208 at the end of 1992 down to 1,410 in 1994, i.e. a reduction by 1,798 employees.

II. First Monitoring report

1. Precedents

The Commission, by letter dated 1 March 1994, reminded the Portuguese Government that the final decision under Article 95 ECSC Treaty will also contain the obligation of Portugal to supply the Commission twice a year, and not later than 15 March and 15 September respectively, with reports containing full information in accordance with an Annex of the decision, as adopted by the Council during its meeting on 17 December 1993. The Commission requested the first monitoring report, that, following the agreement of the Council, falls due on 15 March 1994 and is intended to reflect the position of the company as at 31 December 1993.

The reply of the Portuguese Government has been received on 15 March 1994. After a preliminary examination, the Commission, by letter dated 7 April 1994, asked for some additional information in line with its request dated 1 March 1994. The reply of the Portuguese Authorities has been received on 20 April 1994.

2. The situation of Siderurgia Nacional as at 31 December 1993

a) New corporate structure

The creation of three independent companies (SN Longos, SN Planos and SN Servicos) which will be held by Siderurgia Nacional SGPS will soon be finished, so that a separate privatization will be possible.

b) Capacity reduction

The production of the light section mill and the continuous casting installation has been stopped on 31 October 1993. The facilities have been separated from the plant and cannot be used for production any more. The company is in contact with several possible purchasers outside Europe but no concrete negotiations have been started yet.

c) Investments

In 1993 the company spend 621.1 Mio Esc for routine investments and maintenance of ordinary nature as part of the everyday business to

keep the company in operation. Investments concerning environmental protection attained 50.4 Mio Esc. All these investments are not a part of the restructuring as provided in the restructuring plan. They have been financed by the company itself.

d) Reduction of workforce

In 1993 the company released 193 workers of which 138 went into early retirement. The redundancies were financed as follows:

company	8.3 Mio Esc
state	69.8 Mio Esc
ECSC	69.8 Mio Esc

e) Production in 1993

Annual production (in kt/y)

	total 1992	total 1993	average prod./month 2nd half 93
crude steel	741.4	745.3	60.45
finished long products	668.6	709.9	56.2
flat products	229.8	209.7	16.5

f) Sales

The company sold 933 kt finished products in 1993, of which 70% were sold in Portugal. 12% has been sold to other EU Member States, 18% has been sold to third Countries.

The Portuguese Government also provided detailed information covering the pricing. The Commission examined the information given and concluded that the prices are within the normal range.

g) Financial Performance

The Portuguese Government presented a full range of key financial ratios. No total figures on turnover, loans (including terms and conditions) and losses were given until the time the drafting of this report was completed (21.4.1994), despite repeated requests of the Commission.

On 20 April 1994, the Portugese Authorities provided a series of ratios based on the estimates of the restructuring plan in order to allow a comparison with the financial ratios presented by communication dated 15 March 1994. All the figures indicate a deterioration of the financial situation of the company. This deterioration should, according to the Portugese Authorities, not be alarming because it is due to the very weak market all steel companies had to suffer during 1993. It does not intend to take any additional measures at this stage because the financial ratios presented in the restructuring plan are based on the assumption that the privatization has been carried out and the restructuring measures has been implemented in line with the time table, which is not the case up until now.

According to the Portugese Authorities, no aid has been granted so far except social aids referred to above. The Commission, as in the other cases, will examine, how the losses have been covered and whether loans are being granted on market conditions or not. In case, any state aid elements will be found, it will examine whether these are covered by the Article 95 ECSC decision.

h) Privatization

The Portugese Government started negotiations with a number of interested companies concerning the privatization of SN Planos, the flat products branch.

ILVA: MONITORING OF ARTICLE 95 ECSC DECISION

Background

Under the restructuring plan approved by the Council, the ILVA Group should be privatised by the end of 1994. In addition, the plan includes a number of restructuring measures intended to assure the viability of the privatisation.

The core business of ILVA will be split into two companies:

ILP (ILVA LAMINATI PIANI) and
AST (ACCIAI SPECIALI TERNI);

all activities not part of these two companies will remain in the so-called "ILVA RESIDUA" and liquidated or transferred to private operators.

As a condition of the authorisation of aid under Article 95 ECSC, the Italian Government will ensure that

- the hot-rolling mill at Bagnoli is completely and definitively closed,
- there is a reduction in the capacity of Taranto's hot-rolled finished products of 1.2 million tonnes per year by June 1994 through the demolition of two reheating furnaces, one belonging to the No 1 hot wide-strip mill and one belonging to the plate mill,
- the new owner of ILP will further reduce capacity of hot-rolled finished products by 0.5 million tonnes per year either at Taranto or at any other facility belonging to the new owner within 6 months from privatisation.

The financing of the plan includes aid elements that are incompatible with Article 4(c) of the ECSC Treaty and the Steel Aids Code. These aids, totalling LIT 4790 billion, were authorised under Article 95 ECSC and were of the following nature:

- write-off of residual debt up to a maximum of LIT 2974 billion after sale of assets;
- capital injection of LT 650 billion by IRI into the group;
- coverage by IRI of restructuring and liquidation expenditure up to a maximum of LIT 1197 billion.

In addition to the above conditions, the following principles also had to be respected:

- The acquisition of the undertakings by private investors shall not be financed by State aid. It must be open to all interested parties and must not be subject to discriminatory conditions.
- The income obtained through the sales of the companies in the ILVA group shall be used in full to reduce the indebtedness of the group.
- The debts taken over by the new companies (ILP and AST) must at the outset put the levels of their net financing costs at 3.5% and 3.2% respectively of annual turnover.
- The undertakings ILP and AST shall not receive any tax credits on past losses of the ILVA group to be covered by State aid.

By letter dated 22 February 1994 the Italian Government notified the Commission of its intention to sustain the redundancy costs of ILVA group, which will shed 11,600 employees, of which 2,634 will be due to capacity closures.

The costs equal LIT 435 billion. The Italian Government has requested the Commission to approve a part of the aid under Article 56 § 2, letter b) of the ECSC Treaty. The remaining part may be approved under Article 4(1) of Decision 3855/91/ECSC and under the Article 95 ECSC decision. The Commission is currently awaiting additional information from the Italian Government. A decision will be adopted as soon as all necessary information is available.

In accordance with the monitoring arrangements agreed by the Council, Member States are required to supply the Commission twice a year and not later than March 15 and September 15 respectively, with reports on the beneficiary company and its restructuring in order that the Commission can assess whether the conditions attached to the authorisation of aid are met.

The first such report was received by the Commission at the end of March 1994 but it only contained information about the foreseen structure of the two new companies that are going to be privatised as well as their budgeted activities for 1994.

The Commission has reminded the Italian authorities of the need to provide information on ILVA's situation as at 31st of December 1993. To date a response is still awaited, apparently because of difficulties in obtaining data at this stage from the liquidators.

CSI: Monitoring of Article 95 ECSC decision

Background

Under the restructuring plan approved by the Council, AHV and Ensidesa would cease to operate and their activities would be taken over by a new company, to whom their assets and certain liabilities would be transferred. The plan included a number of industrial, commercial, social and financial restructuring measures, which would be completed by the end of 1998, and lead to the new company achieving viability by the end of 1996. The plan provided for the definitive closure by the end of 1995 of all AHV's steel-making facilities, including the hot strip mill at Ansio, which together with closures at Ensidesa's plants would involve a total capacity reduction of 2.33 m tons (35%) in pig iron, 1.423 m tons (20%) in liquid steel and 2.3 m tons (52%) in hot-rolled coil. There would be a workforce reduction of 10,347 persons from 24,489 in 1991 to 14,142 in 1998, i.e. a reduction of 42%.

A new company, with majority private sector participation was envisaged to take forward a proposed investment in a compact strip production unit at Sestao (with a capacity of 1 m tons), partially to replace the Ansio hot-strip mill. The Commission has made it clear that the authorisation of aid will be contingent on it containing the necessary verification that the majority private sector participation is genuine and unconditional, unsupported by State aid.

The financing of the plan included aid elements that are incompatible with Article 4(c) of the ECSC Treaty and with the provisions of the Steel Aids Code. These aids, authorised under Article 95 ECSC, amounted to 437.8 billion pesetas, serving the following purpose:

- a capital injection of up to a maximum of 276.7 billion pesetas in the new company by the former public shareholders of AHV and Ensidesa;
- social aids up to a maximum of 54.519 billion pesetas;
- up to a maximum of 35.5 billion pesetas in the form of capital conversion of an INI credit for that amount to Ensidesa;
- up to a maximum of 9.4 billion pesetas to cover contingencies;
- loss compensation of up to a maximum of 61.654 billion pesetas to cover additional operating losses and financial charges in 1992 and 1993 over and above those originally forecast in the plan, and reduced turnover arising from bringing forward the Ansio closure.

In addition to these aids the Commission has authorised social aids totalling up to a maximum of 47.35 billion pesetas as being compatible with Article 4.1 of Commission Decision 3855/91/ECSC (the Steel Aids Code).

In accordance with the monitoring arrangements agreed by the Council, Member States are required to supply the Commission twice a year, and

not later than 15 March and 15 September respectively, with reports on the beneficiary company and its restructuring in order that the Commission can assess whether the conditions attached to the authorisation of aid are met.

By letter dated 1 March 1994, the Commission reminded the Spanish Government of its reporting obligations. The Spanish Government replied by letter dated 15 March, submitting the first monitoring report. Since this information was insufficient for the Commission's purposes, the Commission requested supplementary information by letter dated 30 March. The Spanish authorities replied by letter dated 7 April. The following assessment, essentially reflecting the position as at 31 December 1993, is based on the information provided.

Capacity Reductions

Cessation of production at the various installations involved began last month and is expected to be completed by the end of December 1996. Final cessation of AHV production (including the hot-strip mill at Ansio) is slated for December 1995. It is expected that dismantling of the installations will take place during the course of the two years following the date of closure.

Investments

As at 31 December 1993, the only investments that had been made related to commercial investments foreseen in the plan in the form of shareholdings in the Spanish steel distribution companies Velasco and Gonvarri, totalling approximately 18 billion pesetas over the next five years. The costs in 1993 amounted to around 3.6 billion pesetas, largely covered by CSI, with the balance covered by the sale of assets.

Workforce Reductions

By the end of 1993 5743 jobs had been shed over two years nearly 1600 more than scheduled under the plan.

The scheduling of the remaining workforce reductions is currently under review in the light of the conditions attached to the aid authorisation as regards the timing of capacity closures.

Total social costs incurred in 1993 amounted to 19.731 billion pesetas of which 14.452 billion pesetas related to payments to workers affected by previous restructurings. These costs were covered by the Spanish Government under adapted general social security arrangements, not constituting state aids, and the company (3.515 billion pesetas).

Production and Market Effects

Production in 1993 was as follows:

Liquid steel	5.3 m tons
Hot-rolled coil	3.7 m tons
Heavy plate	0.520 m tons
Wire rod	0.385 m tons
Structurals	0.289 m tons

This represents a small increase compared with production levels in 1992 and is broadly in line with planned production under the plan.

1993 sales of finished products (including cold-rolled products) totalled 5.143 m tons, down about 3.5% compared with 1992, but above the level foreseen in the plan which envisaged a reduction in total sales from 5.3 m tons in 1991 to 4.3 m tons in 1996.

1993 sales markets were broken down as follows:

Spanish domestic market	64%
Other EC markets	15%
Third countries	21%

In 1992 the breakdown was:

Spanish domestic market	69%
Other EC markets	16%
Third countries	15%

On the basis of the information provided by the Spanish authorities on average prices, the picture varies according to product category but in general prices have increased compared with 1992. The prices charged in 1993 are within the normal range.

Financial performance

Under the restructuring plan as submitted in April 1992, it was assumed that the combined 1992 losses of AHV and Ensidesa would be 60.812 billion pesetas (of which 31.026 billion pesetas would be financial charges) on a combined turnover of 267.673 billion pesetas. In the event losses totalled 99 billion pesetas (41%), of which around 39 billion pesetas were financial charges, on a turnover of around 240 billion pesetas. Under the plan, as from 1 January 1993 AHV and Ensidesa were to cease to operate and their activities taken over by the new successor company, whose projected losses were estimated at 10.408 billion pesetas (which represented a small operating profit, offset by financial charges of 14.059 billion pesetas on a turnover of 281.897 billion pesetas).

In the event because of delays in obtaining approval of the plan, AHV and Ensidesa continued in operation with a deteriorating financial performance. In October 1993, when the Commission submitted a revised Article 95 ECSC Communication to the Council, it was proposed that additional aid in the form of loss compensation totalling 61.654 billion pesetas should be granted to cover, inter alia, additional losses in 1992 and 1993 over and above those foreseen in the plan.

According to the provisional accounts for 1993, combined losses for AHV and Ensidesa were 98.801 billion pesetas (37%), of which around 46

billion pesetas were financial charges, on a turnover of 265.928 billion pesetas, bringing losses for 1992 and 1993 together to nearly 198 billion pesetas. This amount is higher than the loss forecasted under the plan, although it is not directly comparable because as noted above, the key element of the plan (creation of the successor company to AHV and Ensidesa) has not yet been implemented.

The precise timing of the cessation of AHV and Ensidesa's activity and the establishment of a new company to take over their activities, as envisaged under the plan, remains uncertain at present but is expected some time in the course of 1994.

Details and timing of aids received and costs covered

According to the Spanish authorities the only aids received have been in the form of State guarantees in support of the credit facilities referred to below.

Terms and conditions of any new loans

During the course of 1993 CSI obtained loans totalling 48.5 billion pesetas from various banks, at normal market rates, supported by a State guarantee. The Guarantee carried a premium of 0.125% per annum. Similarly convertible bonds totalling 20 billion pesetas have been issued with a state guarantee carrying the same premium. In addition further loans have been obtained at normal market rates totalling 28.995 billion pesetas from various private and public banks and institutions (including the majority public shareholders of the companies) without any state guarantee. The Commission is examining these measures in order to assess whether they include aid elements aid, and if so, whether these are compatible with the Steel Aids Code and/or the Article 95 ECSC decision.

Privatisation

Sestao

At this stage no detailed information has been provided by the Spanish authorities. However, according to information supplied to the Commission by the company, in January a promotion company was established to attract possible investors to this project.

Initial information on the shareholdings in this company suggests that there is a minority public sector participation of 47%. However, participants in the company eventually to be established to take forward the investment itself have still to be identified and timing remains uncertain at present.

Sidenor: Monitoring of Article 95 ECSC Decision

Background

Under the restructuring plan approved by the Council, Acenor and Foarsa would cease their activities which would be taken over by their holding company Sidenor. The plan comprises a number of industrial, commercial, social and financial restructuring measures which are intended to allow Sidenor to achieve, by the end of 1995, adequate operating results to achieve viability.

Two of Sidenor's plants - Hernani and Llodio - would be closed, resulting in capacity reductions of 505,000 tons in liquid steel and 379,000 tons in hot-rolled products (a reduction of 31%). There would be a workforce reduction of 1845 posts, from 4725 as at 1991 to 2850 in 1995.

In addition, as a condition to the authorisation of aid under Article 95 ECSC, the Spanish Government agreed that the stainless steel plant at Larrondo should be sold to the private sector or closed by 30 June 1994 and that there should be additional workforce reductions of 335 posts at the remaining plants.

The financing of the plan included aid elements that are incompatible with Article 4(c) of the ECSC Treaty and the Steel Aids Code. These aids, totalling a maximum of 80.052 billion pesetas, were authorised under Article 95 ECSC and were to serve the following purposes:

- up to a maximum of 26.3 billion pesetas for the writing-off of Acenor and Foarsa debts;
- social aids up to a maximum of 7.79 billion pesetas;
- new paid-in capital of a maximum of 20.2 billion pesetas; and
- up to a maximum of 25.762 billion pesetas in the form of loss compensation to cover additional operating losses and financial charges in 1992 and 1993 over and above those originally forecast in the plan.

In addition to these aids the Commission has approved social aids totalling up to a maximum of 7.79 billion pesetas as being compatible with Article 4.1 of Commission Decision 3855/91/ECSC (the Steel Aids Code).

In accordance with the monitoring arrangements agreed by the Council, Member States are required to supply the Commission twice a year, and not later than 15 March and 15 September respectively, with reports on the beneficiary company and its restructuring in order that the Commission can assess whether the conditions attached to the authorisation of aid are met. However, the Commission may decide that these reports should be on a quarterly basis and in this case it has decided that there should be quarterly reports from the outset.

By letter dated 1 March 1994, the Commission reminded the Spanish Government of its reporting obligations. The Spanish Government replied by letter dated 15 March, submitting the first monitoring report. Since this information was insufficient for the Commission's purposes, the Commission requested supplementary information by letter dated 30 March. The Spanish authorities replied by letter dated 7 April. The following assessment, essentially reflecting the position as at 31 December 1993, is based on the information provided.

Capacity Reductions

The steel shop and rolling mill at Llodio both ceased production at the end of July 1992 and were dismantled in January 1993. The steel shop at Hernani ceased operations at the end of July 1992 and the rolling mill was halted in July 1993. The steel shop and rolling mill were dismantled in January and August 1993 respectively. Hernani's bloom caster was sold in November 1993 to an Indian company. These closures have resulted in the following capacity reductions as foreseen under the plan:

	thousand tonnes	
	liquid steel	hot-rolled products
Llodio	277	254
Hernani	228	125

Investments

During 1993 as foreseen under the plan adaptations were made to the bar mill at Vitoria, at an investment cost, after taking into account of transfers of certain rolling mill stands and finishing equipment from Hernani, totalling 583 million pesetas, the financing of which was covered by loans (see below).

Workforce Reductions

As at 31 December 1993, the workforce reduction was 1883, in excess of that targeted under the plan. The remaining reductions are expected to be achieved over the next two years. The total social costs for the year were 5.863 billion pesetas, covered by loans (see below).

Production and market effects

Average monthly production in 1993 was as follows (totals for year in brackets):

Liquid steel:	43,700 tons (524,400 tons)
Hot-rolled products	
- special steel long products	34,700 tons (416,400 tons)
- stainless steel long products	1,800 tons (21,600 tons)
Forge and foundry products	2,627 tons (31,524 tons)

This represents a reduction of around 10% in production of hot-rolled products compared with 1992. After taking into account the closure of Hernani and Llodio the 1993 production represents an overall capacity utilisation rate of 51%. If the stainless steel plant at Larrondo (where output was very low) is excluded, the utilisation rate was 53%.

1993 Sales totalled 402,148 tons broken down as follows:

- special steel long products	356,138 tons
- stainless steel long products	23,156 tons
- Forge and foundry products	22,845 tons

This compares with sales of 547,000 tons in 1991 (the year on which the plan was based) and 438,932 tons in 1992, and a 1993 sales forecast under the plan of 487,986 tons (excluding Larrondo).

1993 sales markets were broken down as follows:

Spanish domestic market	52%
Other EC markets	39%
Third countries	9%

The 1992 figures were:

Spanish domestic market	54%
Other EC markets	41%
Third countries	5%

In terms of prices, the data supplied for 1992 and 1993 show that the prices charged are within the normal range (in general whereas Sidenor's Spanish domestic prices fell in 1993 compared with 1992, its export prices have risen slightly).

Financial Performance

Under the restructuring plan it was assumed that the combined losses of Acenor and Foarsa in 1992 and 1993 respectively would be 10.8 and 3 billion pesetas on a turnover of 44.1 and 55.2 billion pesetas respectively.

In the event, 1992 losses were 19.626 billion pesetas on a turnover of 34.3 billion pesetas (57%). In the light of this, and the company's deteriorating financial position due to delays in implementing the restructuring plan (with projected losses for 1993 estimated at about the same amount), in its revised Article 95 ECSC communication to the Council last September, the Commission proposed that additional aid in the form of loss compensation totalling 25.762 billion pesetas should be authorised to cover the additional losses.

However, according to the provisional accounts for 1993, combined losses for Acenor and Foarsa amounted to 22.379 billion pesetas (of which 8.523 billion pesetas were financial charges) on a turnover of 31.514 billion pesetas (71%). This brings actual losses for 1992 and

1993 to 42 billion pesetas. This amount is higher than the loss forecasted under the plan, although it is not directly comparable given that Sidenor has not yet taken over the activities of Acenor and Foarsa as envisaged under the plan, which is now expected to be achieved during the course of 1994.

Details and timing of aids received and costs covered

According to the Spanish authorities, no aids under the plan have been granted to the companies, the loans received during the course of 1993 being new debts not having a state aid character (see below).

Terms and conditions of any new loans

As at 31 December 1993 short and long term loans at market rates had been obtained from the majority public shareholders of Foarsa and Acenor totalling around 38 billion pesetas. Of these loans, 5 loans amounting to around 16 billion pesetas were supported by a State guarantee carrying a 0.125% annual premium.

The Commission is examining these credit facilities in order to assess whether they include aid elements and if so whether these are compatible with the Steel Aids Code, and/or the Article 95 ECSC decision.

Similarly, the Commission is seeking clarification from the Spanish authorities about the capital injection of 8.224 billion pesetas into Acenor reported last Autumn as part of an operation, which the Commission was told at the time was foreseen, and was taken into account, in the aid authorised under the plan in the form of new paid-in capital of 20.2 billion pesetas. Likewise it is unclear whether and to what extent the measures (Sidenor loan of 3.562 billion pesetas and foregoing of capital and interest repayments on a previous BEX loan of 18.290 billion pesetas, capitalisation of which was taken into account in the approved restructuring plan) which were the subject of the Article 6(4) procedure opened in September 1992, have been effected.

Privatisation

Sale or closure of the Larrondo plant

Discussions on the possible sale of the stainless steel plant at Larrondo are continuing with various parties.