COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(94) 903 final

Brussels, 01.06.1994

REPORT FROM THE COMMISSION TO THE COUNCIL

on Monitoring of Article 95 ECSC Steel Aid

Decisions - updated Reports

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.

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CONFIDENCIAL

[redacted]

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 in Liquidazione" 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 N°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 2943 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

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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.

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 Commission, by letter dated 1st of March 1994, reminded the Italian Goverment of the requirement to supply reports containing full information in accordance with the Annex of the Decision,as agreed by the Council during its meeting on the 17th of December 1993. The Commission recalled that the first monitoring report following the agreement of the Council, fell due on the 15th of March 1994 and was intended to reflect the position of the company as of the 31st of December 1993.

After several exchanges of letters and other bilateral contacts, most of the required data and information were obtained in spite of the fact that, since ILVA, prior to being privatized, has been put into liquidation (a process not yet terminated), the liquidators, who are a separate entity from ILVA and have a legal responsability for their actions, were reductant to disclose data before the end of the liquidation process and the final approval of the company documents.

The Commission has, however been able to obtain most of the required data. The following assessment is based on that information. The financial information could, however, be changed by the liquidators and should therefore be regarded as provisional at this stage.

1) Privatisation

By the end of 1994, it is firm intention of the Italian Governement to privatise the core business of ILVA. For this purpose ILVA has been put into liquidation and a company called "ILVA in liquidazione" has been created along with the two new companies ILP and AST that will be sold to the private sector.

The privatisation process for the two newly formed companies was launched in December 1993 and firm offers have been subsequentely received by the 12th of May 1994 (two for ILP and three for AST).
These offers are currently under examination by IRI and so far no decisions have been made.

Among the other companies controlled by "ILVA in liquidazione",Cogne Acciai Speciali srl (100% subsidiary of "Cogne Spa in liquidazione") was sold following an open bid procedure to GEVAL (Gestioni Valdostane srl) of the private Marzorati Group on 1/1/94 for 7 billions LIT which have been used to decrease the indebtedness of "Cogne Spa in liquidazione".
Cogne A.S. has a workforce of 802 people.

Negotiations are under way for the disposal of other companies of the group.

2) Capacity reductions

As at the date of this first report no reductions have been implemented by the companies concerned. They have, however, reported that all capacity reductions will take place according to the schedule agreed.
The strict application of the Council's Decision will be matter of investigation for the second monitoring report due in September 1994.

3) Investments

No investments were foreseen under the plan. However investments are foreseen in 1994 both at ILP and AST at the level of 571 and 46.8 billions LIT respectively. These investments are only aimed toward environmental or technological improvements with no impact on the production capacity of the plants.

Out of the forecasted investments, only the revamping of Blast Furnace N° 5 at Taranto has been launched and it has started with preliminary clearing and cleaning of the surrounding area. Investment cost in 1994 for this project is expected to amount to 185 billions LIT.

4) Workforce Reduction

At the end of 1993, 38.613 people were on the books of ILVA with a reduction of 1.849 compared with 1992 and 814 less than foreseen in the plan.
Distribution of workforce between the three newly formed companies at 01/01/94 was :

ILP	AST	ILVA in Liquidazione
18219	4455	15939

Over the 1994 - 1996 period the ILVA group will shed 11500 employees.

On 01/01/94 with the sale of COGNE A.S. 802 workers were transferred to the new company.

At ILVA in Liquidazione during 1994, a total of 5464 people will be made redundant, out of these, 2460 due to capacity closures.

By letter dated 22 February 1994 the Italian Government informed the Commission of its intention to cover the redundancy costs of ILVA group, which are due to capacity closures. Their costs equal LIT 435 billion. A part of this will be covered under Article 56 § 2b.

b) of the ECSC Treaty. The remaining part (estimated at LIT 92 billion) 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.

Production & sales

Production

ILP	1993 ('000 tonnes) ACTUAL	FORECAST	1992
Liquid Steel	8252	8600	7843
Hot Rolled Coils	5878	5900	5993
Cold Rolled Sheets	2128	2850	3051
Coated Sheet	545	1040	1056

These levels of production are in line with the ones forecasted in the restructuring plan. The increase in crude steel production over 1992 is due to the fact that in 1992 the n°2 mill at Taranto was stopped for revamping .

AST	1993 ('000 tonnes) ACTUAL	FORECAST	1992
Liquid Steel	811	827	775
Hot Rolled Coils	860	855	1.042
Cold Rolled Sheets	463	471	448

Production levels are in line with the ones forecasted in the restructuring plan.

Sales

ILP

1993 sales of finished products totalled 7.395 millions tons 5.9% up from 1992 and 7.4% above plan. The split by market was as follows :

	1993	1992
Italy	68.5%	71.8%
Rest of EEC	13.0%	13.9%
Others	18.5%	14.3%

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The Italian authorities have also provided prices for 1993. The Commission has examined this information and concludes that the prices are within the normal range.

AST

1993 sales of finished products were 683.2 thousand tons.

Split by market for total sales were

	1993
Italy	60.8%
C.E.E. (+ AELE)	15.8%
Others	23.4%

The largest single product category was cold rolled stainless steel with sales of 281,600 tons (41.2% of total) which was 2% under 1992 sales and 6.6% under plan.
In comparison with 1992, the sales by markets were :

	1993	1992
Italy	58.6%	59.4%
C.E.E. (+AELE)	27.6%	31.3%
Others	14.4%	9.4%

Prices for 1993 sales by major product category have been provided. The Commission has examined this information and concludes that the prices are within the normal range.

Financial performance

The financial results at the end of 1993 for ILVA in Liquidazione take into account all the activities of the group including the ones that will be transferred to the two new companies ILP and AST.

These results have continued to deteriorate during 1993 mainly due to the steady high level of financial costs (986 billion LIT) and extraordinary provisions for 2363 billion LIT due to foreseen write-off of assets (approx. 1800 billions) and amounts set aside for restructuring costs. However the total losses were lower than foreseen under the plan.

Total losses were in billions LIT :

1993	1993 PLAN	1992
4352	4830	2310

Operating results have continued the decline started in 1991 in spite of increased turnover (15% more over 1992).

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The balance sheet of ILVA has been split among the three companies that will result from the liquidation process with a view to taking into account the condition set in the Commission's decision authorising aid about the minimum ratios between financial costs and turnover (3.5% for ILP and 3.2 for AST).

The balance sheets at the 01/01/94 of the three companies compared with the ones proposed in the plan are as follows:

ASSETS (Billions LIT)

	ILP		AST		ILVA in Liquidazione	
	actual	plan	actual	plan	actual	plan*
Fixed Assets	2664	2466	653	587	2141	1284
Curr. Assets	1060	884	396	476	(980)	(601)
Other items	(560)	(514)	(139)	(137)	(414)	(399)
Total Assets	3164	2836	910	926	747	284

LIABILITIES

	ILP actual	ILP plan	AST actual	AST plan	ILVA in Liquidazione actual	ILVA in Liquidazione plan*
Equity	1462	1524	473	452	(5345)	(5477)
Financial debts	1702	1312	437	474	6092	5761**
Total liabilities	3164	2836	910	926	747	284

* The plan figures for ILVA in liquidazione refers only to ILVA Spa since the consolidated figures for the group were not available at that time.

** This figure was revised to 5343 billions LIT in december 1993.

Indebtedness of ILVA in Liquidazione

Total indebtedness of ILVA foreseen in the plan as approved by the Council was 10067 billions LIT at the 31/12/1993.

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The information obtained by the 20th of May 1994 on the current estimation of total ILVA indebtedness as at 01/01/94 allows the following comparison

(in billion LIT)	Plan	Current estimates of the situation at 01/01/94
Total ILVA indebtedness	10067	10251
Transfers of debts to:		
ILP	(1298)	(1701)
AST	(474)	(436)
Other companies	(2292)	(1362)
Total residual ILVA indebtedness	**6003**	**6752**
Expected revenues from sale of ILP, AST and others	(3060)	(n.a.)
Foreseen aids	(2943)	(n.a.)

Total residual debts of ILVA in Liquidazione will be covered in part by the sale of ILP, AST and other companies. To date only Cogne has been sold (price 7 billions LIT), as reported before. Also no aids have been granted in the form of debts write-off. It is therefore difficult at this stage to draw any firm conclusion from this comparison.
The actual total indebtedness LIT 6752 billion as reported compares well with the one estimated in the plan if we consider that tranfers of debts to other companies are less than planned since all the debts that are going to be transferred are not included in the exercice at this stage (only Cogne having already been sold).

Variations from the plan in the levels of debts to be transferred to ILP and AST are due to adjustments made with the aim of complying with the condition that the ratio between financial charges and turnover should not be lower than 3.5% and 3.2% respectively.
The Commission is seeking clarification on the breakdown of respective turnovers in order to establish whether the finacial charges/turnover condition will be met.

More definitive information is to be provided on the total indebtedness of "ILVA in Liquidazione" at the 31/12/93, including loans or aids obtained as soon as the final accounts are approved by the liquidators.

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Monitoring of Article 95 ECSC steel cases

Siderurgia Nacional

I. Background

1. The decisions

On 30 July 1993, the Portugese Government notified the Comission 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 a 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 Portugese Government also notified the Commisison of its intention to grant social aids of up to 17.09 bn Esc and environmental aid of up to 10 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 gave 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 (303 MECU), of which 38 bn Esc (191.5 MECU) are earmarked for a capital injection and 22.12 bn Esc (111 MECU) for debt write-off, under Article 95 ECSC Treaty, on 12 April 1994[2].

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.

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1 Document SEC (93) 1747 final
2 Document SEC (94) 420 final

The plan 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 capoacity by 140 kt/y.

The capacity reduction will be accompanied by a reduction of the workforce from 3,208 at the end of 1992 down to 1,410 in 1997, i.e. a reduction of 1,798 employees.

II. First Monitoring report

1. Precedents

The Commission, by letter dated 1 March 1994, reminded the Portugese Government that the final decision under Article 95 ECSC Treaty would also contain the obligation of Portugal to supply the Commission twice a year, and not later than 15 March and 15 September resepectively, 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, fell due on 15 March 1994 and was intended to reflect the position of the company as at 31 December 1993.

The reply of the Portugese Government was 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 Portugese Authorities has been received on 20 April 1994.

The Portugese Authorities sent additional information by a communication dated 2 May 1994. The Commission requested further information by letter dated 11 May 1994 and imposed a deadline of 16 May 1994. The reply of the Portugese Government was received on time.

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 separate privatizations will be possible.

b) Capacity reduction

The production of the light section mill and the continuous casting installation were stopped on 31 October 1993. The facilities have been removed 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 spent 621.1 Mio Esc on routine investments and maintenance as part of the everyday business to keep the company in operation. Investments concerning environmental protection totalled 50.4 Mio Esc. All these investments are not a part of the restructuring as provided for 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	226.8	209.7	16.5

f) **Sales**

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

The Portugese 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 company had a turnover of 52.7 bEsc (265.5 MECU) in 1993 and suffered losses of 24 bEsc (120 MECU).

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The Portugese Government presented a full range of key financial ratios. On 20 April 1994, the Portugese Authorities provided also a series of ratios based on the estimates of the restructuring plan in order to allow a comparison with the financial ratios presented in their 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 cause concern because it is due to the very weak market all steel companies had to suffer during 1993. The Portugese Government 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 as yet.

According to the Portugese Authorities, no aid has been granted so far except the social aids referred to above.

The Portugese Government, by communication received 16 May 1994, provided detailed information concerning long, medium and short terms loans of the company. The total loans amounts to 330 MECU of which 140 MECU (42.4%) were granted by the ECSC. Private banks granted loans of 164 MECU (49.7%) of which 41% are covered by a Carta de Conforto of the state. Public banks granted 26 MECU (7.9%) of which 48.4% are covered by a Carta de Conforto. The Carta de Conforto is explained as an undertaking of the state to pay the aid intended once it is approved by the Commission. The loans are granted on the basis of market interest rates, which reach very high levels (19% max.). Other outstanding liabilities, mainly vis-a-vis suppliers, add up to 68 MECU. No Carta de Conforto and no state guarantee have been granted to cover these debts.

h) Privatization

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

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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 fonctioning 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 a 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 Code[1]. On 28 July 1993 it approved aids to be granted under general regional aid schemes in line with Article 5 Steel Aids Code[2].

The Council of Ministers gave 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 1994[3].

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

1 Document SEC (93) 637 final
2 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 charge. The company 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 relate to ECSC activities.

The capacity reduction will be accompanied by a reduction in the 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 95 ECSC Treaty would also contain the obligation of Germany to supply the Commission twice a year, and not later than 15 March and 15 September resepectively, 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, fell due on 15 March 1994 and was intended to reflect the position of the company as at 31 December 1993.

The reply of the German Government was 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 had been received until 21.4.1994, when the drafting of the monitoring report, as adopted by the Commission on 28 April 1994 was completed.

By letter dated 11 May 1994, the Commission reiterated its request for the outstanding information, setting a deadline of 16 May 1994. By communication received 18 May 1994, the German Government provided the requested information.

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

a) Capacity reductions

By 31 December 1993, the company had 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. A Chinese company is interested in buying 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 Commission's approval of investments aids under regional aid schemes compatible with the Steel Aids Code. The first tranche of investments covers 53.2 Mio DM, of which 36.2 Mio DM had been spent by 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 German Government announced a detailed investment plan covering the period up until end of 1996, which is to be drafted by the end of May 1994. The plan will be submitted in June 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 of 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 measures under Article 56 ECSC and 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) Sales

The company sold 89.6% of its production in Germany; 9.5% to other Member States of the Community; and the remaining 0.9% to third Countries.

f) Financial performance

The company reduced its annual turnover from 105.5 Mio DM in 1992 down to 71.1 Mio DM (figure corrected by communication received

18 May 1994) in 1993. At the same time it reduced its annual losses from 124 Mio DM in 1992 down to 14 Mio DM (figure corrected by communication received 18 May 1994) in 1993.

The German Government, by communication received 18 May 1994, provided a full range of financial ratios in line with the Commission's request. It also provided a provisional balance sheet and a provisional profit and loss account covering the year 1993.

The net financial charges of the company reached 0.16% of annual turnover in 1993, because the management hesistated obtain in loans before the aid intended had been approved by the Commission. In its decision dated 12 April 1994, the Commission pointed out that the financial charges should be set at 3.5% of annual turnover at the outset of the new company, i.e. immediately after privatization. The privatization entered into force on 22 December 1993. The Commission will immediately start discussions with the German Government on how it intends to comply with Article 3 (1) of the Commission's decision under Article 95 ECSC.

g) Privatization

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

The new sole 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 as at ember 1992 were covered by Treuhandanstalt. It paid 92 Mio DM loans which were taken on to maintain liquidity, plus loans totalling a further 55 Mio DM to cover other debts. It also wrote off 53 Mio DM shareholder's loans. Consequently, THA covered 200 Mio DM debts originating from the operations of the company before privatization. The Commission approved a maximum amount of 189 Mio DM to cover debts accumulated until privatization. The Commission will immediately enter into discussions with the German Government concerning the additional amount of 11 Mio DM.

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

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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 therewith. 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 1993[1] the Commission decided to submit to the Council of Ministers a communication putting forward a 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 gave its final decision, approving the aid intended under Article 95 ECSC Treaty, on 12 April 1994[2].

2. The privatization and restructuring plan

The privatization and restructuring plan submitted provided 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 envisaged 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
2 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 amounted to 1,100 Mio DM.

The restructuring plan envisaged employment reductions of some 1,600 persons from 3,500 in 1993 to 1,900 in 1996. It was 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 Teaty 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 1 March 1994, reminded the German Government that the final decision under Article 95 ECSC Treaty would 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, fell due on 15 March 1994 and was intended to reflect the position of the company in question as at 31 December 1993.

The reply of the German Government was received on 15 March 1994. It pointed out that the privatization of EKO Stahl would 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 for 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.

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On 28 April 1994, the Commission adopted its monitoring report to be submitted to the Council on the basis of the information then available. Still outstanding at that time was the information on the terms and conditions of the loans granted to the company.

By letter dated 11 May 1994, the Commission repeated its request concerning the outstanding outstanding information, setting a deadline of 16 May 1994. By communication received 18 May 1994, the German Government informed the Commission about the interest rate to be paid by EKO, but not about the other terms and conditions of the loans received. By letter dated 19 may 1994, the Commission requested the outstanding information to be forwarded immediately. The reply of the German Government was received on 20 May 1994.

2. Developments since April 1994

On 14 May 1994, it became known that the Riva group had decided not to take over EKO Stahl AG.

On 15 May 1994, according to press reports, it was decided to continue normal operations of EKO Stahl and to search for a new investor. In the meantime, THA would provide the finance necessary to cover operating losses.

By letter dated 18 May 1994, the Commission asked the German Government to provide detailed information about the intended financial measures of THA after the failure of the privatization concept connected with the Riva group. A reply is expected by 9 June 1994.

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

a) Capacity reductions

In 1993 the company did not carry out capacity reductions. No capacity reductions were intended under the restructuring plan, except the dismantling of a hot-rolling mill of another East-German steel undertaking, which was to 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 was 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 steelworks 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 resulted in 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 were mainly covered by the total of

379.5 Mio DM loans granted the sole current shareholder THA. The interest rate charged by THA was 6.1%. Loans of totalling 121.8 Mio DM were granted by Kreditanstalt für Wiederaufbau (a public bank) on preferential terms. In addition, the loans are covered by a deficiency guarantee of THA.

The discussions to be conducted with the German Government concerning the financial measures to bridge the period until a new investor is found will also cover the question of possible aid elements that are included in these loans.

g) Privatization

According to press releases, THA has charged a former Federal minister to conduct negotiations with several interested parties to find a new purchaser for the company.

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