COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION

Request for Council assent and consultation of the ECSC Committee, pursuant to Article 95 of the ECSC Treaty, concerning a draft Commission Decision

Restructuring of "EKO-Stahl AG", Eisenhüttenstadt/Brandenburg (former GDR)

Communication of the Commission to the Council of Ministers

Restructuring of "EKO-Stahl AG", Eisenhüttenstadt/Brandenburg (former GDR)

I. History

(a) By communication dated 1 April 1993, the German Government notified to the Commission, pursuant to Article 6 of Decision No. 3855/91/ECSC of 27 November 1991 (Steel Aids Code), the aids envisaged in connection with the modernising and restructuring plans for the ECSC steel undertaking "EKO-Stahl AG", Eisenhüttenstadt/Brandenburg.

(b) Since the financing of the investment projects concerned will be assumed to a great part by the public institution Treuhandanstalt (the current owner of EKO-Stahl), which also has taken in charge certain previous investment costs and operational losses of EKO-Stahl, the German Government acknowledges that these measures might contain aid elements not compatible with the provisions of the Steel Aids Code and therefore are prohibited according to Article 4 (c) of the ECSC Treaty . Therefore, the German Government requested in their above notification, the Commission to propose a decision for the unanimous assent of the Council of Ministers, thereby referring to the procedure provided for by Article 95 ECSC for aids not covered by the Steel Aids Code.

(c) As the regional investment aids applied for and covered by the Steel Aids Code are an integrated part of the total aid package supporting the envisaged restructuring plan, it has no sense for the Commission to take a separate decision on these aids. The whole aid package is therefore presented to the Council of Ministers within the context of the present Communication.

II. The company

EKO-Stahl is the largest steel-producing undertaking in the former GDR. It was created after the Second World War near the Polish border, in order to create employment for people coming from the former German Eastern parts of Europe, in a region which was structurally weak. In 1951 EKO started iron production and in 1968, implemented its cold-rolling section for hot-rolled products delivered mainly from the USSR. In 1973, a galvanisation installation was created and in 1974, a coating and shaping installation for coils. Finally, in 1984, the construction of an LD-steel mill was completed.

Employment

Currently (end of 1992), EKO-Stahl employs 3,475 persons (plus 1,641 persons employed in ABM-measures (job creation measures outside EKO's core activities but within the undertaking which constitute a generally available measure and are mainly paid by the State), short-time work or re-education and qualification measures), coming down from 9,920 on 31.12.1990 and 11,510 on 31.12.1989.

Capacity

Currently, EKO-Stahl disposes of the following capacities:

Pig iron	1.8 m t/y(1)
Crude steel	2.12 m t/y(2)
Cold-rolled strip and retreatment of hot-rolled coils	2.22 m t/y
<u>whereof</u>:	
- cold-rolled strip	1.67 m t/y(3)
- cutting installation for hot-rolled narrow strip	0.45 m t/y
- cutting into hot-rolled sheet	0.10 m t/y

Further treatment of cold-rolled strip:

- galvanisation	0.35 m t/y
- coating	0.11 m t/y
- cold-shaping	0.035 m t/y

These capacities, with the exception of pig iron capacity which has been reduced from 2.4 m t/y (in 1989), have been maintained at those levels since before unification.

Production

Production of EKO-Stahl was as follows:

in 000 t/y	1989	1990	1991	1992
Pig iron	2,174	1,722	882	699
Crude steel/semi-finished products	1,775	1,624	961	724
Hot wide strip	0	0	0	0
Cold-rolled strip and retreatment of hot-rolled coils	2,089	1,647	988	1,080
<u>whereof production of</u>:				
- cold-rolled strip	1,581	1,301	931	1,021
- galvanised sheet	349	302	259	310
- coated sheet	97	84	28	50
- formed sheet	34	31	6	25
- cutting into hot-rolled sheet	80	72	40	38
- cutting into hot-rolled narrow strip	428	274	17	21

All of these products fall under the ECSC Treaty. Since the different cold-rolled finished products undergo further treatment (galvanisation, coating, forming and cutting), the above figures must not be added up.

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(1) 1 high-furnace mill and a sintering facility
(2) converter steel mill (2 x 210 t converter and 2 casting installations)
(3) 1 cold-rolling facility with a quarto-tandem rolling mill and a 6-rolls rolling mill

Sales

In 000 t/y	1989	1990	1991	1992
Pig iron	604	319	33	16
Crude steel/semi-finished products	1,136	1,028	787	612
Flat products	2,089	1,647	988	1,080
whereof:				
- cold-rolled sheet	1,232	999	672	711
- galvanised sheet	252	218	231	260
- coated sheet	63	53	22	25
- formed (shaped) sheet	34	31	6	25
- hot-rolled sheet	30	72	40	38
- narrow strip	428	274	17	17

Markets:

60% of the steel production is sold in the EEC (whereof 50% in Germany), 37% in the CIS (mainly on barter-trade terms) and 3% in other countries.

III. Restructuring Measures

After the negotiations with Krupp Stahl AG on a takeover of EKO-Stahl failed in October/November 1992, Treuhand decided to run the company on its own for the time being and requested the management of EKO to elaborate a modernisation and restructuring plan which shall ensure the undertaking's viability even without a private partner.

On 29 March 1993, Treuhand approved the plan presented by EKO, after it had already approved the modernisation plan for the cold-rolling section on 19 March 1993.

EKO-Stahl's modernisation and restructuring plans aim at converting the undertaking into an integrated mini-mill for flat steel products and comprise the following measures:

(1) Closures

The pig iron production capacity of at present 1.8 m t/y will be entirely closed down by 1995. Equally, the undertaking will shut down its slitting installation for hot-rolled narrow strip (current capacity 0.45 m t/y)

(2) Capacity reductions/modernisations

The undertaking will reduce its crude steel capacity from 2.12 m t/y to 0.9 m t/y, by replacing its existing LD converter by an electric furnace.

The company will also reduce its capacity for cold-rolled strip from 1.67 m t/y to 1.22 m t/y. The capacity reduction results from shutting down a rolling-stand and a pickling installation.

(3) Capacity creation

The restructuring plan comprises the creation of a new capacity of 0.865 m t/y for hot wide strip, through the installation of a thin-slab casting and rolling mill representing the new compact strip mill technology. The resulting production of hot wide strip shall be entirely used for filling in the gap between the company's electric steel-making and its cold-rolling facility.

The envisaged investments and restructuring measures (including closures) shall have the following effects on the company's capacity:

in 000 t/y	1989	1990	1992	1996	Capacity reduction (-) creation (+) 1996/1990 in 000 t/y	(%)
Pig iron	2,400	1,800	1,800	0	- 1,800	(100)
Crude steel	2,120	2,120	2,120	900	- 1,220	(58)
Hot-rolled finished products (1996: hot wide strip)	0	0	0	865	+ 865	(-)
Cold-rolled strip and retreatment of hot-rolled coils	2,220	2,220	2,220	1,320	- 900	(41)
whereof:						
- cold-rolled finished products	1,670	1,670	1,670	1,220	- 450	(27)
- cutting of coils into sheets	100	100	100	100		(100)
	1,770	1,770	1,770	1,320		
- cutting into hot-rolled narrow strip	450	450	450	0	- 450	(100)
	2,220	2,220	2,220	1,320		

Overall ECSC production capacity in the former GDR

On the basis of the updated and confirmed capacity figures as provided by the German authorities, the evolution of production capacity in the territory of the former GDR will be as follows:

Capacity at end of in 000 t/y	1990 (1 July)	1992	1994	1995	1996
- pig iron	2,250	1,800	1,400	1,400	-
- crude steel	7,710	5,115	5,380	5,010	4,000
- rolled semi-finished products	4,260	3,030	2,336	360	150
- hot-rolled finished products	5,193	3,727	3,851	3,771	4,636(1)
- cold-rolled finished products	1,730	1,730	1,730	1,730	1,280

(1)From 1996 on including proposed new hot wide strip capacity with EKO-Stahl, but not taking into account the planned capacity reduction at SEW Freital.

The capacity reduction planned for end of 1994 as compared to 1990 (1 July) amount to 30% for crude steel, 45% for rolled semis and 25.6% for hot-rolled finished products, while for cold-rolled finished products, no capacity reduction is planned until 1994. The installation of the new compact strip mill planned for EKO-Stahl would limited the reduction in hot-rolling capacity to 9.2% (by end of 1994) and to 10.7% (by end 1996).

(4) Investments

Linked with the aforementioned modernisation and restructuring measures, the following investments are planned:

(a) Modernisation of cold-rolling facility

These investments concern in particular the main horizontal pickling aggregate, the tandem rolling mill, the annealing installation, the temper-pass frame and the installations for further treatment, i.e. the galvanisation and the forming (shaping) facility. The cold-rolling facility and subsequent sections will be supplemented by an integrated and computer-based production planning and steering system.

Total costs amount to 310 million DM (159 MECU) over a period of four years (1992 to 1995) whereof for investment 232 million DM and for maintenance measures 78 million DM.

(b) "New metallurgy"

This part of the investment plan envisages the replacement of the existing pig iron and converter steel production capacities by the installation of an electrical furnace, equipped with a multi-stage casting metallurgy. Investments in the hot wide strip capacity comprise the construction of a thin-slab casting and rolling installation ("Dünnbrammen-Gießwalzverfahren") of a capacity of 0.865 m t/y.

This new technology is comparable to the already existing ones with Nucor Steel in the USA (in combination with an electrical furnace) and with Arvedi in Italy. The three suppliers (Schloemann Siemag AG, Mannesmann Demag Hüttentechnik GmbH and Voest Alpine - Industrieanlagen GmbH) are prepared to grant - on a contractual basis - guarantees for technology, procedures, performance, output and quality of final products. The production will use a relatively high share of iron and steel scrap as secondary raw material.

Total costs amount to 750 million DM (385 MECU) over a period of four years (1993 to 1996), whereof 637 million DM for investment and for maintenance measures 113 mio DM. Of these 750 mio DM, about 200 mio DM (103 MECU) are planned for the electrical furnace and about 550 mio DM (282 MECU) for the new thin-slab casting and rolling mill.

Thus, total costs for investments for both the cold-rolling facility and the "new metallurgy" project amount to about 1.06 billion DM (544 MECU).

(5) Employment

The modernisation and restructuring plan envisages reductions in employment. For the core activities of EKO, the evolution shall be as follows:

end of	no. of staff
1992	3,475
1993	3,165
1995	2,000
1996	less than 2,000

Therefore, the investment plan shall result in a reduction of staff by at least 42% by 1996 as compared to end of 1992.

(6) Financing

(a) Cold-rolling facility

Required investments and maintenance measures in this area amount to 310 mio DM (159 MECU). This amount has been approved by Treuhandanstalt in March 1993 and is to be financed as follows:

70 mio DM (36 MECU)	additional payment by Treuhand to the company's equity (reserves);
162 mio DM (83 MECU)	as loan guarantees granted by Treuhand (to be reduced by regional or general aids as the case may be);
78 mio DM (40 MECU)	as a shareholder's loan.
310 mio DM (159 MECU)	

(b) "New Metallurgy"

Required investments and maintenance measures in this area amount to 750 mio DM (385 MECU), and are to be financed as follows:

350 mio DM (179 MECU)	as payment by Treuhand to the company's equity;
287 mio DM (147 MECU)	as loan guarantees granted by Treuhand;
113 mio DM (58 MECU)	as a shareholder's loan.
750 mio DM (384 MECU)	

The undertaking envisages to apply for the full amount of regional investment aids available in the new German Bundesländer (for details see under A.1) on page 11), which might be allowable under Article 5 of the Steel Aids Code and thus will reduce correspondingly the amount of financing to be assessed under the Article 95 ECSC procedure.

(7) Effects on production

On the basis of the planned investments, production shall be as follows:

in 000 t/y	1990	1992	1996	reduction 1996/1990 (in %)
Pig iron	1,722	699	0	(100)
Crude steel	1,624	724	900	(45)
Hot-rolled finished products (1996: hot wide strip)	0	0	860	
Cold-rolled strip and retreatment of hot-rolled coil	1,647	1,080	1,184	(28)
whereof:				
- cutting of hot-rolled coil into sheets	72	38	45	
- cold-rolled sheet	1,301	1,021	1,139	
- galvanised sheet	302	310	n.a.	
- coated sheet	84	50	n.a.	
- cutting of hot-rolled coils into narrow strip	274	21	0	

(8) Viability of the company

(a) Investments

The modernisation and investment plan comprises the following elements aiming at improving the undertaking's efficiency and thereby resulting in cost reductions:

- the construction of a new hot wide strip capacity filling the technical gap between crude steel production and cold-rolling section and which shall result in substantial cost saving above all by the elimination of transport cost, which up to now the company has to bear due to the necessity to transport the crude steel products for hot-rolling mainly to West German steel firms and back to EKO for cold-rolling and further treatment;

- the modernisation of the cold-rolling section which shall bring about an improved quality of the products and reduce production costs;

- the construction of a new electrical furnace which shall result in a more cost-efficient crude steel production which shall to a substantial degree be based on iron and steel scrap;

- the substantial reduction of staff shall result in respective cost savings;

- finally, the "new metallurgy" to be introduced into the EKO-Stahl plant is to reduce overall production costs and is to ensure the company's viability in the long run, pursuant to the marketing concept elaborated by EKO-Stahl.

(b) <u>Sales</u>

The undertaking is planning sales of 1,184 m t/y from 1996 on which entail the following finished products:

795,000 t/y	cold-rolled sheet/strips
234,000 t/y	galvanised sheet
67,000 t/y	coated sheet
43,000 t/y	shaped (formed) sheet
45,000 t/y	hot-rolled sheet
1,184,000 t/y	

Since the company's own hot wide strip capacity will be limited to 865,000 t/y, 412,000 t/y of hot wide strip will be purchased on the market, in order to produce the planned above total of 1,184,000 t/y of finished products.

These products are to be delivered to clients in Germany (55%), the former Soviet Union (21%), in the Community (12%) and in other countries (12%).

This estimate of the sales evolution is based on the assumption that in the former GDR, the specific per-capita consumption of cold-rolled sheet (e.g. for automotive and construction industries) is - and will be - still well below the West German and EC average.

(c) <u>Profit Situation</u>

By February 1993, EKO-Stahl has elaborated a marketing concept based on a study prepared by the consultancy Roland Berger. On this basis, EKO-Stahl is expected to enter into profits from 1997 under the assumption that a turnover of about 950 million DM (1992: 1,023 million DM) can be realised. The main reason for this shall be the substantial cost savings in material (of 350 million DM equalling 42%) and personnel (49 million DM equalling 28%), to be realised through the proposed modernization and restructuring measures.

(9) <u>Market Situation</u>

After the boom of 1989-90 the steel industry is currently going through the most difficult period since the beginning of the 80s. This is due to the general slowdown in the economy, with a slow but constant decrease of demand for steel and increasing oversupply, accompanied by a collapse in prices. Compared to 1989, prices have been reduced by 20% on average (30% for certain long products). In addition to these internal factors the international market and the exchange rate of the dollar are still non-satisfactory, there is pressure from imports, in particular from Eastern Europe and a trade dispute with the USA affecting 50% of EC exports to that market. All of these factors combine to aggravate the financial situation of almost all steel companies in the Community.

Unless the measures are taken to bring about a better balance between supply and demand, an increase in the price level cannot be expected. Consequently companies must devise their strategies so as to take account of relatively high supplies and depressed prices and to reduce their costs so as to remain competitive. In order to achieve this objective, particular attention will have to be paid to the level of production capacity and ways of adapting it to demand.

Analysis carried out by the Commission, with two scenarios, shows that overcapacity in **hot-rolled finished products** can be estimated between 19.2mt and 25.1mt by 1995 **(11%-15%)**. For **crude steel** excess capacity has been estimated between 31.8mt and 43.2mt **(16-22.6%)**.

The Commission - in agreement with the industry - has charged an independent personality (Mr Braun) to identify in collaboration with the industry measures of capacity closures. His report as presented to the Commission identifies 8.5 million t of crude steel capacities and 6.5 million t of hot-rolling capacities (whereof 3 million t of flat and 3.5 million t of long products) as "acquired" closures (ie closures that have already taken place), as well as 17 million t of crude steel capacities and 11 million t of hot-rolling capacities (whereof 9 million t of long products) as "potential" closures, the definitive plans of which are to be presented by 30.9.1993, and implementation of which is to be provided by the steel undertakings by end of 1994.

The closures required for a durable recovery of the sector are estimated by the Commission at a minimum of 30 million t of crude steel and 19 million t of hot-rolled products.

VI. <u>Appraisal</u>

In determining whether the Commission should make a proposal under Article 95 ECSC, its needs to establish:

(a) whether and to what extent the proposed financing of the modernisation and restructuring plan constitutes State aid prohibited according to Article 4(c) ECSC or whether the aids are compatible with the Steel Aids Code;

(b) whether the measures envisaged in the plan are capable of making the company viable and independent from further aid;

(c) that the amount of aids is limited to what is strictly necessary; and

(d) whether there are adequate counterpart measures in the form of capacity reductions, commensurate with the amount of aids involved and having regard to the extremely difficult market situation of the steel industry, in order to ensure that these aids do not distort EC competition to an extent contrary to the common interest.

A. Aids involved

1) Aids granted by Treuhandanstalt

As demonstrated under point (7) (Financing), the entire financing required for the modernisation and restructuring plan of EKO-Stahl is to be made available by Treuhandanstalt, either as capital injections, loan guarantees or shareholder's loans. Though part of the required funds may be covered by regional investment aids which may be allowed under Article 5 of the Steel Aids Code, the financing has to be considered as aid in its totality.

The reason for this is that the behaviour of Treuhandanstalt cannot be considered under the particular circumstances as that of private market investor. This is particularly true since EKO-Stahl accumulated substantial losses which have been covered by Treuhandanstalt, and is expecting further losses at least until 1996. Additionally, the undertaking is active in a sector which is currently characterised by high excess capacities, sluggish demand and too low prices, a situation which is not likely to fundamentally change in the near future. This is supported by the fact that in spite of a public tender procedure and long negotiations it has not been possible to find a private investor ready to bear the risk of investing in that company.

Consequently, the whole financial assistance of Treuhandanstalt including loan guarantees has to be considered as aid.

The following aid objectives are concerned:

Operating aid

- Coverage of 1990 to 1992 losses

  In order to cover the undertaking's losses from 1990 to 1992, Treuhand granted guarantees amounting to **241 mio DM (124 MECU)**.

- Coverage of 1993 to 1996 losses

  It is expected that EKO-Stahl will incur operating losses during the restructuring period 1993 to 1996, which are estimated at about **630 mio DM (323 MECU)**.

Investment aid

- Investment project "new metallurgy"

  350 mio DM (179 MECU) payment by Treuhand to EKO-Stahl's equity;

  287 mio DM (147 MECU) as loan guarantees granted by Treuhand to cover investment loans;

  113 mio DM (58 MECU) as a shareholder's loan (terms and other conditions including annual interest rate to be determined).

- <u>Modernisation of cold-rolling section</u>

  13 mio DM (7 MECU) as a shareholder's loan granted by Treuhand for financing investments during 1992.

  70 mio DM (36 MECU) as additional payment by Treuhand to EKO-Stahl's equity (reinforcement of reserves);

  162 mio DM (83 MECU) as loan guarantees granted by Treuhand to cover investment loans; this amount may be reduced by regional investment aids as the case may be;

  78 mio DM (40 MECU) as a shareholder's loan (term and other conditions including annual interest rate to be determined);

Given the financial situation of company all the guarantees and loans have to be considered as an aid of an intensity of 100% like the grants and the loss compensation aids.

It results from the above that EKO-Stahl is to receive substantial public aids amounting to:

420 mio DM (215 MECU)	direct payments by Treuhand to the company's equity;
690 mio DM (230 MECU)	on loan guarantees granted by Treuhand to cover investment loans and 1990 to 1992 operational losses;
204 mio DM (105 MECU)	as shareholder's loans by Treuhand;
630 mio DM (323 MECU)	by Treuhand for loss coverage for 1993 to 1996.
1,944 mio DM (997 MECU)	total aids to be granted by Treuhand, of which 1,073 mio DM (550 MECU) are investment aids and 871 mio DM (447 MECU) are operating aids.

2) <u>**Regional investment aids**</u>

The German Government has informed the Commission in its notification of this modernisation and restructuring plan of the company's intention to apply for regional investment aids to the maximum extent allowed for, on the planned investment cost. Following the breakdown given in the above-mentioned notification, investment costs amount to 232 mio DM (119 MECU) for the modernisation of the cold-rolling section, and 637 mio DM (327 MECU) for the investment into the "new metallurgy" project (electrical furnace and hot wide strip capacity), totalling **869 mio DM (444 MECU)**. The remainder of totalling **191 mio DM (98 MECU)** refers to costs for maintenance and other costs related to the investments.

These regional investment aids[1] are in particular:

- an <u>investment subsidy</u> of <u>max. 23%</u> of eligible costs;

<u>max. amount</u>:	200 mio DM (103 MECU)

- a <u>tax allowance</u> for investment of <u>8% and 5%</u> respectively,

<u>estimated (max.) amount</u>:	<u>70 mio DM (36 MECU)</u>
totalling (max.)	**270 mio DM (139 MECU)**

Since these aids which might be covered by the Steel Aids Code are an integrated part of the total aid package, they are presented to the Council of Ministers under the present Communication.

It is pointed out that these aids are available under general regional investment aids schemes available in the new Bundesländer, in particular the Joint Federal/Länder Programme for improving regional economic structures (subsidy), and the "Investitionszulagengesetz" (tax allowance). The extension of all these schemes to the steel industry in the territory of the former GDR has been approved by the Commission.

These regional investment aids, which are consequently to be assessed by the Commission under Article 5 of the Steel Aids Code may be allowed under said Code, given that the regional investment aids to be applied for can be considered as compatible with the provisions of Articles 1 and 5 of the Code, since they will be granted under regional investment aid schemes approved by the Commission. Equally, their aid intensity will remain below the 35% maximum ceiling allowed for and they are accompanied by an overall production capacity in the territory of the former GDR.

Counterpart for such regional investment aid is a significant reduction in steel production capacity. It is therefore called to attention that part of the gobal reduction in steel capacity in the former GDR referred to under point III.(3) serves as counterpart for such regional investment aids for all steel undertakings in that territory. The Commission has by its previous approvals of regional investment aid for steel undertakings in the former GDR laid down that part of this reduction of steel production capacity must concern hot-rolled finished products, and that the reduction in this area must be at least 10%. This must be taken into account when assessing the present case, and thereby in particular that a 865,000 t/y increase in hot wide strip capacity as planned in the present case would bring down the total overall capacity reduction in hot-rolled finished products in that territory to 9.2% (by end 1994).

(1) Given that eligible costs for regional investment aids amount to 869 mio DM (444 MECU) (see above)

B) Viability

The Commission doubts that the present modernisation and restructuring plan of the undertaking is likely to ensure the company's viability in the future without further aid. The assessment made on the basis of the study prepared by Roland Berger, which has not been made available to the Commission, does not appear to be based on the standard viability criteria applied by the Commission in similar cases. Furthermore, no independent study has been commissioned given the short delay between the notification of the aid measures and the fact that such a study, even though it might come to a positive result on the viability of the restructuring plan, could not alter the Commission's conclusion in this case. Moreover, the geographical location of the company leaves it with a cost disadvantage in terms of transport cost which weight heavily in a market which is characterised by cut-throat competition, particularly as an increasing part of the sales is destinated to Western European markets.

However, if the German Government were to present an alternative restructuring plan without an increase in hot-rolling capacity and could demonstrate the viability of this plan, the Commission would be willing to give it further consideration.

C) Volume of necessary aids

Under the economic system prevailing in the former GDR until unification, the undertaking had no opportunity to accumulate equity, since any profit and depreciation had to be transferrred to the State budget. Furthermore, since the undertaking's own decision making was strictly limited, investments for maintenance and modernisation were insufficient.

It follows from this that since the company has no own funds available to finance the required investment measures, the proposed financing appears not to exceed what is strictly necessary to finance the planned restructuring.

D) Evaluation of the competition distortive effect of aid

1. Capacity reductions

The proposed capacity reductions, ie:

- a total dismantling of pig iron capacity, currently at 1.8 m t/y and coming down from 2.4 m t/y (1989);
- a reduction by 1.22 m t/y of crude steel capacity (equalling 58% of current capacity);
- a reduction by 0.45 m t/y of cold-rolling capacity (equalling 27% of current capacity);
- a total dismantling of capacity of cutting hot-rolled coil into narrow strip currently amounting to 0.45 m t/y,

must be considered in the light of the current difficulties on the EC steel market in which all companies are suffering economically and financially from the decrease in demand and the collapse of prices with no immediate prospect of market recovery. The impact of the volume of aid and the timing of the restructuring proposed must be seen in the context of this market situation.

As noted under point (8), the plan proposes net capacity reductions in pig iron, crude steel, and cold-rolled finished products and in facilities for cutting hot-rolled coils into narrow strip, which will make a contribution towards reducing the current EC excess capacity in particular in crude steel and cold-rolled finished products. The Commission estimates that by 1995 there will be an overcapacity of crude steel of between 31.8 m t/y and 43.2 m t/y (16-23%). In hot-rolled finished products, this excess capacity is currently estimated at between 19.2 m t/y and 25.1 m t/y by 1995 (11-15%).

It must be noted that the capacity reduction measures presented under the EKO-Stahl plan will not occur immediately, but will become effective only from 1996 on. In hot-rolled finished products which in all similar cases has represented the yardstick for the steel undertakings' presence on the market, and accordingly the parameter measuring the company's effect on competition, no reduction is proposed. To the contrary, by the aided investment in a new modern compact strip mill the plan adds a supplementary significant hot-rolling capacity to the market, and in a product category (hot-rolled coils) where the market presently suffers from an overcapacity of between 3.8 and 8.4 m t/y.

2. <u>Employment reductions</u>

The modernisation and restructuring plan of EKO-Stahl shall be accompanied by a substantial reduction in employment. While the reductions already carried through since 1990 are totalling 65%, the investment plan proposes a further reduction from the 3,475 employees in EKO-Stahl's core activities as per end of 1992.

From 1995 on, this number shall not exceed 2,000 employees, which corresponds to a further reduction by 42% as compared to end of 1992.

3. <u>Aid to new technology</u>

The investment into an expensive and promising, but not fully developed new technology exclusively by public funds would give to EKO-Stahl a substantial competitive advantage as compared to its competitors, which under the present market conditions can hardly afford the high risk of similar investments, without the use of State aids.

E) Summary

In conclusion, it must be stated that the proposed modernisation and restructuring plan entails, apart from substantial reduction in pig iron, crude steel and cold-rolling capacities, the creation of a new hot wide strip capacity of 865,000 t/y. This capacity increase would bring the planned capacity reduction for hot-rolled finished products in the territory of the former GDR from (planned) 26% by end of 1994 as compared to 1.7.1990 down to below 10%, which is the minimum capacity reduction required for regional investment aids under Article 5 of the Steel Aids Code. This investment into a new technology is to be entirely financed by public funds, which would give to EKO-Stahl a competitive advantage towards its competitors which is not justified since these competitors are not allowed to invest into a comparable technology with public aids.

Furthermore, the proposed creation of a new hot wide strip capacity would jeopardize the efforts currently untertaken to reduce excess capacities in the Community.

VII. Commission's conclusion

The Commission has considered the proposal of the German Government to grant aid up to 1,944 mio DM (997 MECU) for the modernisation and restructuring of the steel undertaking EKO-Stahl AG. It has taken notice of the economic and financial implications of this plan for the company concerned although it has doubts as to the possibilities of this plan to ensure the future viability of the company.

The Commission recognizes that, without a proper restructuring EKO-Stahl will be unable to continue to operate. The Commission is equally aware of the particular economic and social difficulties currently prevailing in the territory of the former GDR.

However, the present investment plan of EKO-Stahl including the significant increase in capacity associated with it would distort competition in a depressed steel market with substantial overcapacities. The aided creation of new capacity proposed by the plan is presented in a time when the Community steel industry is forwarding plans to reduce capacities. The Commission cannot therefore consider that the proposal submitted by the German Government is well-balanced. However, the Commission is ready to consider positively any alternative version of the plan, provided it is in accordance with the Community policy in the steel sector.

The Commission therefore has decided not to request at this stage the unanimous assent of the Council of Ministers as provided under Article 95 ECSC in this matter.

However, the Commission submits this Communication to the Council for its considerations in the overall ECSC steel restructuring context.