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REPORT

on the Commission Report on the implementation in 1998 of Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry (Steel Aid Code) (COM(1999)094 – C5-0104/1999 – 1999/2107(COS))

Committee on Economic and Monetary Affairs

Rapporteur: Werner Langen

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PROCEDURAL PAGE

By letter of 5 March 1999 the Commission forwarded to the European Parliament the Commission Report on the implementation in 1998 of Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry (Steel Aid Code) (COM(1999)094 – 1999/2107(COS)).

At the sitting of 13 September 1999 the President of Parliament announced that he had forwarded this report to the Committee on Economic and Monetary Affairs as the committee responsible (C5-0104/1999).

At its meeting of 27 July 1999 the Committee on Economic and Monetary Affairs had appointed Werner Langen rapporteur.

It considered the Commission report and the draft report at its meetings of 31 August, 28 September and 24 November 1999.

At the last meeting it adopted the motion for a resolution by 30 votes with 2 abstentions.

The following were present for the vote: Randzio-Plath, chairman; García-Margallo y Marfil, vice-chairman; Langen, rapporteur; Berenguer Fuster, Berès, Bullmann, Van den Burg (for Balfe), P. Costa (for Riis-Jørgensen), Ettl (for Donnelly), J. Evans, Färm (for Green), Gasòliba i Böhm, Goebbels, Huhne, Jonckheer, Karas, Katiforis, Kauppi, Knörr Borràs, Konrad, Lulling, Marinos, Naranjo Escobar (for Sartori), Pérez Royo, Radwan, Rapkay, Schmidt, Tannock, Thyssen, Torres Marques, Villiers and von Wogau.

The report was tabled on 25 November 1999.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

Resolution on the Commission Report on the implementation in 1998 of Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry (Steel Aid Code) (COM(1999)094 – C5-0104/1999 – 1999/2107(COS))

The European Parliament,

- having regard to the Commission Report on the implementation in 1998 of Commission Decision n° 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry (Steel Aid Code) (COM(1999)094 – C5-0104/1999 – 1999/2107(COS)),
 - having regard to Article 8 of Decision No 2495/96/ECSC of 18 December 1996¹,
 - having regard to the Treaty establishing the European Coal and Steel Community, which expires in 2002,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A5-0073/1999),
- A. whereas the Commission Report relates to the second year of the 6th Steel Aid Code,
- B. whereas efforts should continue to be made in future to eliminate obstacles to competition and serious distortions of the market balance,
- C. having regard to Article 4(c) of the ECSC Treaty, under which subsidies or aids granted by States to the iron and steel industry or special charges imposed by States, in any form whatsoever, are prohibited,
- D. whereas the rules [permit] the granting of aid to the steel industry in certain clearly defined cases as an emergency measure,
1. Welcomes the Commission's report on the implementation of the Steel Aid Code in 1998; notes, however, that not all aspects of steel aid are treated;
 2. Stresses that restricting state aid to research and development, environmental protection, plants closure and special aids for Greece represents a sensible framework for the prevention of distortions of competition;
 3. Supports the Commission's decision of 9 December 1998 pursuant to Article 88 of the ECSC Treaty;
 4. Calls on the Member States to comply with their reporting requirement in better time in future;

¹ OJ L 338, 22.12.1996, p. 42
PE 229.765

5. Criticises the Commission because, in spite of the clear wording of the Steel Aid Code, which applies to all types of aid, it has on several occasions authorised aid for steel undertakings which do not fall within the categories set out in the Code;
6. Calls for a thorough assessment of this unequal treatment, *inter alia* in the light of the judgments of the European Court of Justice;
7. Recalls in this context that in its order of 3 May 1996 the Court accepted that the iron and steel industry is particularly sensitive to disturbances to its competitive operation, the purpose of the system of aids to this industry being to ensure the survival of successful companies; this rigid aid system is accurately defined in the current Steel Aid Code and should continue after the ECSC Treaty expires;
8. Calls for clarification of whether the Steel Aid Code applies to all aids;
9. Calls for a number of decisions to be examined as to whether they might require authorisation pursuant to Article 95 of the ECSC Treaty;
10. Calls on the Commission, in its 1999 Report, to detail the active role it plays in the elaboration of restructuring plans and authorised exceptional cases;
11. Considers that the Commission must decide justly and equitably when it authorises – or even itself suggests – exceptions to the ban on aid in individual cases, while in others it does not even consider the application of Article 95 of the ECSC Treaty;
12. Calls for an expert assessment of aid in connection with the privatisation of state steel undertakings;
13. Considers a review and amendment of the Steel Aid Code to be desirable in the interests of equal treatment if the Commission intends to permit aids other than those hitherto referred to at the end of the Steel Aid Code;
14. Calls on the Commission to propose amendments to that effect in connection with the regulations which are to succeed the ECSC Treaty from 2002;
15. Considers that, after the expiry of the ECSC Treaty, only a Council Regulation can guarantee the necessary legal certainty and ensure that the strict ban on all types of aid not covered by the Code is binding;
16. Calls, therefore, for aids to the steel industry to be governed by a Council Regulation pursuant to Article 94 of the EC Treaty;
17. Shares the view of the ECSC Consultative Committee that admissible aids should give the EU's steel sector advantages comparable to those enjoyed by other sectors of industry, but that any distortion of competition among companies in the EU's steel sector should be avoided, it being understood that the rules should be sufficiently strict to ensure that aid cannot be used for purposes other than those specified in the Code;

18. Instructs its President to forward this resolution to the Council, the Commission and the Member States.

EXPLANATORY STATEMENT

Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry (Steel Aid Code) introduced rules for the granting of aid to the steel industry in certain, precisely defined cases.

Under this Decision aid was permitted to be granted to the iron and steel industry only for certain, specified purposes, i.e. research and development, environmental protection, social security to ease the closure of steelworks, and to help the least competitive undertakings cease trading altogether.

There is also an exceptional rule for regional investment aid, which is restricted to Greece and may not exceed a given total volume. Under Article 4(c) of the ECSC Treaty, subsidies or aids granted by States, or special charges imposed by States, in any form whatsoever, are prohibited.

The Commission's Steel Aid Code is intended to take account of the need to restructure the European steel industry, to reduce overcapacity and to ensure the competitiveness of the European steel industry. In the second year of its application the Commission has for the first time made use of Article 88 of the ECSC Treaty, in connection with Germany's failure to repay an aid which had been unlawfully granted. The Steel Aid Code is intended to relax the ECSC Treaty's strict prohibition on all aid and thus open up specific opportunities for the granting of national aids to steel undertakings.

The objective of this new system of rules in 1996 was to achieve roughly equal treatment with other branches of industry in the European Union. According to its Report, the Commission has authorised on several occasions aids for steel undertakings which did not fall within the categories listed in the Code or clearly went well beyond the limits set there.

The European Court of Justice has upheld this Commission decision at first instance, finding that the Steel Aid Code was a set of rules governing solely the types of aid set out there. In the Court's view the Commission was not entitled to issue a blanket prohibition on all aids, since this would be tantamount to abandoning the discretionary power allowed to it under Article 95 of the ECSC Treaty, which permits it to authorise aids in particular cases if they are required to achieve the objectives of the ECSC Treaty.

During the period of the Report a total of 27 individual decisions were taken, and no less than 12 of these related to steel plants in Germany. It was mostly German steel firms which, according to the Report, received unlawful aids which were ordered to be repaid. The Commission argued in support of its decisions that these were not aids permitted by the Steel Aid Code and thus could not be authorised. The Commission did not consider whether authorisation pursuant to Article 95 of the ECSC Treaty was a possibility, though it did note that no application under Article 95 had been made. The Court of Justice and the Commission have so far both rejected complaints that the Commission has been treating comparable aid cases unequally. The steel industry's claim of arbitrary application of the ECSC aid provisions needs to be examined in detail and all instances of the granting of aid need to be clarified, including exceptional authorisations applied for at the suggestion of the Commission, for which restructuring plans were even demanded.

If in individual cases the Commission authorises, and indeed sometimes suggests, exceptions to the ban on subsidies, while in other cases it does not even consider the application of Article 95 of the ECSC, it is making inequitable use of its discretionary power to take exceptional decisions.

The possible forthcoming privatisation of state undertakings is also not sufficient justification for this unequal treatment.

The European Parliament therefore considers it essential that the Steel Aid Code be amended to remedy this inequitable treatment and calls on the Commission to submit an amendment to that effect, not with a view to relaxing discipline on subsidies still further, but merely to eliminate the existing unequal treatment and thus to permit a follow-on regulation to be adopted after the expiry of the ECSC Treaty in 2002 without relaxing the basic lines of the Steel Aid Code.

When the ECSC Treaty expires, it will be essential to regulate steel aids by means of a Council Regulation pursuant to Article 94, since this will be the only means of creating the necessary legal certainty and clarity. Only thus can the strict prohibition on all aids not covered by the Code be enforced. A Council Regulation is directly applicable legislation which also has to be complied with by regional governments.