COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.04.2005
COM(2005)140 final

Proposal for a

COUNCIL DECISION

on the fulfilment of the conditions laid down in Article 3 of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, with regard to an extension of the period foreseen in Article 9(4) of Protocol 2 to the Europe Agreement

(presented by the Commission)

{SEC(2005)477}

EXPLANATORY MEMORANDUM

1. According to Article 9(4) of Protocol 2 of the Europe Agreement with Romania, during the first five years after the entry into force of the Agreement, and by derogation from paragraph 1 (3) of the same Article, Romania could exceptionally, as regards steel products, grant public aid for restructuring purposes, provided that this leads to the viability of the benefiting firms under normal market conditions at the end of the restructuring period, the amount and intensity of such aid are strictly limited to what is absolutely necessary in order to restore such viability and are progressively reduced and the restructuring programme is linked to a global rationalisation and reduction of overall production capacity in Romania.

2. This initial period expired on 31 December 1997 for Romania.

3. Romania requested an extension of the above-mentioned period in December 1997.

4. A realistic restructuring programme, including individual company business plans, respecting the criteria set out in Article 9(4) of Protocol 2 of the Europe Agreement, are the necessary basis for agreeing the requested extension of the period during which Romania may grant state aid for restructuring purposes.

5. In May 2002, the Commission proposed an extension of the period during which Bulgaria, the Czech Republic, Poland and Romania may grant aids to restructure their steel sector, in view of the urgent need to find an acceptable solution to move forward the steel restructuring process in the candidate countries concerned.

6. This extension would provide the legal basis for granting restructuring aid in the period before accession in the framework of the required restructuring plans (i.e. the aid provided should be limited and proportional to capacity reduction); it would also have the effect of retroactively legalising aid that may have been granted illegally since the entry into force or the Europe Agreement.

7. The extension will come into effect only after the adoption and assessment of a restructuring plan and individual business plans, which fulfil the criteria of Protocol 2 of the Europe Agreements.

8. With a view to achieving this aim, an Additional Protocol to the Europe Agreement with Romania was drawn up.

9. The Additional Protocol to the Europe Agreement was signed by the Community and Romania on 23 October 2002. A provisional application before entry into force, as envisaged by Article 300 (2) of the Treaty establishing the European Community is in place, as foreseen by Article 1 of Council Decision of 29 July 2002 on the signature and provisional application of an Additional Protocol to the Europe Agreement.

10. The Additional Protocol provides for extension of the period foreseen by Protocol 2 by a further eight years starting on 1 January 1998, subject to the fulfilment of certain conditions.

11. The first condition has been fulfilled by Romania, by submitting to the Commission a restructuring programme and business plans for the companies concerned, which have been assessed and agreed by its National State Aid Authority (the Competition Council).

12. The second condition is the final assessment of the restructuring programme and business plans by the Commission, with a view to determining whether the requirements of Article 9(4) of Protocol 2 of the Europe Agreement are met.

13. The Commission services have made a final assessment which concludes that the restructuring programme and plans submitted by Romania meet the requirements of Article 9(4) of Protocol 2 of the Europe Agreement.

14. The Commission is proposing a Council Decision approving the Commission's final assessment, as foreseen in Article 3 of the Additional Protocol. Once the Council has granted its approval, the conditions laid down in Articles 2 and 3 of the Additional Protocol will have been met and the extension of the period foreseen by Protocol 2 will take effect.

15. The Council is therefore requested to approve the attached draft proposal for a Decision on the fulfilment of the conditions laid down in Article 3 of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, with regard to an extension of the period foreseen in Article 9(4) of Protocol 2 of the Europe Agreement.

Proposal for a

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on the fulfilment of the conditions laid down in Article 3 of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, with regard to an extension of the period foreseen in Article 9(4) of Protocol 2 to the Europe Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, with regard to an extension of the period foreseen in Article 9(4) of Protocol 2 to the Europe Agreement, and in particular Article 3 thereof;

Having regard to the proposal from the Commission[1],

Whereas:

(1) A Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part[2], came into force on 1 February 1995.

(2) Article 9(4) of Protocol 2 to the Europe Agreement with Romania lays down that during the first five years after entry into force of the Agreement, and by derogation from paragraph 1 (3) of the same Article, Romania may exceptionally, as regards steel products, grant public aid for restructuring purposes, provided that this leads to the viability of the benefiting firms under normal market conditions at the end of the restructuring period, the amount and intensity of such aid are strictly limited to what is absolutely necessary in order to restore such viability and are progressively reduced and the restructuring programme is linked to a global rationalisation and reduction of overall production capacity in Romania;

(3) The initial period of five years expired on 31 December 1997;

(4) Romania requested an extension of the above-mentioned period in December 1997;

(5) It seemed appropriate to grant an extension of this period for an additional period of eight years starting on 1 January 1998;

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1 OJ C […], […], p. […].

2 OJ L 357, 31.12.1994, p. 3.

(6) To this effect, an Additional Protocol to the Europe Agreement was signed by the Community and Romania on 23 October 2002 and is provisionally applied from that date;

(7) Under Article 2 of the Additional Protocol, the extension of the above-mentioned period is made conditional on the submission by Romania to the Commission of a restructuring programme and business plans that meet the requirements of Article 9(4) of Protocol 2 to the Europe Agreement and have been assessed and agreed by its National State Aid Authority (the Competition Council);

(8) In December 2004, Romania submitted to the Commission a restructuring programme and business plans for those companies having benefited or benefiting from state support for restructuring;

(9) Under Article 3 of the Additional Protocol, the extension of the above-mentioned period is made conditional on a final assessment of the restructuring programme and business plans by the Commission;

(10) The Commission has made a final assessment of the restructuring programme and the business plans submitted by Romania. This assessment indicates that the implementation of the restructuring programme and the business plans will allow the companies concerned to reach viability under normal market conditions. It also shows that the amount of State aid for restructuring purposes as specified in the plans is strictly limited to what is necessary to allow the companies concerned to reach viability and has been progressively reduced and stopped by the end of 2004. The assessment provides also that a global rationalisation and reduction of excess capacity of the beneficiary companies will be reached. The assessment therefore concludes that the restructuring programme and the business plans meet the requirements of Article 9(4) of Protocol 2 to the Europe Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The restructuring programme and business plans submitted to the Commission by Romania pursuant to Article 2 of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, with regard to an extension of the period laid down in Article 9(4) of Protocol 2 to the Europe Agreement are in compliance with the requirements of Article 9(4) of Protocol 2.

Article 2

The period during which Romania may exceptionally, as regards steel products, grant public aid for restructuring purposes in accordance with the provisions of Article 9(4) of Protocol 2 is hereby extended by an additional period of eight years starting on 1 January 1998, as foreseen by Article 1 of the Additional Protocol.

Done at Brussels,

For the Council
The President