Protocol No 1

on amendments to the statute of the European Investment Bank

PART ONE

AMENDMENTS TO THE STATUTE OF THE EUROPEAN INVESTMENT BANK

Article 1

The Protocol on the Statute of the European Investment Bank shall be amended as follows:

— Articles 3, 4(1) – first subparagraph, 11(2) – first, second and third subparagraphs, 12(2) and 13(1) – first subparagraph, shall be replaced by the following texts;

— a new fourth subparagraph shall be added after Article 11(2) third subparagraph;

'Article 3

In accordance with Article 266 of this Treaty, the following shall be members of the Bank:

— the Kingdom of Belgium,

— the Czech Republic,

— the Kingdom of Denmark,

— the Federal Republic of Germany,

— the Republic of Estonia,

— the Hellenic Republic,

— the Kingdom of Spain,

— the French Republic,

— Ireland,

— the Italian Republic,

— the Republic of Cyprus,

— the Republic of Latvia,

— the Republic of Lithuania,

— the Grand Duchy of Luxembourg,

— the Republic of Hungary,

— the Republic of Malta,

— the Kingdom of the Netherlands,

— the Republic of Austria,

— the Republic of Poland,

— the Portuguese Republic,

— the Republic of Slovenia,

— the Slovak Republic,

— the Republic of Finland,

— the Kingdom of Sweden,

— the United Kingdom of Great Britain and Northern Ireland'

Article 4(1), first subparagraph

'1. The capital of the Bank shall be EUR 163 727 670 000, subscribed by the Member States as follows [1]:

Germany	26 649 532 500
France	26 649 532 500
Italy	26 649 532 500
United Kingdom	26 649 532 500
Spain	15 989 719 500
Belgium	7 387 065 000
Netherlands	7 387 065 000
Sweden	4 900 585 500
Denmark	3 740 283 000
Austria	3 666 973 500
Poland	3 635 030 500
Finland	2 106 816 000
Greece	2 003 725 500
Portugal	1 291 287 000
Czech Republic	1 212 590 000
Hungary	1 121 583 000
Ireland	935 070 000
Slovakia	408 489 500
Slovenia	379 429 000
Lithuania	250 852 000
Luxembourg	187 015 500
Cyprus	180 747 000
Latvia	156 192 500
Estonia	115 172 000
Malta	73 849 000

[1] The figures quoted for the new Member States are indicative and based on the forecast 2002 data published by Eurostat (New Cronos).'

Article 11(2), first, second and third subparagraphs

'2. The Board of Directors shall consist of twenty-six directors and sixteen alternate directors.

The directors shall be appointed by the Board of Governors for five years, one nominated by each Member State, and one nominated by the Commission.

The alternate directors shall be appointed by the Board of Governors for five years as shown below:

— two alternates nominated by the Federal Republic of Germany,

— two alternates nominated by the French Republic,

— two alternates nominated by the Italian Republic,

— two alternates nominated by the United Kingdom of Great Britain and Northern Ireland,

— one alternate nominated by common accord of the Kingdom of Spain and the Portuguese Republic,

— one alternate nominated by common accord of the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

— one alternate nominated by common accord of the Kingdom of Denmark, the Hellenic Republic and Ireland,

— one alternate nominated by common accord of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden,

— three alternates nominated by common accord of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic,

— one alternate nominated by the Commission.'

Article 11(2), fourth subparagraph to be added

'The Board of Directors shall co-opt six non-voting experts: three as members and three as alternates.'

Article 12(2)

'2. Save as otherwise provided in this Statute, decisions of the Board of Directors shall be taken by at least one third of the members entitled to vote representing at least fifty per cent of the subscribed capital. A qualified majority shall require eighteen votes in favour and sixty-eight per cent of the subscribed capital. The rules of procedure of the Bank shall lay down the quorum required for the decisions of the Board of Directors to be valid.'

Article 13(1), first subparagraph

'1. The Management Committee shall consist of a President and eight Vice-Presidents appointed for a period of six years by the Board of Governors on a proposal from the Board of Directors. Their appointments shall be renewable'.

PART TWO

TRANSITIONAL PROVISIONS

Article 2

The Kingdom of Spain shall pay the amount of 309 686 775 as share of the capital paid in for its subscribed capital increase. This contribution shall be paid in eight equal instalments falling due on 30/9/2004, 30/9/2005, 30/9/2006, 31/3/2007, 30/9/2007, 31/3/2008, 30/9/2008 and 31/3/2009 ([1]).

The Kingdom of Spain shall contribute, in eight equal instalments falling due on the dates referred above, to the reserves and provisions equivalent to reserves, as well as to the amount still to be appropriated to the reserves and provisions, comprising the balance of the profit and loss account, established at the end of the month preceding accession, as entered on the balance sheet of the Bank, in amounts corresponding to 4,1292 % of the reserves and provisions.

Article 3

From the date of the accession, the new Member States shall pay the following amounts corresponding to their share of the capital paid in for the subscribed capital as defined in Article 4 of the Statute ([2]).

Poland	EUR	181 751 525
Czech Republic	EUR	60 629 500
Hungary	EUR	56 079 150
Slovakia	EUR	20 424 475
Slovenia	EUR	18 971 450
Lithuania	EUR	12 542 600
Cyprus	EUR	9 037 350
Latvia	EUR	7 809 625
Estonia	EUR	5 758 600
Malta	EUR	3 692 450

([1]) These dates are based on the assumption of effective accession of the new Member States at the latest two months before 30/9/2004.

([2]) The figures quoted are indicative and based on the forecast 2002 data published by Eurostat (New Cronos).

These contributions shall be paid in eight equal instalments falling due on 30/9/2004, 30/9/2005, 30/9/2006, 31/9/2007, 30/9/2007, 31/3/2008, 30/9/2008 and 31/3/2009 [1].

Article 4

The new Member States shall contribute, in eight equal instalments falling due on the dates referred to in Article 3, to the reserves and provisions equivalent to reserves, as well as to the amount still to be appropriated to the reserves and provisions, comprising the balance of the profit and loss account, established at the end of the month preceding accession, as entered on the balance sheet of the Bank, in amounts corresponding to the following percentages of the reserves and provisions [2]:

Poland	2,4234 %
Czech Republic	0,8084 %
Hungary	0,7477 %
Slovakia	0,2723 %
Slovenia	0,2530 %
Lithuania	0,1672 %
Cyprus	0,1205 %
Latvia	0,1041 %
Estonia	0,0768 %
Malta	0,0492 %

Article 5

The capital and payments provided for in Articles 2, 3 and 4 of this Protocol shall be paid in by the Kingdom of Spain and the new Member States in cash in euro, save by way of derogation decided unanimously by the Board of Governors.

Article 6

1. Upon accession, the Board of Governors shall appoint a director for each of the new Member States, as well as alternate directors, as indicated in Article 11(2) of the Statute.

2. The terms of office of the directors and alternate directors so appointed shall expire at the end of the annual meeting of the Board of Governors during which the annual report for the 2007 financial year is examined.

3. Upon accession, the Board of Directors shall co-opt the experts and the alternate experts.

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[1] These dates are based on the assumption of effective accession of the new Member States at the latest two months before 30/9/2004.

[2] The figures quoted are indicative and based on the forecast 2002 data published by Eurostat (New Cronos).

Protocol No 2

on the restructuring ofthe czech steel industry

1. Notwithstanding Articles 87 and 88 of the EC Treaty, State aid granted by the Czech Republic for restructuring purposes to specified parts of the Czech steel industry from 1997 to 2003 shall be deemed to be compatible with the common market provided that:

— the period provided for in Article 8(4) of Protocol 2 on ECSC products to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part [1], has been extended until the date of accession,

— the terms set out in the restructuring plan on the basis of which the above mentioned Protocol was extended are adhered to throughout the period 2002-2006,

— the conditions set out in this Protocol are met, and

— no State aid for restructuring is to be paid to the Czech steel industry after the date of accession.

2. Restructuring of the Czech steel sector, as described in the individual business plans of the companies listed in Annex 1, and in line with the conditions set out in this Protocol, shall be completed no later than 31 December 2006 (hereinafter referred to as 'the end of the restructuring period').

3. Only companies listed in Annex 1 (hereinafter referred to as 'benefiting companies') shall be eligible for State aid in the framework of the Czech steel restructuring programme.

4. A benefiting company may not:

(a) in the case of a merger with a company not included in Annex 1, pass on the benefit of the aid granted to the benefiting company;

(b) take over the assets of any company not included in Annex 1 which is declared bankrupt in the period up to 31 December 2006.

5. Any subsequent privatisation of any of the benefiting companies shall respect the conditions and principles regarding viability, State aids and capacity reduction defined in this Protocol.

6. The total restructuring aid to be granted to the benefiting companies shall be determined by the justifications set out in the approved Czech steel restructuring plan and individual business plans as approved by the Council. But in any case, the aid paid out in the period 1997-2003 is limited to a maximum amount of CZK 14 147 425 201. Of this total figure Nová Huť receives a maximum of CZK 5 700 075 201, Vítkovice Steel receives a maximum of CZK 8 155 350 000 and Válcovny Plechu Frýdek Místek receives a maximum of CZK 292 000 000 depending on the requirements as set out in the approved restructuring plan. The aid shall only be granted once. No further State aid shall be granted by the Czech Republic for restructuring purposes to the Czech steel industry.

7. The net capacity reduction to be achieved by the Czech Republic for finished products during the period 1997-2006 shall be 590 000 tonnes.

Capacity reduction shall be measured only on the basis of permanent closure of production facilities by physical destruction such that the facilities cannot be restored to service. A declaration of bankruptcy of a steel company shall not qualify as capacity reduction.

The above level of net capacity reduction, together with any other capacity reductions identified as necessary in the restructuring programmes, shall be completed in line with the timetable in Annex 2.

8. The Czech Republic shall remove trade barriers in the coal market in accordance with the acquis by accession, enabling Czech steel companies to obtain access to coal at international market prices.

9. The business plan for the benefiting company Nová Huť shall be implemented. In particular:

(a) the Vysoké Pece Ostrava plant shall be brought into the organisational framework of Nová Huť by acquisition of full ownership. A target date shall be set for this merger, including assignation of responsibility for its implementation;

(b) restructuring efforts shall concentrate on the following:

— evolving Nová Huť from being production oriented to being marketing orientated and improving the efficiency and effectiveness of its business management, including greater transparency on costs,

— Nová Huť reviewing its product mix and entry into higher added-value markets,

— Nová Huť making the necessary investments in order to achieve a higher quality of finished products in the short term;

[1] OJ L 360, 31.12.1994, p. 2.

(c) employment restructuring shall be implemented; levels of productivity comparable to those obtained by EU steel industry product groups shall be reached by 31 December 2006, on the basis of the consolidated figures of the benefiting companies concerned;

(d) compliance with the relevant Community acquis in the field of environmental protection shall be achieved by accession including the necessary investments addressed in the business plan. In accordance with the business plan the necessary future IPPC-related investment shall also be made, in order to ensure compliance with Directive 96/61/EC concerning integrated pollution prevention and control [1] by 1 November 2007.

10. The business plan for the benefiting company Vítkovice Steel shall be implemented. In particular:

(a) the Duo Mill shall be permanently closed no later than 31 December 2006. In the event of purchase of the company by a strategic investor, the purchase contract shall be made conditional on this closure by this date;

(b) restructuring efforts shall concentrate on the following:

— an increase in direct sales and a greater focus on cost reduction, this being essential for more efficient business management,

— adapting to market demand and shifting towards higher value-added products,

— bringing forward the proposed investment in the secondary steel making process from 2004 to 2003, in order to allow the company to compete on quality rather than on price;

(c) compliance with the relevant Community acquis in the field of environmental protection shall be achieved by accession including the necessary investments addressed in the business plan, which include the need for future IPPC-related investment.

11. The business plan for the benefiting company Válcovny Plechu Frýdek Místek (VPFM) shall be implemented. In particular:

(a) the Hot Rolling Mills Nos 1 and 2 shall be permanently closed by the end of 2004;

(b) restructuring efforts shall concentrate on the following:

— making the necessary investment in order to reach a higher quality of finished product in the short term,

— giving priority to the implementation of key identified profit improvement opportunities (including employment restructuring, cost reductions, yield improvements and distribution reorientation).

12. Any subsequent changes in the overall restructuring plan and the individual plans must be agreed by the Commission and, where appropriate, by the Council.

13. The implementation of the restructuring shall take place under conditions of full transparency and on the basis of sound market economy principles.

14. The Commission and the Council shall closely monitor the implementation of the restructuring and the fulfilment of the conditions set out in this Protocol concerning viability, State aid and capacity reductions before and after accession until the end of the restructuring period, in accordance with paragraphs 15 to 18. For this purpose the Commission shall report to the Council.

15. The Commission and the Council shall monitor the restructuring benchmarks set out in Annex 3.

16. Monitoring shall include an independent evaluation to be carried out in 2003, 2004, 2005 and 2006. The Commission's viability test shall be an important element in ensuring that viability is achieved.

17. The Czech Republic shall cooperate fully with all the arrangements for monitoring. In particular:

— the Czech Republic shall supply the Commission with 6-monthly reports concerning the restructuring of the benefiting companies, no later than 15 March and 15 September of each year until the end of the restructuring period,

— the first report shall reach the Commission by 15 March 2003 and the last report by 15 March 2007, unless the Commission decides otherwise,

— the reports shall contain all the information necessary to monitor the restructuring process and the reduction and use of capacity and shall provide sufficient financial data to allow an assessment to be made of whether the conditions and requirements contained in this Protocol have been fulfilled. The reports shall at the least contain the information set out in Annex 4, which the Commission reserves the right to modify in line with its experiences during the monitoring process. In addition to the individual business reports of the companies listed in Annex 1, there shall also be a report on the overall situation of the Czech steel sector, including recent macroeconomic developments,

[1] OJ L 257, 10.10.1996, p. 26.

— the Czech Republic shall oblige the benefiting companies to disclose all relevant data which might, under other circumstances, be considered as confidential. In its reporting to the Council, the Commission shall ensure that company-specific confidential information is not disclosed.

18. The Commission may at any time decide to mandate an independent consultant to evaluate the monitoring results, undertake any research necessary and report to the Commission and the Council.

19. If the Commission establishes, on the basis of the reports referred to in paragraph 16, that substantial deviations from the financial data on which the viability assessment has been made have occurred, it may require the Czech Republic to take appropriate measures to reinforce the restructuring measures of the benefiting companies concerned.

20. Should the monitoring show that:

(a) the conditions for the transitional arrangements contained in this Protocol have not been fulfilled, or that

(b) the commitments made in the framework of the extension of the period during which the Czech Republic may exceptionally grant State support for the restructuring of its steel industry under the Europe Agreement [1] have not been fulfilled, or that

(c) the Czech Republic in the course of the restructuring period has granted additional incompatible State aid to the steel industry and to the benefiting companies in particular,

the transitional arrangements contained in this Protocol shall not have effect.

The Commission shall take appropriate steps requiring any company concerned to reimburse any aid granted in breach of the conditions laid down in this Protocol.

[1] OJ L 360, 31.12.1994, p. 2.

ANNEX 1

COMPANIES BENEFITING FROM STATE AID UNDER THE STEEL RESTRUCTURING PROGRAMME OF THE CZECH REPUBLIC

NOVÁ HUŤ, a.s.
Vratimovská 689
707 02 Ostrava-Kunčice
Czech Republic

VÍTKOVICE STEEL, a.s.
Ruská 2887/101
706 02 Ostrava — Vítkovice
Czech Republic

VÁLCOVNY PLECHU, a.s.
Křižíkova 1377
Frýdek — Místek
Czech Republic

ANNEX 2

TIMETABLE FOR CAPACITY CHANGES (REDUCTIONS AND INCREASES) [1]

Company	Facility	Capacity change (tpy)	Date of production change	Date of permanent closure
Poldi Hütte	Rolling mills V1-V8	-120 000	1.8.1999	31.5.2000
VPFM	Hot rolling mills No 1 & 2	-70 000	31.12.2004	31.12.2005
Vítkovice Steel	Duo rolling mill	-130 000	30.6.2006	31.12.2006
Nová Huť	Heavy section mill – HCC	-600 000	31.8.2006	31.12.2006
Nová Huť	Section mill	+330 000	1.1.2007	—
	Net capacity change	-590 000		

[1] Capacity reductions should be permanent as defined in Commission Decision No 3010/91/ECSC (OJ L 286, 16.10.1991, p. 20).

ANNEX 3

RESTRUCTURING BENCHMARKS AND MONITORING

1. Viability

Taking into account the special accounting rules applied by the Commission, each benefiting company shall achieve a minimum annual gross operating result of turnover (10 % for non-integrated steel undertakings, 13,5 % for integrated steel mills) and a minimum return of 1,5 % of turnover on own capital no later than 31 December 2006. This shall be verified in the independent evaluation carried out annually between 2003 and 2006, as provided for in paragraph 16 of the Protocol.

2. Productivity

An overall productivity comparable with the one attained by the EU steel industry shall be achieved gradually by 31 December 2006. This shall be verified in the independent evaluation carried out annually between 2003 and 2006, as set out in paragraph 16 of the Protocol.

3. Cost reductions

Particular importance shall be attached to cost reductions as one of the key elements of viability. These shall be fully implemented, in accordance with the business plans of the benefiting companies.

ANNEX 4

INDICATIVE LIST OF INFORMATION REQUIREMENTS

1. Production and market effects

— monthly production of crude steel, semi-finished and finished products by category as well as by product range,

— products sold, including volumes, prices and markets; breakdown by product range.

2. Investments

— details of investments realised,

— date of completion,

— the costs of the investment, the sources of finance and the sum of any related aid involved,

— the date of aid payment if any.

3. Workforce reductions

— number and timing of job losses,

— evolution in employment at beneficiary companies (distinguishing between direct and indirect employment).

4. Capacity (with regard to the entire steel sector in the Czech Republic)

— date or expected date of cessation of production of capacities expressed in MPP (MPP being the maximum possible annual production that can be obtained in ordinary working conditions) to be closed, and description of these,

— date (or expected date) of dismantling, as defined in Commission Decision No 3010/91/ECSC on the information to be furnished by steel undertakings about their investments ([1]), of the installation concerned and details of the dismantling,

— date (or expected date) of introduction of new capacities and description of these,

— evolution in total capacity in the Czech Republic of crude steel and finished products per category.

5. Cost

— breakdown of costs and their respective evolution in the past and in the future, in particular for workforce cost saving, energy consumption, raw material cost saving, accessories and external services reduction.

6. Financial performance

— evolution of selected key financial ratios to ensure progress is being made towards viability (the financial results and ratios must be provided in a way which allows comparisons with the company's financial restructuring plan and must include the Commission's viability test),

— level of financial charges,

([1]) OJ L 286, 16.10.1991, p. 20.

— details and timing of aid granted,

— details and timing of the paying out of aid already granted,

— terms and conditions of any new loans (irrespective of source).

7. Privatisation

— selling price and treatment of existing liabilities,

— disposal of proceeds of sale,

— date of sale,

— financial position of company at the time of sale,

— value of the company/assets at the time of sale and method used for valuation.

8. Creation of a new company or new plants incorporating capacity extensions

— identity of each private and public sector participant,

— sources of their financing for the creation of the new company or new plants,

— terms and conditions of the private and the public shareholders' participation,

— management structure of the new company.

Protocol No 3

on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus

THE HIGH CONTRACTING PARTIES,

RECALLING that the Joint Declaration on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Final Act of the Treaty concerning the Accession of the United Kingdom to the European Communities provided that the arrangements applicable to relations between the European Economic Community and the Sovereign Base Areas will be defined within the context of any agreement between the Community and the Republic of Cyprus,

TAKING ACCOUNT of the provisions concerning the Sovereign Base Areas set out in the Treaty concerning the Establishment of the Republic of Cyprus (hereafter referred to as the 'Treaty of Establishment') and the associated Exchanges of Notes dated 16 August 1960,

NOTING the Exchange of Notes between the Government of the United Kingdom and the Government of the Republic of Cyprus concerning the administration of the Sovereign Base Areas, dated 16 August 1960, and the attached Declaration by the United Kingdom Government that one of the main objects to be achieved is the protection of the interests of those resident or working in the Sovereign Base Areas, and considering in this context that the said persons should have, to the extent possible, the same treatment as those resident or working in the Republic of Cyprus,

NOTING FURTHER the provisions of the Treaty of Establishment regarding customs arrangements between the Sovereign Base Areas and the Republic of Cyprus and in particular those of Annex F to the said Treaty,

NOTING ALSO the commitment of the United Kingdom not to create customs posts or other frontier barriers between the Sovereign Base Areas and the Republic of Cyprus and the arrangements made pursuant to the Treaty of Establishment whereby the authorities of the Republic of Cyprus administer a wide range of public services in the Sovereign Base Areas, including in the fields of agriculture, customs and taxation,

CONFIRMING that the accession of the Republic of Cyprus to the European Union should not affect the rights and obligations of the parties to the Treaty of Establishment,

RECOGNISING therefore the need to apply certain provisions of the Treaty establishing the European Community and related EC law to the Sovereign Base Areas and to make special arrangements regarding the implementation of these provisions in the Sovereign Base Areas,

HAVE AGREED UPON THE FOLLOWING PROVISIONS:

Article 1

Article 299(6)(b) of the Treaty establishing the European Community shall be replaced by the following:

'(b) This Treaty shall not apply to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus except to the extent necessary to ensure the implementation of the arrangements set out in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and in accordance with the terms of that Protocol.'

Article 2

1. The Sovereign Base Areas shall be included within the customs territory of the Community and, for this purpose, the customs and common commercial policy acts listed in Part One of the Annex to this Protocol shall apply to the Sovereign Base Areas with the amendments set out in the Annex.

2. The acts on turnover taxes, excise duties and other forms of indirect taxation listed in Part Two of the Annex to this Protocol shall apply to the Sovereign Base Areas with the amendments set out in the Annex as well as the relevant provisions applying to Cyprus as set out in the Act concerning the conditions of accession of the Czech Republic, the Republic

of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union.

3. The acts listed in Part Three of the Annex to this Protocol shall be amended as set out in the Annex to enable the United Kingdom to maintain the reliefs and exemptions from duties and taxes on supplies to its forces and associated personnel which are granted by the Treaty of Establishment.

Article 3

The following Treaty and related provisions shall apply to the Sovereign Base Areas:

(a) Title II of Part Three of the EC Treaty, on agriculture, and provisions adopted on that basis;

(b) Measures adopted under Article 152(4)(b) of the EC Treaty.

Article 4

Persons resident or employed in the territory of the Sovereign Base Areas who, under arrangements made pursuant to the Treaty of Establishment and the associated Exchange of Notes dated 16 August 1960, are subject to the social security legislation of the Republic of Cyprus shall be treated for the purposes of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community [1] as if they were resident or employed in the territory of the Republic of Cyprus.

Article 5

1. The Republic of Cyprus shall not be required to carry out checks on persons crossing their land and sea boundaries with the Sovereign Base Areas and any Community restrictions on the crossing of external borders shall not apply in relation to such persons.

2. The United Kingdom shall exercise controls on persons crossing the external borders of the Sovereign Base Areas in accordance with the undertakings set out in Part Four of the Annex to this Protocol.

Article 6

The Council, acting unanimously on a proposal from the Commission, may, in order to ensure effective implementation of the objectives of this Protocol, amend Articles 2 to 5 above, including the Annex, or apply other provisions of the EC Treaty and related Community legislation to the Sovereign Base Areas on such terms and subject to such conditions as it may specify. The Commission shall consult the United Kingdom and the Republic of Cyprus before bringing forward a proposal.

Article 7

1. Subject to paragraph 2, the United Kingdom shall be responsible for the implementation of this Protocol in the Sovereign Base Areas. In particular:

(a) the United Kingdom shall be responsible for the application of the Community measures specified in this Protocol in the fields of customs, indirect taxation and the common commercial policy in relation to goods entering or leaving the island of Cyprus through a port or airport within the Sovereign Base Areas;

(b) customs controls on goods imported into or exported from the island of Cyprus by the forces of the United Kingdom through a port or airport in the Republic of Cyprus may be carried out within the Sovereign Base Areas;

(c) the United Kingdom shall be responsible for issuing any licences, authorisations or certificates which may be required under any applicable Community measure in respect of goods imported into or exported from the island of Cyprus by the forces of the United Kingdom.

2. The Republic of Cyprus shall be responsible for the administration and payment of any Community funds to which persons in the Sovereign Base Areas may be entitled pursuant to the application of the common agricultural policy in the Sovereign Base Areas under Article 3 of this Protocol and the Republic of Cyprus shall be accountable to the Commission for such expenditure.

3. Without prejudice to paragraphs 1 and 2, the United Kingdom may delegate to the competent authorities of the Republic of Cyprus, in accordance with arrangements made pursuant to the Treaty of Establishment, the performance of any functions imposed on a Member State by or under any provision referred to in Articles 2 to 5 above.

4. The United Kingdom and the Republic of Cyprus shall cooperate to ensure the effective implementation of this Protocol in the Sovereign Base Areas and, where appropriate, shall conclude further arrangements concerning the delegation of the implementation of any of the provisions referred to in Articles 2 to 5 above. A copy of any such arrangements shall be submitted to the Commission.

Article 8

The arrangements provided for in this Protocol shall have the sole purpose of regulating the particular situation of the Sovereign Base Areas of the United Kingdom in Cyprus and shall not apply to any other territory of the Community, nor serve as a precedent, in whole or in part, for any other special arrangements which either already exist or which might be set up in another European territory provided for in Article 299 of the Treaty.

Article 9

The Commission shall report to the European Parliament and the Council every five years on the implementation of the provisions of this Protocol.

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[1] OJ L 149, 5.7.1971, p. 2.

ANNEX

References in this Protocol to Directives and Regulations shall be interpreted as references to those Directives and Regulations as amended or substituted from time to time and their implementing acts.

PART ONE

1. Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code of which Article 3(2) shall be replaced by the following:

'2. The following territories situated outside the territory of the Member States shall, taking the conventions and treaties applicable to them into account, be considered to be part of the customs territory of the Community:

(a) FRANCE

The territory of the principality of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (Official Journal of the French Republic of 27 September 1963, p. 8679)

(b) CYPRUS

The territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as defined in the Treaty concerning the Establishment of the Republic of Cyprus, signed in Nicosia on 16 August 1960 (United Kingdom Treaty Series No 4 (1961) Cmnd. 1252)';

2. Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff;

3. Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty;

4. Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code;

5. Council Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances;

6. Council Directive 92/109/EEC of 14 December 1992 on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances;

7. Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods;

8. Council Regulation (EC) No 3295/94 of 22 December 1994 laying down measures concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights;

9. Commission Regulation (EC) No 1367/95 of 16 June 1995 laying down provisions for the implementation of Council Regulation (EC) No 3295/94 laying down measures concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights;

10. Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology.

PART TWO

1. Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment of which:

(a) Article 3(4), first subparagraph, shall be replaced by the following:

'By way of derogation from paragraph 1, in view of:

— the conventions and treaties which the Principality of Monaco and the Isle of Man have concluded respectively with the French Republic and the United Kingdom of Great Britain and Northern Ireland,

— the Treaty concerning the Establishment of the Republic of Cyprus,

the Principality of Monaco, the Isle of Man and the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia shall not be treated for the purpose of the application of this Directive as third territories.'

(b) Article 3(4), second subparagraph, shall be amended by the addition of a third indent as follows:

'— the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as transactions originating in or intended for the Republic of Cyprus.'

2. Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products: Article 2(4) shall be amended by the addition of a fifth indent as follows:

'— the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as transactions originating in or intended for the Republic of Cyprus.'

PART THREE

1. Article 135 of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty shall be amended by the addition of a new point (d), as follows:

'(d) by the United Kingdom of the reliefs on importations of goods for the use of its forces or the civilian staff accompanying them or for supplying their messes or canteens resulting from the Treaty of Establishment concerning the Republic of Cyprus, dated 16 August 1960.'

2. Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, shall be amended:

(a) by the insertion of a fourth indent in Article 14(1)(g), as follows:

'— the exemptions set out in the third indent shall extend to imports by and supplies of goods and services to the forces of the United Kingdom stationed in the island of Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus, dated 16 August 1960, which are for the use of the forces or the civilian staff accompanying them or for supplying their messes or canteens.'

(b) by the replacement of Article 17(3)(b) with the following:

'(b) transactions which are exempt under Article 14(1)(g) and (i) and under Articles 15, and 16(1)(B) and (C), and paragraph 2'.

3. Article 23(1), first subparagraph, of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products shall be amended by the addition of a new indent, as follows:

'— for the armed forces of the United Kingdom stationed in the island of Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus dated 16 August 1960, for the use of those forces, for the civilian staff accompanying them or for supplying their messes or canteens'.

PART FOUR

1. In this Protocol:

(a) 'external borders of the Sovereign Base Areas' means their sea boundaries and their airports and seaports, but not their land or sea boundaries with the Republic of Cyprus;

(b) 'crossing points' shall mean any crossing point authorised by the competent authorities of the United Kingdom for the crossing of external borders.

2. The United Kingdom shall only allow the external borders of the Sovereign Base Areas to be crossed at crossing points.

3. (a) Nationals of third countries shall only be permitted to cross the external borders of the Sovereign Base Areas if —

(i) they possess a valid travel document;

(ii) they are in possession of a valid visa for the Republic of Cyprus, if required;

(iii) they are engaged in defence-related activity or are the family member of a person who is engaged in such activity; and

(iv) they are not a threat to national security.

(b) The United Kingdom may only derogate from these conditions on humanitarian grounds, on grounds of national interest or in order to comply with its international obligations.

(c) For the purpose of the undertaking in letter (a)(ii) members of a force, civilian component and dependants, as defined in Annex C to the Treaty of Establishment, shall be treated as not requiring a visa for the Republic of Cyprus.

4. The United Kingdom shall carry out checks on persons crossing the external borders of the Sovereign Base Areas. These checks shall include the verification of travel documents. All persons shall undergo at least one such check in order to establish their identity.

5. The competent authorities of the United Kingdom shall use mobile units to carry out external border surveillance between border crossing points and at crossing points outside of normal opening hours. This surveillance shall be carried out in such a way as to discourage people from circumventing the checks at crossing points. The competent authorities of the United Kingdom shall deploy enough suitably qualified officers to carry out checks and surveillance along the external borders of the Sovereign Base Areas.

6. The United Kingdom authorities shall maintain constant close cooperation with the authorities of the Republic of Cyprus with a view to the effective implementation of checks and surveillance.

7. (a) An applicant for asylum who first entered the island of Cyprus from outside the European Community by one of the Sovereign Base Areas shall be taken back or readmitted to the Sovereign Base Areas at the request of the Member State of the European Community in whose territory the applicant is present.

(b) The Republic of Cyprus, bearing in mind humanitarian considerations, shall work with the United Kingdom with a view to devising practical ways and means of respecting the rights and satisfying the needs of asylum seekers and illegal migrants in the Sovereign Base Areas, in accordance with the relevant Sovereign Base Area Administration legislation.

DECLARATION BY THE EUROPEAN COMMISSION

The European Commission confirms its understanding that the provisions of Community law applicable to the Sovereign Base Areas pursuant to Article 3(a) of this Protocol include:

(a) Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products;

(b) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds, to the extent required by Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agriculture Guidance and Guarantee Fund (EAGGF) for the purpose of financing rural development measures in the Sovereign Base Areas under the EAGGF Guarantee Section.

Protocol No 4

on the Ignalina nuclear power plant in Lithuania

THE HIGH CONTRACTING PARTIES,

DECLARING the Union's willingness to continue to provide adequate additional Community assistance to Lithuania's decommissioning effort also after Lithuania's accession to the European Union for the period until 2006 and beyond and noting that Lithuania, bearing in mind this expression of Union solidarity, has committed to close Unit 1 of the Ignalina Nuclear Power Plant before 2005 and Unit 2 by 2009,

RECOGNISING that the decommissioning of the Ignalina Nuclear Power Plant with two 1 500 MW RBMK-type reactor units inherited from the former Soviet Union is of an unprecedented nature and represents for Lithuania an exceptional financial burden not commensurate with the size and economic strength of the country and that this decommissioning will continue beyond the Community's current Financial Perspective,

NOTING the need to adopt implementing provisions for the additional Community assistance to address the consequences of the closure and the decommissioning of the Ignalina Nuclear Power Plant,

NOTING that Lithuania will pay due attention to the needs of the regions most affected by the closure of the Ignalina Nuclear Power Plant in its use of Community assistance,

DECLARING that certain measures that will be supported through public aid shall be considered as compatible with the internal market, such as the decommissioning of the Ignalina Nuclear Power Plant, and the environmental upgrading in line with the acquis and modernisation of conventional electricity production capacity needed to replace the two Ignalina Nuclear Power Plant reactors after their closure,

HAVE AGREED AS FOLLOWS:

Article 1

Acknowledging the readiness of the Union to provide adequate additional Community assistance to the efforts by Lithuania to decommission the Ignalina Nuclear Power Plant and highlighting this expression of solidarity, Lithuania commits to the closure of Unit 1 of the Ignalina Nuclear Power Plant before 2005 and of Unit 2 of this plant by 31 December 2009 at the latest and to the subsequent decommissioning of these units.

Article 2

1. During the period 2004-2006, the Community shall provide Lithuania with additional financial assistance in support of its efforts to decommission and to address the consequences of the closure and decommissioning of the Ignalina Nuclear Power Plant (hereinafter 'the Ignalina Programme').

2. Measures under the Ignalina Programme shall be decided and implemented in accordance with the provisions laid down in Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe ([1]), as last amended by Regulation (EC) No 2500/2001 ([2]).

3. The Ignalina Programme shall, inter alia, cover: measures in support of the decommissioning of the Ignalina Nuclear Power Plant; measures for the environmental upgrading in line with the acquis and modernisation measures of conventional production capacity to replace the production capacity of the two Ignalina Nuclear Power Plant reactors; and other measures which are consequential to the decision to close and decommission this plant and which contribute to the necessary restructuring, environmental upgrading and modernisation of the energy production, transmission and distribution sectors in Lithuania as well as to enhancing the security of energy supply and improving energy efficiency in Lithuania.

4. The Ignalina Programme shall include measures to support plant personnel in maintaining a high level of operational safety at the Ignalina Nuclear Power Plant in the periods prior to the closure and during the decommissioning of the said reactor units.

5. For the period 2004-2006 the Ignalina Programme shall amount to EUR 285 million in commitment appropriations, to be committed in equal annual tranches.

6. The contribution under the Ignalina Programme may, for certain measures, amount to up to 100 % of the total expenditure. Every effort should be made to continue the co-financing practice established under the pre-accession assistance for Lithuania's decommissioning effort as well as to attract co-financing from other sources, as appropriate.

7. The assistance under the Ignalina Programme, or parts thereof, may be made available as a Community contribution to the Ignalina International Decommissioning Support Fund, managed by the European Bank for Reconstruction and Development.

8. Public aid from national, Community and international sources:

— for the environmental upgrading in line with the acquis and modernisation measures of the Lithuanian Thermal Power Plant in Elektrenai as the key replacement for the production capacity of the two Ignalina Nuclear Power Plant reactors; and

— for the decommissioning of the Ignalina Nuclear Power Plant

shall be compatible with the internal market as defined in the EC Treaty.

9. Public aid from national, Community and international sources in support of Lithuania's efforts to address the consequences of the closure and of the decommissioning of the Ignalina Nuclear Power Plant may, on a case by case basis, be considered to be compatible – under the EC Treaty – with the internal market, in particular public aid provided for enhancing the security of energy supply.

Article 3

1. Recognising that the decommissioning of the Ignalina Nuclear Power Plant is of a long-term nature and represents for Lithuania an exceptional financial burden not commensurate with its size and economic strength, the Union shall, in solidarity with Lithuania, provide adequate additional Community assistance to the decommissioning effort beyond 2006.

2. The Ignalina Programme will be, for this purpose, seamlessly continued and extended beyond 2006. Implementing provisions for the extended Ignalina Programme shall be decided in accordance with the procedure laid down in Article 56 of the Act of Accession and enter into force, at the latest, by the date of expiry of the current Financial Perspective.

3. The Ignalina Programme, as extended in accordance with the provisions of Article 3(2) of this Protocol, shall be based on the same elements and principles as described in Article 2 of this Protocol.

4. For the period of the next Financial Perspectives, the overall average appropriations under the extended Ignalina Programme shall be appropriate. Programming of these resources will be based on actual payment needs and absorption capacity.

Article 4

Without any prejudice to the provisions of Article 1, the general safeguard clause referred to in Article 37 of the Act of Accession shall apply until 31 December 2012 if energy supply is disrupted in Lithuania.

([1]) OJ L 375, 23.12.1989, p. 11.

([2]) OJ L 342, 27.12.2001, p. 1.

Protocol No 5

on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation

THE HIGH CONTRACTING PARTIES,

CONSIDERING the particular situation of the region of Kaliningrad of the Russian Federation in the context of the Union's enlargement,

RECOGNISING the obligations and commitments of Lithuania with regard to the acquis establishing an area of freedom, security and justice,

NOTING, in particular, that Lithuania shall fully apply and implement the EC acquis regarding the list of countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement as well the EC acquis regarding the uniform format for a visa as from accession at the latest,

RECOGNISING that the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation through EU territory is a matter concerning the Union as a whole and should be treated as such and must not entail any unfavourable consequence for Lithuania,

CONSIDERING the decision to be taken by the Council to remove controls at internal borders after it has verified that the necessary conditions to that effect have been met,

DETERMINED to assist Lithuania in fulfilling the conditions for full participation in the Schengen area without internal frontiers as soon as possible,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

Article 1

The Community rules and arrangements on transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation, and in particular Council Regulation establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual shall not in themselves delay or prevent the full participation of Lithuania in the Schengen acquis, including the removal of internal border controls.

Article 2

The Community shall assist Lithuania in implementing the rules and arrangements for the transit of persons between the region of Kaliningrad and the other parts of the Russian Federation with a view to Lithuania's full participation in the Schengen area as soon as possible.

The Community shall assist Lithuania in managing the transit of persons between the region of Kaliningrad and the other parts of the Russian Federation and shall, notably, bear any additional costs incurred by implementing the specific provisions of the acquis provided for such transit.

Article 3

Without prejudice to the sovereign rights of Lithuania, any further decision concerning the transit of persons between the region of Kaliningrad and other parts of the Russian Federation will be only adopted after the accession of Lithuania by the Council acting unanimously on a proposal from the Commission.

Protocol No 6

on the acquisition of secondary residences in Malta

THE HIGH CONTRACTING PARTIES,

HAVE AGREED AS FOLLOWS:

Bearing in mind the very limited number of residences in Malta and the very limited land available for construction purposes, which can only cover the basic needs created by the demographic development of the present residents, Malta may on a non-discriminatory basis maintain in force the rules on the acquisition and holding of immovable property for secondary residence purposes by nationals of the Member States who have not legally resided in Malta for at least five years laid down in the Immovable Property (Acquisition by Non-Residents) Act (Chapter 246).

Malta shall apply authorisation procedures for the acquisition of immovable property for secondary residence purposes in Malta, which shall be based on published, objective, stable and transparent criteria. These criteria shall be applied in a non-discriminatory manner and shall not differentiate between nationals of Malta and of other Member States. Malta shall ensure that in no instance shall a national of a Member State be treated in a more restrictive way than a national of a third country.

In the event that the value of one such property bought by a national of a Member State exceeds the thresholds provided for in Malta's legislation, namely 30 000 Maltese lira for apartments and 50 000 Maltese lira for any type of property other than apartments and property of historical importance, authorisation shall be granted. Malta may revise the thresholds established by such legislation to reflect changes in prices in the property market in Malta.

Protocol No 7

on abortion in Malta

THE HIGH CONTRACTING PARTIES,

HAVE AGREED UPON THE FOLLOWING PROVISION:

Nothing in the Treaty on European Union, or in the Treaties establishing the European Communities, or in the Treaties or Acts modifying or supplementing those Treaties, shall affect the application in the territory of Malta of national legislation relating to abortion.

Protocol No 8

on the restructuring of the Polish steel industry

1. Notwithstanding Articles 87 and 88 of the EC Treaty, State aid granted by Poland for restructuring purposes to specified parts of the Polish steel industry shall be deemed to be compatible with the common market provided that:

— the period provided for in Article 8(4) of Protocol 2 on ECSC products to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Poland, of the other part [1], has been extended until the date of accession,

— the terms set out in the restructuring plan on the basis of which, the abovementioned Protocol was extended, are adhered to throughout the period 2002-2006,

— the conditions set out in this Protocol are met, and

— no State aid for restructuring is to be paid to the Polish steel industry after the date of accession.

2. Restructuring of the Polish steel sector, as described in the individual business plans of the companies listed in Annex 1, and in line with the conditions set out in this Protocol, shall be completed no later than 31 December 2006 (hereinafter referred to as 'the end of the restructuring period').

3. Only companies listed in Annex 1 (hereinafter referred to as 'benefiting companies') shall be eligible for State aid in the framework of the Polish steel restructuring programme.

4. A benefiting company may not:

(a) in the case of a merger with a company not included in Annex 1, pass on the benefit of the aid granted to the benefiting company;

(b) take over the assets of any company not included in Annex 1 which is declared bankrupt in the period up to 31 December 2006.

5. Any subsequent privatisation of any of the benefiting companies shall take place on a basis that respects the need for transparency and shall respect the conditions and principles regarding viability, state aids and capacity reduction defined in this Protocol. No further State aid shall be granted as part of the sale of any company or individual assets.

6. The restructuring aid granted to the benefiting companies shall be determined by the justifications set out in the approved Polish steel restructuring plan and individual business plans as approved by the Council. But in any case the aid paid out in the period of 1997-2003 and in its total amount shall not exceed PLN 3 387 070 000.

Of this total figure,

— as regards Polskie Huty Stali (hereinafter referred to as 'PHS'), the restructuring aid already granted or to be granted since 1997 until the end of 2003 shall not exceed PLN 3 140 360 000. PHS has already received PLN 62 360 000 of restructuring aid in the period 1997-2001; it shall receive further restructuring aid of no more than PLN 3 078 000 000 in 2002 and 2003 depending on the requirements set out in the approved restructuring plan (to be entirely paid out in 2002 if the extension of the grace period under Protocol 2 of the Europe Agreement is granted by the end of 2002, or otherwise in 2003);

— as regards Huta Andrzej S.A., Huta Bankowa Sp. z o.o., Huta Batory S.A., Huta Buczek S.A., Huta L.W. Sp. z o.o., Huta Łabędy S.A., and Huta Pokój S.A. (hereinafter referred to as 'other benefiting companies'), the steel restructuring aid already granted or to be granted from 1997 until the end of 2003 shall not exceed PLN 246 710 000. These firms have already received PLN 37 160 000 of restructuring aid in the period 1997-2001; they will receive further restructuring aid of no more than PLN 210 210 000 depending on the requirements set out in the approved restructuring plan (of which PLN 182 170 000 in 2002 and PLN 27 380 000 in 2003 if the extension of the grace period under Protocol 2 of the Europe Agreement is granted by the end of 2002, or otherwise PLN 210 210 000 in 2003).

No further State aid shall be granted by Poland for restructuring purposes to the Polish steel industry.

7. The net capacity reduction to be achieved by Poland for finished products during the period 1997-2006 shall be a minimum of 1 231 000 tonnes. This overall amount includes net capacity reductions of at least 715 000 tpy in hot rolled products and 716 000 tpy in cold rolled products, as well as an increase of at most 200 000 tpy of other finished products.

Capacity reduction shall be measured only on the basis of permanent closure of production facilities by physical destruction such that the facilities cannot be restored to service. A declaration of bankruptcy of a steel company shall not qualify as capacity reduction.

[1] OJ L 348, 31.12.1993, p. 2.

The net capacity reductions shown in Annex 2 are minima and actual net capacity reductions to be achieved and the time frame for doing so will be established on the basis of Poland's final restructuring programme and individual business plans under the Europe Agreement, taking into account the objective to ensure the viability of benefiting companies by 31 December 2006.

8. The business plan for the benefiting company PHS shall be implemented. In particular:

(a) restructuring efforts shall concentrate on the following:

— reorganising PHS production facilities on a product basis and ensuring horizontal organisation by function (purchasing, production, sales),

— establishing in PHS a unified management structure enabling full realisation of synergies in the consolidation,

— evolving the strategic focus of PHS from being production oriented to being marketing oriented,

— improving the efficiency and effectiveness of PHS business management and also ensuring better control of direct sales,

— PHS reviewing, on the basis of sound economic considerations, the strategy of spin-off companies and, where appropriate, reintegrating services into the parent company,

— PHS reviewing its product mix, reducing over-capacity on long semi-finished products and generally moving further into the higher value added product market,

— PHS investing in order to achieve a higher quality of finished products; special attention shall be given to attaining by the date set in the timetable for the implementation of the PHS restructuring programme and at the latest by the end of 2006 3-Sigma production quality level at the PHS site in Kraków;

(b) cost savings shall be maximised in PHS during the restructuring period through energy efficiency gains, improved purchasing and ensuring productivity yields comparable to European Union levels;

(c) employment restructuring shall be implemented; levels of productivity comparable to those obtained by EU steel industry product groups shall be reached by 31 December 2006, based on consolidated figures including indirect employment in the wholly owned service companies;

(d) any privatisation shall be on a basis that respects the need for transparency and fully respects the commercial value of PHS. No further State aid shall be granted as part of the sale.

9. The business plan for the other benefiting companies shall be implemented. In particular:

(a) for all of the other benefiting companies, restructuring efforts shall concentrate on the following:

— evolving the strategic focus from being production oriented to being marketing oriented,

— improving the efficiency and effectiveness of the companies' business management and also ensuring better control of direct sales,

— reviewing, on the basis of sound economic considerations, the strategy of spin-off companies and, where appropriate, reintegrating services into the parent companies;

(b) for Huta Bankowa, implementing the cost savings programme;

(c) for Huta Buczek, obtaining the necessary financial support from creditors and local financial institutions and implementing the cost savings programme, including reducing the investment cost by adapting existing production facilities;

(d) for Huta Łabędy, implementing the cost savings programme and reducing reliance on the mining industry;

(e) for Huta Pokój, achieving international productivity standards in the subsidiaries, implementing energy consumption savings and cancelling the proposed investment in the processing and construction department;

(f) for Huta Batory, reaching agreement with creditors and financial institutions on debt rescheduling and investment loans. The company shall also ensure substantial additional cost savings associated with employment restructuring and improved yields;

(g) or Huta Andrzej, securing a stable financial base for its development by negotiating an agreement between the company's current lenders, long-term creditors, trade creditors and financial institutions. Additional investments in the hot tube mill as well as the implementation of the staff reduction programme must take place,

(h) for Huta L.W., carrying out investments in relation to the company's hot rolling mills project, lifting equipment, and environmental standing. This company shall also achieve higher productivity levels, through staff restructuring and reducing the costs of external services.

10. Any subsequent changes in the overall restructuring plan and the individual plans must be agreed by the Commission and, where appropriate, by the Council.

11. The implementation of the restructuring shall take place under conditions of full transparency and on the basis of sound market economy principles.

12. The Commission and the Council shall closely monitor the implementation of the restructuring and the fulfilment of the conditions set out in this Protocol concerning viability, state aid and capacity reductions before and after accession, until the end of the restructuring period, in accordance with paragraphs 13 to 18. For this purpose the Commission shall report to the Council.

13. In addition to the monitoring of State aid, the Commission and the Council shall monitor the restructuring benchmarks set out in Annex 3.

14. Monitoring shall include an independent evaluation to be carried out in 2003, 2004, 2005 and 2006. The Commission's viability test shall be applied and productivity shall be measured as part of the evaluation.

15. Poland shall cooperate fully with all the arrangements for monitoring. In particular:

— Poland shall supply the Commission with 6-monthly reports concerning the restructuring of the benefiting companies, no later than 15 March and 15 September of each year until the end of the restructuring period,

— the first report shall reach the Commission by 15 March 2003 and the last report by 15 March 2007, unless the Commission decides otherwise,

— the reports shall contain all the information necessary to monitor the restructuring process, the State aid and the reduction and use of capacity and shall provide sufficient financial data to allow an assessment to be made of whether the conditions and requirements contained in this Protocol have been fulfilled. The reports shall at the least contain the information set out in Annex 4, which the Commission reserves the right to modify in line with its experiences during the monitoring process. In addition to the individual business reports of the companies listed in Annex 1, there shall also be a report on the overall situation of the Polish steel sector, including recent macro-economic developments,

— all additional information necessary for the independent evaluation provided for in paragraph 14 must, furthermore, be provided by Poland,

— Poland shall oblige the benefiting companies to disclose all relevant data which might, under other circumstances, be considered as confidential. In its reporting to the Council, the Commission shall ensure that company-specific confidential information is not disclosed.

16. The Commission may at any time decide to mandate an independent consultant to evaluate the monitoring results, undertake any research necessary and report to the Commission and the Council.

17. If the Commission establishes, on the basis of the monitoring, that substantial deviations from the financial data on which the viability assessment has been made have occurred, it may require Poland to take appropriate measures to reinforce or modify the restructuring measures of the benefiting companies concerned.

18. Should the monitoring show that:

(a) the conditions for the transitional arrangements contained in this Protocol have not been fulfilled, or that

(b) the commitments made in the framework of the extension of the period during which Poland may exceptionally grant State support for the restructuring of its steel industry under the Europe Agreement [1] have not been fulfilled, or that

(c) Poland in the course of the restructuring period has granted additional incompatible state aid to the steel industry and to the benefiting companies in particular,

the transitional arrangements contained in this Protocol shall not have effect.

The Commission shall take appropriate steps requiring any company concerned to reimburse any aid granted in breach of the conditions laid down in this Protocol.

[1] OJ L 348, 31.12.1993, p. 2.

ANNEX 1

COMPANIES BENEFITING FROM STATE AID UNDER THE STEEL RESTRUCTURING PROGRAMME OF POLAND

'Polskie Huty Stali' S.A.
Katowice

Huta Andrzej S.A.
Zawadzkie

Huta Bankowa Sp. z o.o.
Dąbrowa Górnicza,

Huta Batory S.A.
Chorzów

Huta Buczek S.A.
Sosnowiec

Huta L.W. Sp. z o.o.
Warszawa

Huta Łabędy S.A.
Gliwice

Huta Pokój S.A.
Ruda Śląska.

ANNEX 2

TIMETABLE FOR CAPACITY CHANGES (REDUCTIONS AND INCREASES) [1]

Company	Facility	Minimum Capacity change (tpy)	Date of production change	Date of permanent closure
PHS	Light and medium sections mill, Świętochłowice	-340 000	1997	1997
Łabędy	Medium sections mill	-90 000	2000	2000
PHS	Galvanising line, Świętochłowice	+100 000	2000	—
PHS	Hot rolling strip mill, Kraków	-700 000	31.12.2002	31.3.2005
PHS	Cold rolling strip mill, Świętochłowice	-36 000	31.12.2002	31.12.2005
L.W.	Narrow cold rolling strip mill	-30 000	31.12.2002	31.12.2004
Łabędy	Medium sections mill	-90 000	30.9.2003	30.9.2003
Łabędy	Universal plates mill	-35 000	31.12.2003	31.12.2003
Bankowa	Medium sections mill	-60 000	31.12.2004	31.12.2006
PHS	Wire rod mill, Sosnowiec	+200 000	01.1.2005	—
PHS	Organic coated sheet line, Świętochłowice	+100 000	01.1.2005	—
PHS	Cold rolling strip mills, Kraków (four-high reversing mill & five stand rolling mill)	-650 000	31.12.2005	31.12.2006
PHS	Hot rolling sheet mill, Kraków	+400 000	01.1.2006	—
	Net capacity changes	-1 231 000		

[1] Capacity reductions should be permanent as defined in Commission Decision No 3010/91/ECSC (OJ L 286, 16.10.1991, p. 20).

ANNEX 3

RESTRUCTURING BENCHMARKS AND MONITORING

1. Viability

Taking into account the special accounting rules applied by the Commission, each benefiting company shall achieve a minimum annual gross operating result of turnover (10 % for non-integrated steel undertakings, 13,5 % for integrated steel mills) and a minimum return of 1,5 % of turnover on own capital no later than 31 December 2006. This shall be verified in the independent evaluation carried out annually between 2003 and 2006, as provided for in paragraph 14 of the Protocol.

2. Productivity

An overall productivity based on consolidated cost and employment figures and direct employment figures comparable with the one attained by the EU steel industry shall be achieved gradually by 31 December 2006. This shall be verified in the independent evaluation carried out annually between 2003 and 2006, as provided for in paragraph 14 of the Protocol.

3. Cost reductions

Particular importance shall be attached to cost reductions as one of the key elements of viability. These shall be fully implemented, in accordance with the business plans of the benefiting companies. Cost reductions shall take place in the restructuring period with a view to reaching cost levels comparable to cost levels in the EU steel industry by the end of the restructuring period.

ANNEX 4

INDICATIVE LIST OF INFORMATION REQUIREMENTS

1. Production and market effects

— monthly production and production forecast for the remaining restructuring period of crude steel, semi-finished and finished products by category as well as by product range,

— products sold and sales forecast for the remaining restructuring period, including volumes, prices and markets; breakdown by product range.

2. Investments

— details of investments realised,

— date of completion,

— the costs of the investment, the sources of finance and the sum of any related aid involved,

— the date of aid payment if any,

— details of investments planned.

3. Workforce reductions

— number and timing of job losses,

— evolution in employment at beneficiary companies (distinguishing between direct and indirect employment),

— breakdown of costs associated with employment and external service contracts.

4. Capacity (with regard to the entire steel sector in Poland)

   — date or expected date of cessation of production of capacities expressed in MPP (MPP being the maximum possible annual production that can be obtained in ordinary working conditions) to be closed, and description of these,

   — date (or expected date) of dismantling, as defined in Commission Decision No 3010/91/ECSC on the information to be furnished by steel undertakings about their investments [1], of the installation concerned and details of the dismantling,

   — date (or expected date) of introduction of new capacities and description of these,

   — evolution in total capacity in Poland of crude steel and finished products per category.

5. Cost

   — breakdown of costs and their respective evolution in the past and in the future, in particular for workforce cost saving, energy consumption, raw material cost saving, accessories and external services reduction.

6. Financial performance

   — evolution of selected key financial ratios to ensure progress is being made towards viability (the financial results and ratios must be provided in a way which allows comparisons with the company's financial restructuring plan and must include the Commission's viability test),

   — level of financial charges,

   — details and timing of aid granted,

   — details and timing of the paying out of aid already granted,

   — terms and conditions of any new loans (irrespective of source),

   — audited financial statements.

7. Privatisation

   — procedure used for privatisation,

   — selling price, conditions applicable and treatment of existing liabilities,

   — disposal of proceeds of sale,

   — date of sale,

   — financial position of company at the time of sale,

   — value of the company/assets at the time of sale and method used for valuation.

8. Creation of a new company or new plants incorporating capacity extensions

   — identity of each private and public sector participant,

   — sources of their financing for the creation of the new company or new plants,

   — terms and conditions of the private and the public shareholders' participation,

   — management structure of the new company.

9. Any additional information deemed necessary for the independent evaluation provided for in paragraph 14 of the Protocol.

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[1] OJ L 286, 16.10.1991, p. 20.

Protocol No 9

on unit 1 and unit 2 of the Bohunice V1 nuclear power plant in Slovakia

THE HIGH CONTRACTING PARTIES,

NOTING Slovakia's commitment to close Unit 1 and Unit 2 of the Bohunice V1 Nuclear Power Plant by 2006 and by 2008 respectively and declaring the Union's willingness to continue to provide until 2006 financial aid in continuation of the pre-accession aid planned under the Phare programme in support of Slovakia's decommissioning effort,

NOTING the need to adopt implementing provisions regarding the continued Community assistance,

HAVE AGREED AS FOLLOWS:

Article 1

Slovakia commits to the closure of Unit 1 of the Bohunice V1 Nuclear Power Plant by 31 December 2006 and Unit 2 of this plant by 31 December 2008 at the latest and to subsequent decommissioning of these units.

Article 2

1. During the period 2004-2006, the Community shall provide Slovakia with financial assistance in support of its efforts to decommission and to address the consequences of the closure and decommissioning of Unit 1 and Unit 2 of the Bohunice V1 Nuclear Power Plant (hereinafter referred to as 'the Assistance').

2. The Assistance shall be decided and implemented – also after Slovakia's accession to the Union – in accordance with the provisions laid down in Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe [1], as last amended by Regulation (EC) No 2500/2001 [2].

3. For the period 2004-2006 the Assistance shall amount to EUR 90 million in commitment appropriations, to be committed in equal annual tranches.

4. The Assistance or parts thereof may be made available as a Community contribution to the Bohunice International Decommissioning Support Fund, managed by the European Bank for Reconstruction and Development.

Article 3

The European Union acknowledges that the decommissioning of the Bohunice V1 Nuclear Power plant will have to continue beyond the current financial perspective and that this effort represents for Slovakia a significant financial burden. Decisions on the continuation of EU assistance in this field after 2006 will take the situation into account.

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[1] OJ L 375, 23.12.1989, p. 11.

[2] OJ L 342, 27.12.2001, p. 1.

Protocol No 10

on Cyprus

THE HIGH CONTRACTING PARTIES,

REAFFIRMING their commitment to a comprehensive settlement of the Cyprus problem, consistent with relevant United Nations Security Council Resolutions, and their strong support for the efforts of the United Nations Secretary General to that end,

CONSIDERING that such a comprehensive settlement to the Cyprus problem has not yet been reached,

CONSIDERING that it is, therefore, necessary to provide for the suspension of the application of the acquis in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control,

CONSIDERING that, in the event of a solution to the Cyprus problem this suspension shall be lifted,

CONSIDERING that the European Union is ready to accommodate the terms of such a settlement in line with the principles on which the EU is founded,

CONSIDERING that it is necessary to provide for the terms under which the relevant provisions of EU law will apply to the line between the abovementioned areas and both those areas in which the Government of the Republic of Cyprus exercises effective control and the Eastern Sovereign Base Area of the United Kingdom of Great Britain and Northern Ireland,

DESIRING that the accession of Cyprus to the European Union shall benefit all Cypriot citizens and promote civil peace and reconciliation,

CONSIDERING, therefore, that nothing in this Protocol shall preclude measures with this end in view,

CONSIDERING that such measures shall not affect the application of the *acquis* under the conditions set out in the Accession Treaty in any other part of the Republic of Cyprus,

HAVE AGREED UPON THE FOLLOWING PROVISIONS:

Article 1

1. The application of the acquis shall be suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

2. The Council, acting unanimously on the basis of a proposal from the Commission, shall decide on the withdrawal of the suspension referred to in paragraph 1.

Article 2

1. The Council, acting unanimously on the basis of a proposal from the Commission, shall define the terms under which the provisions of EU law shall apply to the line between those areas referred to in Article 1 and the areas in which the Government of the Republic of Cyprus exercises effective control.

2. The boundary between the Eastern Sovereign Base Area and those areas referred to in Article 1 shall be treated as part of the external borders of the Sovereign Base Areas for the purpose of Part IV of the Annex to the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus for the duration of the suspension of the application of the acquis according to Article 1.

Article 3

1. Nothing in this Protocol shall preclude measures with a view to promoting the economic development of the areas referred to in Article 1.

2. Such measures shall not affect the application of the *acquis* under the conditions set out in the Accession Treaty in any other part of the Republic of Cyprus.

Article 4

In the event of a settlement, the Council, acting unanimously on the basis of a proposal from the Commission, shall decide on the adaptations to the terms concerning the accession of Cyprus to the European Union with regard to the Turkish Cypriot Community.