

EFTA SURVEILLANCE AUTHORITY DECISION**No 264/02/COL****of 18 December 2002****amending for the thirty-seventh time the Procedural and Substantive Rules in the Field of State Aid by introducing a new chapter 22: Rescue and restructuring aid and closure aid for the steel sector**

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 thereof,

HAVING REGARD TO the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice ⁽²⁾, in particular to Article 24 and Article 1 of Protocol 3 thereof,

WHEREAS, under Article 24 of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS, under Article 5(2)(b) of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary,

RECALLING the Procedural and Substantive Rules in the Field of State Aid ⁽³⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority ⁽⁴⁾,

WHEREAS, on 7 March 2002, the European Commission adopted a new communication ⁽⁵⁾ setting out the principles on which it will assess rescue and restructuring aid and closure aid for the steel sector,

WHEREAS this Communication is also of relevance for the European Economic Area,

WHEREAS a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

WHEREAS, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the EC Commission, in order to maintain equal conditions of competition,

HAVING consulted the European Commission,

RECALLING that the EFTA Surveillance Authority has consulted the EFTA States in a multilateral meeting on 19 October 2001 on the subject,

HAS DECIDED AS FOLLOWS:

1. The State Aid Guidelines shall be amended by introducing a new Chapter 22: Rescue and restructuring aid and closure aid for the steel sector, by the text contained in Annex I to this Decision.

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

⁽²⁾ Hereinafter referred to as the Surveillance and Court Agreement.

⁽³⁾ Hereinafter referred to as the State Aid Guidelines.

⁽⁴⁾ Initially published in OJ L 231, 3.9.1994, EEA Supplement No 32.

⁽⁵⁾ OJ C 70, 19.3.2002, p. 8.

2. The EFTA States shall be informed by means of a letter, including a copy of the Decision and Annex I. The EFTA States shall be requested to signify their agreement to the proposed appropriate measures as set out in Annex I within 20 working days, cf. also point 22.4 of Annex I.
3. The European Commission shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision, including Annex I.
4. The Decision, including Annex I, shall be published in the EEA Section of and the EEA Supplement to the *Official Journal of the European Communities* after the EFTA States have signified their agreement to the appropriate measures.
5. The Decision shall be authentic in the English language.

Done at Brussels, 18 December 2002.

For the EFTA Surveillance Authority

Einar M. BULL

President

Hannes HAFSTEIN

College Member

ANNEX

22. RESCUE AND RESTRUCTURING AID AND CLOSURE AID FOR THE STEEL SECTOR**22.1. RESCUE AND RESTRUCTURING AID FOR FIRMS IN DIFFICULTY**

Rescue aid and restructuring aid for firms in difficulty in the steel sector as defined in Annex B of the Multisectoral Framework on regional aid for large investment projects, are not compatible with the common market.

22.2. CLOSURE AID

- (1) Aid to facilitate the development of certain economic activities may be considered to be compatible with the common market. The following aid for firms in the steel industry as defined in Annex B of the Multicultural Framework may be regarded as compatible with the common market:
- (2) aid to cover payments payable by steel firms to workers made redundant or accepting early retirement provided that:
 - the payments actually arise from the partial or total closure of steel plants which have not already been taken into account for approval of aid,
 - the payments do not exceed those customarily granted under the rules in force in the EFTA States,
 - and
 - the aid does not exceed 50 % of those payments.
- (3) aid to steel firms which permanently cease production of steel products, provided that:
 - the firms became legal entities before 1 January 2002,
 - they regularly produced steel products up to the date of notification of the aid concerned,
 - they have not reorganised their production or plant structure since 1 January 2002,
 - they close and scrap the installations used to manufacture steel products within six months of the cessation of production or approval of the aid by the Authority, whichever is the later,
 - the closure of their plants has not already been taken into account for approval of aid;
 - and
 - the amount of the aid does not exceed the residual book value of the plants to be closed, ignoring that portion of any revaluation since 1 January 2002 which exceeds the national inflation rate.
- (4) aid to steel firms which satisfy the conditions set out in point 22.2(3) but which are directly or indirectly controlled by, or which themselves directly or indirectly control, a firm that is itself a steel firm may be deemed compatible with the common market provided that:
 - the firm to be closed has been effectively and legally separated from the corporate structure for at least six months before payment of the aid;
 - the accounts of the firm to be closed have been independently certified, by an auditor accepted by the Authority, to be a true and accurate account of the assets and liabilities of that firm;
 - and

- there is a genuine and verifiable reduction in production capacity such as to yield an appreciable benefit over time for the industry as a whole in terms of a reduction in the production capacity for steel products over a period of five years following the date of the aided closure or the date of the last payment of aid approved under this point, if later. EFTA States are invited to use the notification form attached to the Multisectoral Framework (Annex E) for the purpose of notifying aid proposals pursuant to this Framework.

22.3. NOTIFICATION OBLIGATION

All plans to grant aid for rescuing and restructuring firms in difficulty belonging to the steel industry and for closure aid to that sector shall be notified individually.

22.4. APPROPRIATE MEASURES

- (1) The Authority proposes as an appropriate measure pursuant to Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, to exclude from the scope of their existing schemes for rescuing and restructuring firms in difficulties, as defined by the Authority Guidelines on State aid for rescuing and restructuring firms in difficulty (Chapter 16), aid to firms belonging to the steel sector, as defined by Annex B to the Multisectoral Framework, as from 1 January 2003.
- (2) EFTA States are invited to give their explicit agreement to the proposed appropriate measures within 20 working days from the date on which the letter is notified to them. In the absence of any reply, the Authority will assume that the EFTA State in question does not agree with the proposed measures.

22.5. APPLICATION OF THIS FRAMEWORK

This Framework will be applicable from 1 January 2003 for a period ending on 31 December 2009.

22.6. NON-NOTIFIED AID GRANTED TO THE STEEL INDUSTRY

The Authority will examine the compability with the common market of aid granted to the steel industry without its authorisation on the basis of the criteria in force at the time the aid was granted.'
