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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 July 2003

on the fulfilment of the conditions laid down in Article 3 of Decision No 3/2002 of the EU-Poland Association Council of 23 October 2002 extending the period set in Article 8(4) of Protocol 2 on European Coal and Steel Community (ECSC) products to the Europe Agreement

(2003/588/EC)

THE COUNCIL OF THE EUROPEAN UNION,

- (3) The initial period of five years expired on 31 December 1996.

Having regard to the Treaty establishing the European Community, and in particular Article 87(3)(e) thereof,

- (4) Poland requested an extension of the abovementioned period in April 1997.

Having regard to EU-Poland Association Council Decision No 3/2002 extending the period set in Article 8(4) of Protocol 2 on European Coal and Steel Community (ECSC) products to the Europe Agreement, and in particular Article 3 thereof,

- (5) It is appropriate to grant an extension of this period for an additional period of eight years starting on 1 January 1997 or until the date of Poland's accession to the European Union, whichever comes first.

Having regard to the proposal from the Commission,

Whereas:

- (1) A Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part ⁽¹⁾, was signed on 16 December 1991.
- (2) Article 8(4) of Protocol 2 to the above Europe Agreement lays down that during the first five years after entry into force of the Agreement, and by derogation from paragraph 1(iii) of the same Article, Poland 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, that the amount and intensity of such aid are strictly limited to what is absolutely necessary in order to restore viability and that the aid is progressively reduced, and that the restructuring programme is linked to a global rationalisation and reduction of overall production capacity in Poland.
- (6) To this effect, on 23 October 2002, the EU-Poland Association Council adopted Decision No 3/2002 and it is provisionally applied from that date.
- (7) Article 1 of EU-Poland Association Council Decision No 3/2002 granted an extension of the abovementioned period, subject to the fulfilment of conditions laid out in Articles 2 and 3.
- (8) Under Article 2 of EU-Poland Association Council Decision No 3/2002 the extension of the abovementioned period is made conditional on the submission by Poland to the Commission of a restructuring programme and business plans for all companies included in the restructuring process which meet the requirements of Article 8(4) of Protocol 2 to the Europe Agreement and have been assessed and agreed by its national State aid monitoring authority (the Office for Competition and Consumer Protection).

⁽¹⁾ OJ L 348, 31.12.1993, p. 2.

- (9) Protocol 8 on the restructuring of the Polish steel industry, annexed to the Treaty 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 provides that State aid granted by Poland for restructuring purposes to specified parts of the Polish steel industry shall, under certain conditions, be deemed to be compatible with the common market; the first of those conditions is that the period provided for in Article 8(4) of Protocol 2 on ECSC products to the Europe Agreement has been extended until the date of accession. Paragraph 5 of the said Protocol 8 provides that any subsequent privatisation of any of the benefiting companies is to take place under the same conditions. Paragraph 6 of the said Protocol 8 provides that the restructuring aid granted to the benefiting companies is to be determined by the justifications set out in the approved Polish steel restructuring plan and individual plans as approved by the Council and is not to exceed PLN 3 387 070 000. Paragraph 7 of the said Protocol sets out the minimum net capacity reductions to be achieved. Paragraphs 8 and 9 of the said Protocol provide for the implementation of business plans by the benefiting companies.
- (10) In April 2003, Poland submitted to the Commission a restructuring programme and business plans which have been assessed and agreed by the Office for Competition and Consumer Protection. Under Article 3 of EU-Poland Association Council Decision No 3/2002, the extension of the abovementioned period is made conditional on a final assessment of the restructuring programme and business plans by the Commission.
- (11) The Commission has made a final assessment of the restructuring programme and business plans submitted by Poland.
- (12) The assessment indicates that restructuring aid is necessary to return certain companies in the Polish steel industry to viability.
- (13) The assessment confirms that implementation of the restructuring programme and business plans will lead to the viability of the companies under normal market conditions by the end of the restructuring period, that the amount and intensity of aid should be strictly limited to what is absolutely necessary in order to reach this objective, that restructuring aid to the Polish steel industry should cease by the end of 2003, that the restructuring programme should be linked to a global rationalisation and reduction of overall production capacity in Poland and that the programme respects all the commitments agreed to in the Accession negotiations.
- (14) The assessment therefore concludes that the restructuring programme and business plans submitted by Poland meet the requirements of Article 8(4) of Protocol 2 to the Europe Agreement and, at this stage, the conditions laid down in Protocol 8 to the Treaty of Accession.
- (15) The conditions laid down in Articles 2 and 3 of EU-Poland Association Council Decision No 3/2002 are accordingly met,

HAS DECIDED AS FOLLOWS:

Sole Article

The restructuring programme and business plans submitted to the Commission by Poland on 4 April 2003 pursuant to Article 2 of EU-Poland Association Council Decision No 3/2002, with regard to an extension of the period laid down in Article 8(4) of Protocol 2 to the Europe Agreement are in compliance with the requirements of Article 8(4) of the said Protocol 2.

Done at Brussels, 21 July 2003.

For the Council
The President
F. FRATTINI