Aid in favour of Kahla Porzellan GmbH and Kahla/Thüringen Porzellan GmbH

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On 30 October 2002 the European Commission finalised three years of investigation ordering recovery of incompatible aid of € 15.7 million from the eastern German porcelain manufacturer Kahla.

The Commission decision concerns two different legal entities: The first one, Kahla Porzellan GmbH (Kahla I), a porcelain producer based in Thüringen, which was privatised in 1991 and declared bankrupt in 1993 after heavy losses. The second one, its legal successor, Kahla/Thüringen Porzellan GmbH (Kahla II), created in 1993 to take over the assets of the bankrupt Kahla I and to continue its activities in the production of porcelain dishes and household china.

The investigation started on the basis of complaints alleging illegal awards of State aid in favour of Kahla I and II. Following unsuccessful and repeated requests from the Commission to receive full information on the case, the formal investigation procedure was initiated in November 2000 to verify the State aid character and compatibility of numerous financial measures. The information subsequently submitted by Germany evidenced additional financial measures, of which the Commission had not been informed before. In November 2001 the procedure was extended to assess these new measures. The Commission has examined a total of 33 support measures from the public hand in favour of both Kahla I and II, totalling some € 79 million.

The Commission examined 10 measures in favour of Kahla I and concluded that some € 37 million were not state aid since they did not confer any advantage to the company. Further € 19 million were covered by aid schemes approved by the Commission and thus constituted existing aid, which needed not be reassessed. The remainder € 3 million was not covered by any approved legal basis and thus had to be assessed by the Commission. The Commission evaluated these measures under the Community Guidelines on State aid for rescuing and restructuring firms in difficulty concluding that the criteria of these guidelines were not fulfilled, notably due to the lack of a restructuring plan, and declared the aid incompatible.

Regarding Kahla II, the Commission examined 23 measures and concluded that all of them constituted aid because no market economy operator would have made them available. Of the total amount of € 20 million, some € 7.3 million are covered by aid schemes approved by the Commission and thus constituted existing aid, which needed not be reassessed. However, the remaining € 12.7 million aid, not granted under any approved legal basis, fell to be assessed by the Commission.

On the basis of reports elaborated when Kahla II was set up, the Commission concluded that the company had been in difficulties since its creation and until 1996. Hence, the aid awarded during that period was assessed under the Community Guidelines on State aid for rescuing and restructuring firms in difficulty. The Commission found that the criteria of these guidelines were not fulfilled, notably due to the lack of a sound restructuring plan and in the absence of a substantial private contribution to the restructuring. This aid was thus declared incompatible.

The aid to Kahla II awarded as from 1996 was assessed as regional investment aid under the Guidelines on national regional aid. However, the aid was clearly operating aid not linked to any initial investment. Consequently it was also declared incompatible.

As a conclusion, the Commission ruled that aid of some € 3 million in favour of Kahla I and aid of some € 12.7 million in favour of Kahla II was incompatible and has to be recovered. It is noted that part of the aid (some loans from public sources and a public capital injection) has already been repaid. The measures repaid roughly account to half of the total incompatible aid of € 15.7 million.