EUROPEAN COMMISSION

Brussels, 24.6.2022
C(2022) 4490 final

In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]		PUBLIC VERSION This document is made available for information purposes only.

Subject: State Aid SA. 60190 (2020/N) – Spain – COVID 19 – Recapitalisation fund – aid to Barna Steel S.A. ("CELSA Spain")

Excellency,

The European Commission ("the Commission") wishes to inform the Kingdom of Spain that, having examined the information supplied by your authorities on the State aid referred to above, it has decided not to raise any objections, as it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union ("TFEU").

1. PROCEDURE

(1) By electronic notification of 17 June 2022, Spain notified its intention to grant a participating loan of EUR 280.5 million ('Participating Loan') to Barna Steel S.A. for the benefit of itself and of its subsidiaries active in Spain (recital (8)).

(2) Spain exceptionally agrees to waive its rights deriving from Article 342 of the TFEU, in conjunction with Article 3 of Regulation 1/1958[1], and to have this Decision adopted and notified in English.

[1] Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

Excmo. Sr. José Manuel Albares Bueno
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2. DESCRIPTION OF THE MEASURE

2.1. The legal basis of the measure

(3) The Participating Loan is a recapitalisation measure within the meaning of section 3.11 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("Temporary Framework")[2]. The measure constitutes an individual grant of aid under the aid scheme approved by Commission decision C(2020) 5414 final of 31 July 2020, SA.57659 (2020/N)– Spain – COVID-19 – Recapitalisation fund ('Framework Decision')[3].

(4) As the amount of the Participating Loan exceeds EUR 250 million, the measure has to be notified and assessed individually pursuant to point 51 of the Temporary Framework and recital (69) of the Framework Decision.

(5) The Spanish authorities also explain that, in parallel and in addition to the Participating Loan, they will provide Barna Steel S.A. with a loan having a subsidised interest rate of EUR 269.5 million ('Subsidised Loan'). Furthermore, Barna Steel S.A. previously received a loan of EUR 50 million on 31 July 2020 from five Spanish banks with a State guarantee awarded by the Instituto de Crédito Oficial ("ICO"), a loan that Barna Steel S.A. repaid on 9 July 2021. Both of those loans are liquidity measures falling under the provisions of, respectively, sections 3.2 and 3.3 of the Temporary Framework. Both the Subsidised Loan and the 2020 State guarantee are covered by the scheme approved by the Commission Decision C(2020) 2154 final of 2 April 2020 State Aid SA.56851 (2020/N) – Spain – Umbrella Scheme[4] ('Umbrella Scheme'). Insofar as those loans are granted and planned in the context of the COVID-19 pandemic, they are taken into account to assess the proportionality of the Participating Loan.

(6) Spain explains that the Subsidised Loan includes a non-automatic conversion clause. Spain commits to notifying separately in the future any conversion of the Subsidised Loan into a recapitalisation instrument or measure as set out in section 3.11 of the Temporary Framework.

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[2] Communication from the Commission – Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1, as amended by Communications from the Commission C(2020) 2215 final of 3 April 2020, OJ C 112I, 4.4.2020, p. 1, C(2020) 3156 final of 8 May 2020, OJ C 164, 13.5.2020, p. 3, C(2020) 4509 final of 29 June 2020, OJ C 218, 2.7.2020, p. 3, C(2020) 7127 final of 13 October 2020, OJ CI 340, p.1 13.10.2020, C(2021) 564 final of 28 January 2021, OJ C 34, 1.2.2021, p. 6, and C(2021) 8442 final of 18 November 2021, OJ C 473, 24.11.2021, p. 1.

[3] OJ C 269, 14.08.2020, p. 1. By decisions C(2020) 9643 final of 23.12.2020 in case SA.60136 (OJ C 41, 05.02.2021, p. 1), C(2021) 2070 final of 23.03.2021 in case SA.61875 (OJ C 122, 09.04.2021, p. 1) and C(2021) 9882 final of 21.12.2021 in case SA. 100974 (OJ C 60, 04.02.2022, p. 1), the Commission raised no objections to amendments and prolongation of the Recapitalisation Fund until 30 June 2022.

[4] OJ C 144, 30.4.2020, p. 1. By decisions C(2020) 5504 final of 5.8.2020 in case SA.58096 (OJ C 277, 21.8.2020), C(2020) 7455 final of 22.10.2020 in case SA.58778 (OJ C 376, 6.11.2020), C(2021) 1200 final of 19.02.2021 in case SA.59723 (OJ C 77 05.03.2021) and C(2021) 9882 final of 21.12.2021 in case SA. 100974 (OJ C 060 04.02.2022, p. 1), the Commission raised no objections to amendments and prolongation of the Umbrella scheme until 30 June 2022.

2.2. Beneficiary and its economic activities

(7) Barna Steel S.A. is part of the Celsa Group. The Celsa Group is a privately-owned business based in Spain that recycles ferrous waste (scrap metal) and produces through electric furnace technology long steel products which it markets worldwide. The Celsa Group includes five independent sub-groups: Celsa Spain, Celsa UK, Celsa Nordic, Celsa Huta Ostrowiec ("Celsa Poland") and Celsa France. Celsa Spain and Celsa France are directly controlled by the holding company Barna Steel S.A., established in Spain. Celsa UK, Celsa Nordic and Celsa Poland are controlled directly by IPO Wire Holdings S.A. The Celsa Group has more than 120 work centres in nine different countries, generating 9 600 direct jobs. The sub-groups are financially and legally independent: they have fully independent banking pools, have no cross-default provisions between them and are not allowed to provide loans or cross-guarantees to one another.

(8) Barna Steel S.A. directs and controls its subsidiaries, providing corporate services to them. Barna Steel S.A., in its capacity as the holding company of Celsa Spain, has applied to the Fund to obtain support for the following companies: Barna Steel, S.A., Compañía Española de Laminación, S.L.U., Ferimet, S.L.U., Aceros para la Construcción, S.A.U., Nervacero, S.A., Celsa Atlantic, S.L., Global Steel Wire, S.A., Global Special Steel Products, S.A., Moreda Riviere Trefilerías, S.A., Protek Plus, S.A., Corcatinser, S.L.U., European Supply Chain Services, S.L.U., Aplicaciones de Acero Río Ter, S.A. Inversiones Picos de Europa, S.A. All those companies are established in Spain and are part of the Celsa Spain sub-group ('Celsa Spain' or 'the Beneficiary'). The Agreement on Temporary Public Financial Support will provide that companies belonging to other Celsa Group sub-groups do not benefit from the Participating Loan.

(9) The Spanish authorities divide Celsa Spain's business into the production level and the processing/distribution level. Celsa Spain is vertically integrated and is therefore active on both levels of the steel supply chain. Compañía Española de Laminación, S.L.U., Celsa Atlantic, S.L., Nervacero, S.A. and Global Steel Wire, S.A. (the so-called "minimills" of Celsa Spain) operate in the production of steel products. In particular, they produce "long products" from steel scrap and billets for use mainly in the construction sector and, to a certain extent, in the automotive sector and industrial machinery.

(10) More specifically, the Spanish authorities indicated that the minimills of Celsa Spain produce the following: (i) reinforcing steel products, including: rebars, coils and mesh wire rods; (ii) sections and steel beams; (iii) merchant bars; and (iv) engineering wire rod. The minimills of Celsa Spain sell part of their production in-house to cover the vast majority of the raw material needs of Moreda Riviere Trefilerías, S.A., Global Special Steel Products, S.A. and Aceros para la Construcción, S.A.U. The core of the activities of those companies of Celsa Spain are complementary at the same level of the production chain.

(11) Based on product volumes published by the European Steel Association EUROFER, the share of the Beneficiary in terms of production volumes sold in the Union between 2017 and 2021 is in a range as follows:

- reinforcing steel products, including rebars, coils and mesh wire rods: between […]% and […]%;

- sections and steel beams: between […]% and […]%;
- merchant bars: between […]% and […]%;
- engineering wire rod: between […]% and […]%.

(12) Even if the sales of other subsidiaries controlled by Celsa Group in other Member States that do not benefit from the Participating Loan were added to those of Celsa Spain, the proportion of Celsa Group's sales out of total sales in the Union would still not exceed 15% for any of those products. Likewise, the notification further explains that Celsa Group's sales in Iceland, Norway and Lichtenstein, countries of the European Economic Area where it is active, are immaterial.

(13) Moreover, the Spanish authorities explain that the products in question are relatively commoditised so that producers are not particularly differentiated and the markets do not display particular barriers to entry and are therefore characterized by intense price competition. For all the products it sells, Celsa Spain faces competition from large players such as the Riva Group, Megasa, ArcelorMittal, Salzgitter, Beltrame, and Saarsthal. Buyers such as motor vehicle manufacturers or construction companies do not lack bargaining power and are able to switch suppliers if prices increase.

(14) Concerning distribution, Aceros para la Construcción, S.A.U engages in processing and distribution through the cutting and bending of rebars and coils for sale in Spain and Portugal. The proportion of Celsa Spain's sales out of total sales in those two Member States is below 2%.

2.3. Eligibility for the aid

(15) As indicated in recitals 10 to 14 of the Framework Decision, Section 2 of Annex II of the Agreement of the Council of Ministers of 21 July 2020 setting up the rules of the Solvency Support Fund for Strategic Enterprises ("the Fund") lays down eligibility criteria that beneficiaries of the public recapitalisation measures must meet. The Spanish authorities also note that the eligibility criteria reflect the conditions set out in points 49 and 50 of the Temporary Framework. The Spanish authorities confirm that Celsa Spain has filed affidavits justifying that those criteria are met and consider that the Beneficiary fulfils them for the following reasons.

(16) The Beneficiary submitted a written request for aid from the Fund on 20 November 2020, updated on 9 March 2022. In particular, Celsa Spain provided a viability plan demonstrating that the medium to long-term viability would be recovered and describing the planned use of the requested aid.

(17) According to the Spanish authorities, Celsa Spain will not recover pre-COVID-19 activity levels until, at least, the end of 2022. This is due, in particular, to the impact of the COVID-19 crisis on the construction and automotive sectors. The Spanish authorities refer to EUROCONSTRUCT[5] forecasts according to which construction activity in Spain is not expected to return to pre-crisis level until the end of 2022. Similarly, the car manufacturing sector is one of hardest hit sectors:

[5] 91th EUROCONSTRUCT Country Report , Summer 2021.

the impact of the COVID-19 pandemic sharply worsens projected car production figures in Europe[6]. As a consequence of depressed demand and uncertainties in the steel market, Celsa Spain's industrial and financial performance is and will continue to be acutely affected by the pandemic.

(18) According to the information submitted by Spain, without the support of the Fund, Celsa Spain will inevitably file for insolvency and liquidation of its assets. In particular, until March 2020, Celsa Spain fulfilled all its payment obligations stemming from a long-term loan contracted on 31 October 2017, in the context of reorganisation of the Group's financial structure and debt that financed high amounts of EUR 1.7 billion investments made in the period 2001-2019. Celsa Spain had been servicing that debt in a timely fashion until the outbreak of COVID-19.

(19) The Spanish authorities observe that Celsa Spain's insolvency would result in the loss of over 3 000 direct jobs, whereas Spain's unemployment rate (13.3%) is two-fold the EU average (6.2%). Its insolvency would also have a substantive impact on industrial output as Celsa Spain accounts for 1.3% of Spain's industrial GDP. Celsa Spain's activities extend to eight autonomous regions, although its main activity is concentrated in Catalonia, the Basque Country, Cantabria, Asturias and Galicia. Celsa Spain has therefore a diversified regional presence.

(20) The Beneficiary's insolvency would also allegedly trigger adverse effects in areas such as innovation, recycling or competition in the long-steel product markets. That claim is supported by data, in particular:

(a) Celsa Spain is the largest steel recycler in Spain and the second-largest in Europe and is extremely active as regards the achievement of carbon neutrality. The Spanish authorities indicated that the Celsa Group, including Celsa Spain, has one of the best carbon footprint records in the steel sector as its steel production technology emits less CO^2 than alternatives. Celsa Group, including Celsa Spain, is actively working to become the first major steel producer to achieve climate neutrality[7].

(b) Celsa Group's sales in 2019 amounted to EUR 4.12 billion, ranking as 22nd by sales volume among the listed companies included in the IBEX stock index.

(c) Celsa Group invested more than EUR 2.25 billion in capital expenditure during the period 2001-2019, of which EUR 1.7 billion in Spain. Before the pandemic, it generated a (~ 11%) margin of EBITDA over sales which is above sector average and above the average for Spanish companies

[6] Before the pandemic, car production in Europe for 2019 was 21.2 million units, which dropped down to 16.6 million units in 2020. In the latest estimates published by HIS, production stood at 16.7 million units in 2021 and 18.6 million units expected in 2022 (21% and 12% less than before the pandemic).

[7] Celsa Spain uses electric arc furnace steel production technology which emits 70% less CO^2 than blast furnace technology does. Only 30% of Celsa Spain's emissions are directly attributable to Celsa Spain's production process. The rest are indirect emissions generated by electricity companies, hence outside Celsa Spain's production process.

listed within the “Basic Materials, Industry and Construction” sector index.

(21) The Spanish authorities indicate that the requested Participating Loan is a last-resort measure, the Beneficiary proving unable to tap the financial resources either from shareholders, sister companies or the market. The insolvency of Celsa Spain cannot be therefore avoided through less restrictive means than State aid provided through the Fund. In particular:

- Celsa Spain’s shareholders do not have industrial assets outside Celsa Spain or any other means allowing them to improve Celsa Spain's solvency through a capital injection beyond the EUR 50 million accompanying the Participating Loan.

- The agreements between Celsa Spain and the other companies of the Celsa Group prevent them from lending money or granting guarantees in favour of any of the other sub-groups. As a result, Celsa Spain cannot be financially supported by the other companies of the Celsa Group. Even if the agreements allowed them to do so, however, the notification indicates that none of the sub-groups has the means to provide such support as they are all facing similar difficulties due to the COVID-19 crisis.

- It is not possible to obtain the necessary resources through a debt restructuring and/or from the financial institutions, as evidenced by Celsa Spain’s failed attempt to obtain medium- and long-term financing for the companies of the sub-group. This is mainly due to the extremely high debt/equity ratio and to the fact that most of Celsa Spain’s debt is owned by hedge funds.

- The Participating Loan is already premised on a restructuring of existing debt supporting long-term viability of the beneficiary and reducing the amount of public support whilst, however, limiting the ability of the Beneficiary to attract fresh finance from commercial lenders at market terms.

- A financial or industrial partner is also to be ruled out, because Celsa Spain is not financeable under normal market conditions given its indebtedness, while the mere search for an industrial partner would lead Celsa Spain’s suppliers to modify their financial support thus worsening liquidity problems and accelerating the need to file for insolvency.

(22) Finally, the Spanish authorities demonstrated that on 31 December 2019, the Beneficiary[8]:

(a) was not subject to collective insolvency proceedings or fulfilling the criteria under domestic law for being placed in collective insolvency proceedings at the request of its creditors;

8 See Annex to Spain’s notification “Excel File showing all enterprises of CELSA-Spain were not in difficulty at the close of the year 2019”. The criteria are assessed for each of the companies established in Spain referred to in recital (8).

(b) did not receive rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;

(c) the accumulated losses and other elements of own funds were not negative and higher than half of the subscribed share capital;

(d) finally, the Beneficiary has not, for the past two years, presented a book debt to equity ratio greater than 7.5 and an EBITDA interest coverage ratio below 1.

2.4. Characteristics of the Participating Loan

2.4.1. Maturity, remuneration, reimbursement and guarantees

(23) The Participating Loan has a seven-year maturity with no automatic or pre-determined conversion into equity. The Participating Loan's principal will be repaid with a single repayment at maturity ('bullet repayment'). However, mandatory repayments of principal may be due earlier depending on Celsa Spain's performance.

(24) The remuneration of the Participating Loan has a fixed component and a variable component, as follows:

- The fixed component is set at Ibor 12 months if positive plus the following margins: Year 1: 250 bp, Years 2 and 3: 350 bp, Years 4 and 5: 500 bp, Years 6 and 7: 700 bp; it will be capitalised using the same interest rate corresponding to each period.

- The variable component if there is profit before tax for the corresponding year will be 100 bp.

(25) The variable component of the remuneration will be paid annually. The fixed component will be capitalised until maturity at an annual interest rate of Ibor 12 months if positive plus margins as per the first indent of point (66) of the Temporary Framework with bullet repayment with the principal of the Participating Loan.

(26) The Participating Loan benefits from a guarantee from the companies of Celsa Spain and from Celsa Spain´s shareholders and from a subordinated lien on the Spanish assets of those companies.

(27) The base case scenario for reimbursement consists of bullet reimbursement of principal at maturity. If full pay-back is not made by the Beneficiary with available cash, a new syndicated loan for the remaining amount would be taken and/or all the sub-groups (Celsa Spain, Celsa UK, Celsa Nordic, Celsa Poland and Celsa France) would issue a listed bond for the remaining amount given that their leverage ratio would by then have reached market levels. The funds obtained from that issuance, together with available cash, would fully repay both the Participating Loan and the Subsidised Loan.

2.4.2. *Maximum amount of the recapitalisation*

(28) The Spanish authorities consider that the amount of the Participating Loan is limited to the minimum necessary to overcome the impact of the COVID-19 pandemic and to ensure the viability of the Beneficiary. As a matter of fact, the Beneficiary's debt amounted to EUR 1 244 million by the end of 2019 and to EUR […] million by the end of 2021. Due to operating losses which, on aggregate, amounted to EUR […] million in 2020 and 2021, the increase in indebtedness concurs with a deterioration of the equity position, which decreased from EUR 591 million to EUR […] million in the same period. To cover the additional impact of the COVID-19 pandemic on its liquidity position and recover the pre-crisis standing in its working capital, Celsa Spain will also require the EUR 269.5 million from the Subsidised Loan.

(29) Likewise, the projections provided by Spain with a sensitivity analysis show a net debt-to-EBITDA ratio after the recapitalisation reaching […] by 2024 in a baseline scenario (a range between […] and […] by 2028 under the sensitivity analysis). The return on capital employed would be positive but modest ([…]%) in 2022 ([…]% under the sensitivity analysis), reaching the cost of capital that prevailed pre-crisis by 2023 ([…]%) and, under the sensitivity analysis, by 2026 (a range between […]% and […]%).

(30) The Spanish authorities therefore consider that the Participating Loan would restore the creditworthiness of Celsa Spain making it able, within a reasonable time horizon, to access finance markets at affordable conditions.

2.5. Governance and prevention of undue distortions of competition

(31) The Spanish authorities confirm that in its application for the State support from the Fund (see recital (8)), Barna Steel S.A. presented commitments relating to governance and transparency. In particular, Barna Steel S.A. commits for itself and its subsidiaries based in Spain (see "the Beneficiary" at recital (8)) (i) not to announce its quality of beneficiary of the aid for commercial purposes; (ii) not to engage in aggressive commercial expansion financed with State aid or to take excessive risks; (iii) as long as at least 75% of the Participating Loan have not been redeemed, not to acquire shares in excess of 10% of undertakings active in the same sector or upstream or downstream markets, unless the Commission approves it on request from Spain (following a submission of the Fund Management Board); (iv) to establish a separation of accounts to ensure that the Participating Loan does not result in support for activities that were in difficulties on 31 December 2019; (v) not to distribute dividends, payments of non-mandatory coupons or buy back shares, other than those under State ownership through the Fund; (vi) to ensure that until 75% of the Participating Loan is reimbursed, the remuneration of members of the Management Board, Administrators, or those with the highest corporate responsibility in the Beneficiary may not exceed the fixed part of their remuneration in force at the end of the financial year 2019. Persons acceding to those positions at the time of the recapitalisation or thereafter will be remunerated in terms comparable to those with similar level of responsibility. In no circumstances will bonuses or other variable or equivalent remuneration be paid.

(32) The Beneficiary is also obliged to comply with the commitments included in the viability plan and in particular those relating to investment in productive capacity,

innovation, ecological transition, digitalisation, increased productivity and human capital.

(33) Regarding transparency, the Beneficiary will publish on its corporate portal information on the use of the aid received within twelve months of the date of granting of the aid, and every twelve months thereafter, until full repayment. The publication on the use of the aid shall include information on how the aid supports activities in line with Union objectives and national obligations related to the green and digital transformation, including the Union's objective of achieving climate neutrality by 2050.

3. ASSESSMENT

3.1. Lawfulness of the Participating Loan

(34) By notifying the Participating Loan in accordance with point 51 of the Temporary Framework and recital (69) of the Framework Decision, the Spanish authorities have respected their obligations under Article 108(3) TFEU.

3.2. The measure constitutes State aid

(35) The Framework Decision (recitals (49) to (52)) establishes that public financial support through the Fund involves State aid within the meaning of Article 107(1) TFEU. Spain has notified the Participating Loan as an individual grant of aid under the scheme approved in the Framework Decision, which requires individual notification only in relation to compliance with certain requirements relating to compatibility set out in the Temporary Framework. For that reason, the Commission needs not to establish that the Participating Loan constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

(36) According to point 51 of the Temporary Framework, when the Commission approves a recapitalisation scheme, it will request the separate notification of individual aid above the threshold of EUR 250 million. In relation to such notifications the Commission assesses whether existing financing in the market or horizontal measures to cover liquidity needs are insufficient to ensure the viability of the beneficiary; that the selected recapitalisation instruments and the conditions attached to them are appropriate to address the beneficiary's serious difficulties; that the aid is proportionate; and that the relevant conditions in section 3.11.2 and sections 3.11.4, 3.11.5, 3.11.6 and 3.11.7 are complied with.

(37) Since the Participating Loan constitutes an individual grant of aid under the scheme approved by the Framework Decision (see recital (3)), the Commission will also assess whether the Participating Loan complies with the relevant conditions of that scheme.

3.3.1. Compatibility of aid

3.3.1.1. Formal entry conditions

(38) Points 49 d) and 50 in section 3.11.2 of the Temporary Framework set out formal entry conditions that beneficiaries of recapitalisation measures must meet (see also recitals 67 and 68 of the Framework decision).

(39) Spain has provided a written request to the Fund introduced by Barna Steel S.A. (see recitals (1) and (8)). Spain also demonstrated that the Beneficiary is not an undertaking that on 31 December 2019 was already in difficulty within the meaning of Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 (see recital (22)). As demonstrated in recitals (17) to (19), the difficulties of the Beneficiary are due to the unprecedented crisis provoked by the COVID-19 pandemic. The Participating Loan fulfils therefore the conditions set out in points 49 d) and 50 of the Temporary Framework and in recitals 67 and 68 of the Framework Decision.

3.3.1.2. Need for State intervention, objective of common interest and appropriateness of the Participating Loan

(40) It follows from point 49 a), b) and c) of the Temporary Framework that recapitalisation measures can be awarded only if there is a need for State intervention, such intervention is in the common interest and appropriate to address the beneficiary's difficulties (see also recitals 64 to 66 of the Framework Decision).

(41) As follows from recital (28), substantial losses suffered due to the COVID-19 pandemic provoked a sharp deterioration of the Beneficiary's debt/equity ratio. Operating losses dent its equity position while dampening revenues and cash inflows have worsened its solvency standing. In absence of any State intervention, that situation would lead to the Beneficiary's insolvency.

(42) As mentioned in recital (28), the capital structure and indebtedness of the Beneficiary compared to its equity position have significantly deteriorated in 2020 and 2021, with reference to 2019. By improving the Beneficiary's capital structure and in particular its debt-to-equity ratio, the Participating Loan allows the Beneficiary to avoid severe difficulties in maintaining its operations and, eventually, to avoid going out of business.

(43) The Participating Loan is also aimed at preventing the social hardship and market failure that could be provoked by the exit of Celsa Spain, an innovative steel producer (see recital (20), from the market, in particular the negative impact of such exit on employment (loss of over 3 000 direct jobs) and Spanish industrial output (1.3% of industrial GDP) (see recital (19)).

(44) Finally, based on the information provided by the Spanish authorities (see recital (21)), the Commission agrees that the Beneficiary is not able to find financing on affordable terms and that, given the dramatic deterioration of the Beneficiary's equity position, the liquidity support already granted and planned in favour of the Beneficiary under the Umbrella Scheme (see recital (5)) is not sufficient to ensure its viability.

(45) In conclusion, the Participating Loan complies with the conditions provided for in point 49 a), b) and c) of the Temporary Framework and with recitals 64 to 66 of the Framework Decision.

3.3.1.3. Proportionality

(46) Pursuant to point 54 of the Temporary Framework, in order to ensure the proportionality of the aid, the amount of COVID-19 recapitalisation must not

exceed the minimum needed to ensure the viability of the beneficiary and should not go beyond restoring the capital structure of the beneficiary on 31 December 2019. In assessing the proportionality of the aid, State aid received or planned in the context of the COVID-19 pandemic must be taken into account (see also recital 71 of the Framework Decision).

(47) Therefore, in the present case, the assessment of the proportionality of the Participating Loan must take into account the loans planned and those already granted to Celsa Spain under the Umbrella Scheme, i.e. the planned EUR 269.5 million Subsidised Loan and the EUR 50 million loan granted to Celsa Spain on 31 July 2020, fully repaid on 9 July 2021 (see recital (5)).

(48) On the basis of the data provided by Spanish authorities (recital (29)), that take into account the amounts of aid received and planned in the context of the COVID-19 pandemic, the Commission is satisfied that the Participating Loan is limited to what is needed to ensure the viability of the Beneficiary. In particular, the recapitalisation will not lead to improving the net-debt-to-EBITDA, equity-to-assets and equity-to-liabilities ratios beyond the minimum that is needed to regain access to financial markets in the short to medium term. Likewise, the viability of the Beneficiary, as evidenced by the return on capital employed, would be no more than restored through the recapitalisation. In effect, the return on capital employed would be positive but modest ([…]%) in 2022 ([…]% in the sensibility analysis) and further improvements would not be due to an excessive amount of recapitalisation.

(49) The Participating Loan does not improve the capital structure of the Beneficiary compared to the one before the outbreak of COVID-19 pandemic (recital (28)). Indeed, its debt, which amounted to two times its equity by the end of 2019, amounted to four times its equity by the end of 2021, whereas the total amount of the public liquidity support envisaged in favour of the Beneficiary (EUR 269.5 million) is only slightly lower than the amount of the recapitalisation achieved through the Participating Loan (EUR 280.5 million). The EUR […] million aggregate net operating losses that the Beneficiary has incurred in 2020 and 2021 and that directly reduced its equity position outweigh by far the difference between the liquidity support and the amount of recapitalisation, even account is taken of the planned private capital injection (EUR 11 million difference and EUR 50 million recapitalisation). Likewise, the 2.6 ratio of debt-to-equity post recapitalisation is higher than the 2.1 ratio recorded at the end of 2019, thus still showing a deterioration of the capital structure, even when treating the Participating Loan as equity. Therefore, in the present case, after the recapitalisation, the resulting ratio of debt-to-equity is higher than that recorded at the end of 2019 and the capital structure of the Beneficiary is not improved compared to the one before the outbreak of the COVID-19 pandemic.

(50) The Participating Loan is therefore proportionate and compliant with the requirements of section 3.11.4 of the Temporary Framework and with recital 71 of the Framework Decision.

3.3.1.4. Remuneration and exit of the State

(51) Section 3.11.5 of the Temporary Framework sets out the conditions of the remuneration of the recapitalisation instruments and those of the exit of the State (see also recitals 73, 75 and 85 to 88 of the Framework Decision).

(52) The Participating Loan bears a fixed interest equal to the minimum remuneration for hybrid capital instruments provided for in point 66 of the Temporary Framework plus a variable rate of 100 basis points based on business performance (see recital (24)). Thus, the remuneration exceeds the minimum threshold by the variable rate.

(53) The conditions of the Participating Loan provide for a bullet repayment at maturity and for possible repayments of principal earlier depending on Celsa Spain's performance. The conditions of the Participating Loan do not provide for its conversion into equity. If the total amount of the Participating Loan cannot be paid with the cash available at the maturity, the remaining amount will be refinanced through the issuance of a new syndicated loan or emission of bonds (see recital (27)). In all those cases, the repayment of the loan will cause the State to exit the recapitalisation.

(54) Those conditions are in line with the relevant requirements of section 3.11.5 of the Temporary Framework relating to the remuneration of the recapitalisation measures and the exit of the State, and with recitals 73, 75 and 85 to 88 of the Framework Decision.

3.3.1.5. Governance and prevention of undue distortions of competition

(55) Section 3.11.6 of the Temporary Framework sets out the conditions relating to governance and prevention of undue distortions of competition (see also recitals 79 to 83 of the Framework Decision).

(56) In particular, according to point 72 of the Temporary Framework, if the beneficiary of a COVID-19 recapitalisation measure above EUR 250 million is an undertaking with significant market power on at least one of the relevant markets in which it operates, Member States must propose additional measures to preserve effective competition in those markets. In proposing such measures, Member States may in particular offer structural or behavioural commitments foreseen in Commission Notice on remedies acceptable under the Council Regulation (EC) No 139/2004 ("the Merger Regulation")[9] and under Commission Regulation (EC) No 802/2004.

(57) In a previous merger decision[10], the Commission examined the activities of the Celsa Group, including the companies active in Spain and in other Member States pursuant to Article 4 of the Merger Regulation. The Commission assessed the market for production of reinforcing steel products as being EEA-wide, whereas the market for the processing/distribution of reinforcing steel products was assessed as being national. The Commission concluded that Celsa Group's market shares of production of reinforcing steel products after the merger were limited, be it in an overall market for all reinforcing products, or in separate and narrower segments such as rebars, coils or mesh wire rods. The Commission noted in that

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[9] OJ L 24, 29.1.2004 p. 1.

[10] Commission Decision of 22 March 2006 pursuant to Article 6(1)(b) of the Merger Regulation in case M.4225 – Celsa / Fundia, recitals 21 to 23.

decision the presence of the Celsa Group prior to the merger in processing/distributing activities only in Spain and Portugal.

(58) Currently, the market presence of the Beneficiary as regards steel production in the Union remains modest. The proportion of sales (shares) Union-wide is below 10% in most instances, while it does not exceed 15% whether for all products it manufactures altogether or for separate product segments (recital (11)). The same is true if the sales of non-Spanish subsidiaries of the Celsa Group are added to those of the Beneficiary or if its position in the EEA is examined (recital (12)). As regards distribution markets in Spain and Portugal, its shares are below 2%. Such modest shares per product or service in the geographic areas served by the Beneficiary are a clear and sufficient indication supporting the conclusion that the Beneficiary does not hold significant market power on any of the relevant markets in which it operates.

(59) On that basis, the Commission concludes that the recapitalisation aid does not require additional measures to preserve effective competition on the markets on which Celsa Spain operates.

(60) Moreover, the Spanish authorities provided evidence of the commitments of the Beneficiary to respect the governance conditions set out in points 73 to 78 of the Temporary Framework (see recital (31)).

(61) In conclusion, the Participating Loan is in line with the relevant requirements of section 3.11.6 of the Temporary Framework, and with recitals 79 to 83 of the Framework Decision.

3.3.1.6. Conclusion on compatibility of the aid

(62) In the light of the above, the Commission considers that the Participating Loan is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Spain pursuant to Article 107(3)(b) TFEU and meets all the relevant conditions of the Temporary Framework and of the Framework Decision.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the individual aid provided to Barna Steel S.A. through the Solvency Support Fund for Strategic Enterprises on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION