COMMISSION DECISION
OF 2005
establishing a multi-beneficiary programme on Steel Restructuring
for Bulgaria, Romania, Croatia and Turkey

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3906/1989 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe\(^4\), and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 2500/2001 of 17 December 2001 concerning pre-accession financial assistance for Turkey\(^5\), and in particular Article 8 thereof,

Whereas:

(1) Regulation No 3906/89 lays down the rules and conditions for the granting of economic aid to Bulgaria, Croatia and Romania and Regulation No 2500/01 lays down the rules and conditions for the granting of economic aid to Turkey.

(2) The Accession Partnerships for Bulgaria and Romania and the European Partnership for Croatia include the restructuring of the steel sector in the countries concerned as a key priority. Similarly, the agreement between the ECSC and Turkey submits possible derogations from the prohibition to grant state aid to a programme for the restructuring of the steel sector. It is therefore appropriate to support the preparation and the implementation of the national steel restructuring plans.

(3) The measures provided for by this Decision are in accordance with the opinion of the Committee on Aid for Economic Restructuring in certain countries of Central and Eastern Europe,

HAS DECIDED AS FOLLOWS:

Article 1

The programme described in the Annex to the present decision is hereby adopted.

Article 2

The maximum amount of Community assistance shall be €\,4.5 million to be financed through Budget item 22.02.10 of the 2005 General Budget of the European Union.

Done at Brussels,


FINANCING PROPOSAL 2005
STEEL RESTRUCTURING PROGRAMME

1. IDENTIFICATION
Country: Bulgaria, Romania, Croatia and Turkey
Programme: Steel Restructuring Programme
CRIS Number: 2005/017082
Year: 2005
Phare contribution: € 4.5 million
Implementing Authority: European Commission, on behalf of the beneficiary countries
Expiry Date: 31 December 2006 (contracting)
31 December 2011 (execution)
CAD Sector: 32169
Group: L
Budget line: 22.02.10
Task Manager: Henk Visser (DG ELARG) for programming
Henk Visser (DG ELARG) for implementation

2. SUMMARY
The Accession Partnerships for Bulgaria and Romania and the European Partnership for Croatia include as one key priority to prepare overall National Restructuring Programmes (NRP) for the steel sector as well as Individual Business Plans (IBPs) at company level.

For Bulgaria and Romania, this priority follows from obligations under protocols to the respective Europe Agreements, which have been further developed in commitments taken under the accession negotiations regarding Chapter 6 (competition policy).

As to Croatia, the priority stems from obligations under the Stabilisation and Association Agreement, which have moreover been underlined in the country’s European Partnership.

For all three countries, a temporary derogation to the general prohibition for restructuring state aid to the steel sector is possible in the framework of a National Steel Restructuring Programme.

Similarly, in the context of Turkey’s 1996 agreement with the European Coal and Steel Community on trade in products covered by the ECSC Treaty, state aid is only allowed to support the restructuring of the steel sector in the framework of a National Restructuring Programme for the steel sector based on the elements defined in Individual Business Plans.

With the help of the Phare programme Bulgaria and Romania have already drafted and adopted National Restructuring Programmes and Individual Business Plans for their steel sector. The governments now need to ensure that these plans are properly implemented and to report about this to the European Commission.

Croatia and Turkey have started preparing National Steel Restructuring Programmes and Individual Business Plans. These plans will need to be assessed on the ground, company by company. This assessment process includes the formulation of recommendations to adjust the
Restructuring plans where needed. After the approval of the National Restructuring Programmes and the Individual Business Plans, their implementation needs to be monitored by the governments and the EU.

This Programme will provide EU funding for technical assistance for the assessment of National Restructuring Programmes and Individual Business Plans for the steel sector and for the monitoring of the proper implementation of these plans.

This programme is shaped as a multi-beneficiary programme for Bulgaria, Romania, Croatia and Turkey in order to:

- allow the creation of economies of scale through the set up of one contract covering all interventions in all four beneficiary countries;
- ensure the transparency and consistency of the evaluation/technical assistance
- provide for a very clear, specific and dedicated use of funds for the restructuring of the steel sector.
- allow the consistent and objective application of viability and assessment criteria as well as recommendations to all concerned countries.

The multi-country approach is furthermore justified by the regional dimension of the steel sector in the remaining acceding/candidate countries, which are faced with similar obligations in terms of restructuring of their steel sector, ensuring viability and phasing out of state aid after a certain period. The multi-country approach will allow for the necessary verification of the feasibility of results obtained between the countries. On top of that it will facilitate the coordination and consultation of numerous partners including Commission services.

The programme builds further on the experiences gained with a similar successful programme for the Czech Republic and Poland. Thanks to this programme the countries and the Commission have been in the position to get assurances that the plans are being carried out following the commitments made. It was therefore decided to carry out similar actions for Bulgaria, Romania, Turkey and Croatia.

The programme is therefore the logical follow-up to the steel restructuring assistance programme for drafting NRPs and IBPs for Bulgaria and Romania and the Steel Restructuring component of the CARDS 2002 Administrative Capacity Building Facility for Croatia and the first steel restructuring project for Turkey of 2003.

3. STRATEGY

The Accession Partnerships and accession negotiation commitments for Bulgaria and Romania and the European Partnership for Croatia foresee as an obligation for these countries to prepare and implement overall National Restructuring Programmes and Individual Business Plans for their steel sector. As regards Turkey the adoption of an overall National Restructuring Plan and IBPs for the steel sector is a precondition to allow restructuring aid to the steel sector under the terms of the existing legal framework for the steel sector between the EU and Turkey, currently the 1996 European Coal and Steel Community/Turkey trade agreement. The plans should lead to the full viability of the concerned companies and a total phasing out of restructuring state aid.
Accepting state aid to the steel sector in these countries during a transition period is subject to the preparation and implementation of restructuring plans/programmes that:

- lead to the viability of the benefiting firms under normal market conditions at the end of the restructuring period;
- foresee an amount and intensity of aid that is strictly limited to what is absolutely necessary in order to restore viability.
- are linked to a global rationalisation and reduction of overall production capacity for hot rolled products in Bulgaria, Romania and Croatia;
- are linked to a global rationalisation, via a restructuring or conversion process, not involving an overall increase in capacity for hot-rolled products in Turkey.

With support of the Phare programme Bulgaria and Romania have already completed their National Restructuring Plans, accompanied by Individual Business Plans. In the case of Bulgaria these plans were considered satisfying the criteria for the restructuring of the sector and achieving viability as established in protocol 2 by Council Decision of 18 October 2004. As concerns Romania such a decision is expected to be taken in March 2005, but in any case before the signature of the Accession Treaty. The next step for these countries is to closely monitor the implementation of these plans. In their efforts they need to verify whether this implementation is in line with the obligations set in these plans. Both countries have the obligation to report on progress on this to the European Commission.

Turkey is drafting a National Restructuring Programme and some Individual Business Plans under an EU funded project which is about to end. It is expected that the draft of the National Restructuring Programme for the Turkish steel industry will be available by the second semester of 2005. The National Restructuring Programme and the Individual Business Plans then need to be checked by in-depth on-site inspections for their credibility and feasibility. All possible shortcomings identified during the assessment period need to be addressed with concrete proposals for a revised NRP and IBPs. It is expected that the final drafts of the NRP and IBPs will be presented to the Council in 2006.

Croatia has recently started preparing restructuring plans for their steel sector and the individual companies. Its National Restructuring Programme is expected to be ready for assessment by mid 2005 after which its implementation can be monitored.

4. OBJECTIVES AND DESCRIPTION

The overall objective of the programme is to support the restructuring of the steel sector of the beneficiary countries in order for these countries to be able to meet their obligations deriving from the Treaty of Accession, the accession negotiation commitments with the EU, as well as from the relevant association and trade agreements.

Accordingly, the purpose of this programme is to provide assistance to the various stages of the restructuring process of the steel sector, which are relevant in each of the beneficiary countries in order for their steel companies to achieve viability.

The specific objectives are to:

a) Analyse the draft National Steel Restructuring Programmes and draft Individual Business Plans, notably to assess their credibility and feasibility, as well as drafting recommendations on necessary adjustments (Turkey and Croatia) if required;
b) Monitor implementation of the National Steel Restructuring Plans and the Individual Business Plans and progress made, to identify possible backlogs and to make recommendations on necessary adjustments of the implementation of the plans (Bulgaria and Romania and Croatia as well as Turkey after completing stage a));

The consultancy will carry out the evaluation on the prospects for viability of the plans, using a normal commercial evaluation (by means of a financial analysis of the accounts) as a basis. After this the consultant should perform an assessment using specific viability criteria applied by the European Commission. In this the consult is basically verifying whether a company can operate profitable on a longer term basis under normal market conditions without the support of state aid. All internal (e.g. investment, financing, prospects for privatisation) and external aspects (e.g. global market conditions, including product and financial markets) will be fully taken into account.

Thereby the information provided by the country concerned is to be verified through market data, discussions with the government, the companies and other knowledgeable third parties and on the on-site inspections.

As regards the individual business plans the consultants’ assessment has to verify whether the restructuring will lead to the viability of the benefiting firms under normal market conditions at the end of the restructuring period and that amount, intensity of public aid is strictly limited to what is absolutely necessary in order to restore viability and that the compensatory measures in relation to capacity are provided. The assessment of the national restructuring plan should provide information on whether the governments’ restructuring strategy is credible by granting of an adequate amount of state aid to re-establish viability of all participating firms. Thereby respecting the objective of proportionality linked to a reduction for Croatia on in the case of Turkey a non increase of overall production capacity for hot rolled products.

In case of a negative outcome, the consultant should give recommendations on changes (such as the modification or re-enforcement of restructuring measures) needed to bring the restructuring plans into line with the existing obligations.

In carrying out its monitoring tasks the consultant will use the regular reports which under the obligations of the agreement need to be submitted by the relevant countries. These country reports are based upon information presented by the companies.

5. BUDGET

The indicative budgetary allocation for this Programme is as follows (all amounts in €):

<table>
<thead>
<tr>
<th>In €</th>
<th>Institution Building</th>
<th>Investment</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>TA assessment/monitoring of restructuring plan / viability plan(s)</td>
<td>4.5</td>
<td>0</td>
<td>4.5</td>
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<tr>
<td>Total</td>
<td>4.5</td>
<td>0</td>
<td>4.5</td>
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</table>
6. IMPLEMENTATION ARRANGEMENTS

a.) Financial and project management


b.) Contracting and execution deadline

i. All contracts must be concluded by no later than December 31, 2006.

ii. All contracts must be executed by no later than December 31, 2011. Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted.

The tendering procedure(s) is (are) expected to be launched within 6 months following the adoption of this programme.

7. MONITORING, ASSESSMENT AND EVALUATION

The Commission will monitor the implementation of the Programme on the basis of reports from the selected contractors and independent assessments.

As provided for in the Implementing Rules of the above-mentioned Financial Regulation, the Commission Services shall ensure that this programme will be subject to an interim and/or ex-post evaluation.

8. ANTI-FRAUD MEASURES, AUDIT

The accounts and operations of all activities carried out under the programme are subject to supervision and financial control by the Commission (including the European Anti-fraud Office) and the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out.

In order to ensure efficient protection of the financial interests of the Community, the Commission can conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) N° 2185/96 dated from 11 November 1996, concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

The controls and audits described above are applicable to all contractors and subcontractors who have receive Community funds.
Beneficiary states shall inform the Commission services without delay of any element of information indicating the possible existence of irregularities or fraud.

Irregularity shall mean any infringement of the Financing Proposal, resulting contracts or Community legislation resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Fraud shall mean any intentional act or omission relating to:

i. The use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,

ii. Non-disclosure of information in violation of a specific obligation, with the same effect;

iii. The misapplication of such funds for purposes other than those for which they are originally granted.

This Financing Decision as well as the resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-fraud Office, OLAF), and the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Commission. In order to ensure efficient protection of the financial interests of the Community, the Commission can conduct check-ups and inspections on site, in accordance with the procedures foreseen in Council Regulation (Euratom, EC) N°. 2185/96, concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities.

The procedures foreseen in Commission Regulation N°1681/1994 of 11 July 1994 on the communication in case of irregularities and the putting in place of a system to administrate the information in this field shall apply.

The applicability of the Financial Regulation as referred to in Section 6 a) includes the application of administrative and financial sanctions, as provided for in Articles 93 to 96 and 114 of the Financial Regulation, and Article 133 of the Implementing Rules.

9. VISIBILITY/PUBLICITY

In implementing this Programme, the Commission shall provide for the maximum visibility of EU actions in the beneficiary countries as far as possible with the full respect of confidential commercially sensitive data. In line with this, the Commission shall consistently apply the note “Information and publicity for the Phare Programmes of the European Communities.”

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6 Defined as the entirety of Community rules applicable between the Commission and the Beneficiary States (for example the Europe Agreements, the Framework Agreement, the letters of exchange by which the Financing Proposal is agreed upon by the Beneficiary States, this Financing Proposal and all the ensuing contracts).

7 OJ L 178 of 12 July 1994, p. 43
ANNEXES TO THE FINANCING PROPOSAL

Annex 1 - Logframe Matrix

Annex 2 - Cumulative quarterly contracting and disbursement schedules
**Steel Restructuring Programme**

<table>
<thead>
<tr>
<th>Overall Objective(s)</th>
<th>Indicators of Achievement</th>
<th>Source of verification</th>
<th>Assumptions and Risks</th>
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</table>
| The overall objective of the programme is to support the restructuring of the steel sector of the beneficiary countries in order for these countries to be able to meet their obligations deriving from the association and trade agreements as well as from accession negotiations with the EU. | - Respect of the Europe Agreements, accession negotiations commitments (Bulgaria, Romania) – to be verified prior to accession  
- Respect of the Association and Stabilisation Agreement (Croatia)  
- Respect of the existing legal framework, currently the ECSC-Turkey Trade Agreement (Turkey) | - Relevant sub-committees of the EA (Bulgaria and Romania), ASA (Croatia), AA (Turkey)  
- Monitoring Reports regarding commitments (Bulgaria and Romania)  
- 6 monthly reports by Bulgaria and Romania on progress with NRP and Consultative Committee Meetings  
- Technical meetings with Croatia and Turkey in the context of relevant chapter of the accession negotiations (tbc) | - Adequate funding for steel restructuring  
- Privatisation/take-over of steel enterprises  
- Progress in pre-accession/accession negotiations process  
- No severe economic crisis on the steel market |

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<tr>
<th>Immediate Objective</th>
<th>Indicators of Achievement</th>
<th>Source of verification</th>
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</table>
| - Obtain viable NRP and IBPs approved by the Council (Turkey and Croatia)  
- Ensure proper implementation of the NRP and IBPs in line with the commitments made | - The (adjusted) NRP and IBPs adopted for implementation  
- Assessment by the Commission services of the NRP and IBPs – to be presented prior to the Council of Ministers meetings  
- 6 monthly reports presented by the countries | - Council documents  
- Commission documents  
- Government documents  
- Statistics/reports on steel sector  
- 6 monthly reports by the countries on progress with NRP and Consultative Committee Meetings |
### Results

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<tr>
<th>Indicators of Achievement</th>
<th>Source of verification</th>
<th>Assumptions and Risks</th>
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<tr>
<td>- NRPs and IBPs assessed</td>
<td>- Government documents (e.g., 6 monthly reports by Bulgaria and Romania on progress with NRP and Consultative Committee Meetings)</td>
<td>- Development of steel market</td>
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<td>- Recommendations (if any) on achievement of viability criteria for future restructuring or during implementation of restructuring process obtained</td>
<td>- Commission documents (i.e., opinion submitted to the Council of Ministers)</td>
<td>- Timely availability of expertise</td>
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<td>- Enforcement track record of Competition authorities related to steel restructuring to be measured prior to accession.</td>
<td>- Statistics/reports on steel sector</td>
<td>- Agreement with trade unions</td>
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<td>- Quality of reports submitted by the experts during the contract implementation period, notably the end report</td>
<td>- Reports of the consultants</td>
<td>- Adequate number and qualifications of personnel in steel enterprises, ministries and competition authorities</td>
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<td>- Opinion of the Council of Ministers adopting the NRPs, IBPs for Turkey and Croatia and acknowledging progress made by Bulgaria and Romania</td>
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### Activities

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<th>Means</th>
<th>Assumptions and Risks</th>
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<tr>
<td>Service tender for assessment of NRPs and IBPs and for the monitoring of its implementation</td>
<td>- Timely availability of experts and trainers</td>
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<td>Reports of the consultants</td>
<td>- Progress in pre-accession/accession negotiations process</td>
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<td>- Cooperation and assistance from individual enterprises</td>
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# CUMULATIVE QUARTERLY CONTRACTING AND DISBURSEMENT SCHEDULE

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Annex 2