

COM-1/019

Brussels, 15 May 2000

**OPINION**

of the Committee of the Regions

of 13 April 2000

on the

**Expiry of the ECSC Treaty**

**The Committee of the Regions**

**HAVING REGARD TO** the decision taken by the COR Bureau on 15 September 1999, under the fifth paragraph of Article 265 of the Treaty establishing the European Community, to issue an opinion on the expiry of the ECSC Treaty and to instruct its Commission 1 - Regional Policy, Structural Funds, Economic and Social Cohesion and Cross-border and Inter-regional Cooperation - to prepare the opinion;

**HAVING REGARD TO** the draft opinion adopted by Commission 1 (CdR 489/99 rev. 1) on 2 February 2000 (Rapporteurs: **Mr Mernizka**, member of the Assembly of the Land of North Rhine-Westphalia (D, PSE), and **Mr Collignon**, minister for the Budget, Culture and Sport, Government of the French-speaking Community in Belgium, (B, PSE));

**HAVING REGARD TO** the resolution on growth and employment adopted by the European Council in Amsterdam on 16 and 17 June 1997; in its resolution the European Council called upon the European Commission to put forward appropriate proposals to enable the reserves outstanding after the expiry of the ECSC Treaty in 2002 to be used to establish a research fund for the benefit of the sectors linked to the coal and steel industries;

**HAVING REGARD TO** the European Commission's communication of 10 October 1997 on the expiry of the ECSC Treaty - financial activities (COM(97) 506 final);

**HAVING REGARD TO** the resolution adopted by the Council and the representatives of the governments of the Member States meeting in the Council on 20 July 1998 on the expiry of the Treaty establishing the European Coal and Steel Community (ECSC)<sup>1</sup>;

**HAVING REGARD TO** the resolution adopted by the Council and the representatives of the governments of the Member States meeting in the Council on 21 June 1999 on the expiry of the Treaty establishing the European Coal and Steel Community<sup>2</sup>;

**HAVING REGARD TO** the European Parliament's report on the draft ECSC operating budget for 2000 (SEK(1999) 0803-C5-9917/1999);

**HAVING REGARD TO** the resolutions of the ECSC Consultative Committee on the expiry of the ECSC Treaty, in particular the resolutions dated 25 March 1999, 2 April 1998, 10 October 1997, 8 November 1996 and 28 May 1995;

**adopted the opinion set out below at its 33rd plenary session held on 12 and 13 April 2000 (meeting of 13 April):**

### 1. Introduction

1. The Treaty establishing the European Coal and Steel Community (ECSC Treaty), which came into force on 23 July 1952, represented the first step towards the political and economic unification of Europe, ultimately leading, via the introduction of the subsequent treaties and their expansion, to the European Union which we know today. In signing the ECSC Treaty, the founder countries sought to end the rivalries which had divided them for centuries, to establish and consolidate lasting peace in Europe and to enhance the prosperity of its people. The European coal and steel industries thus played a pioneering role in the European integration process.
2. The European Coal and Steel Community has fully accomplished this task. It has made a key contribution to bringing about and consolidating peace in Europe and promoting political and economic integration, thereby laying the foundations for further progress towards European unification. The ECSC Treaty provided a statutory framework for structural change in the coal and steel industry and has continued to this day to prove its worth by offering a flexible, effective tool for shaping the economic and social aspects of structural change in the coal and steel industries and regions of the Union; it has done so even though a number of the economic policy instruments provided for under the Treaty have not been used for a long time. In some respects the level of integration provided for under the ECSC Treaty is sharply in advance of that set out under the EC Treaty.
3. The ECSC Treaty established a framework for dialogue and cooperation geared to securing consensus between employers, workers and consumers on decisions on economic and social matters affecting the coal and steel industries. This enabled the difficult sectoral and regional adjustment processes to be largely implemented on a socially acceptable basis. The ECSC Treaty thus also, to a certain extent, paved the way for the European economic model.
4. All 15 EU Member States have coal and steel enterprises which are subject to the ECSC Treaty; the relative importance of these enterprises in the respective Member States varies widely. The majority of the applicant states have relatively large coal and steel industries.
5. The coal industry and the iron and steel industries have for many years been in the throes of a radical restructuring process which has proved particularly painful for their workforces. This process will continue over the next few years and be intensified by the accession of new Member States from the CEEC; the process will assume dramatic

proportions in the accession states. The necessary radical changes in the coal and steel industries in these states will represent a particularly serious challenge for the EU.

6. Coal mining and the iron and steel industries are heavily concentrated in particular regions. The entire economic development of the regions concerned depends largely on the structural adjustment processes to be carried out in these two industries. By virtue of the instruments which it has deployed for providing social and regional support, the ECSC has recognised the tremendous responsibility for regional development. For this reason, the COR, too, should address the impending expiry of the ECSC Treaty and the attendant consequences for the regions.

## 2. Unresolved issues linked to the expiry of the ECSC Treaty

The ECSC Treaty, which came into force in 1952, was limited to 50 years, expiring on 23 July 2002. From this date, EU coal, iron and steel industries will, in principle, be subject to the provisions of the EC Treaty. Although a number of problems relating to the expiry of the ECSC Treaty and the application of the EC Treaty to the coal and iron and steel industries have been solved or nearly solved, unresolved issues remain in other areas.

### 1. Use of the ECSC reserve funding

1. The ECSC established a reserve to secure its loans and lending activities; it now has considerable assets and a decision will have to be taken on the use of these resources once the ECSC Treaty has expired. The reserve was established via a levy on steel and mining enterprises, geared to turnover. The levy was reduced to zero on 1 January 1998. Precise calculations of these assets - and in particular, the total amount in hand in 2002 - are not available. The European Commission currently calculates that when the ECSC Treaty expires, outstanding assets will total some EUR 1.25 bn. The final sum involved will also depend upon the measures to be funded by the ECSC from own resources before 2002.
2. The Amsterdam European Council, held on 16 and 17 June 1997, called upon the European Commission to put forward appropriate proposals to enable the ECSC reserves to be used to establish a research fund following the expiry of the ECSC Treaty in 2000; the research fund would assist ancillary sectors of the coal and steel industry. In its resolution of 20 July 1998, the Council of Ministers proposed that the ECSC assets should be transferred to a separate EU fund, administered by the European Commission and used specifically to fund a research programme for the coal and steel industry and ancillary sectors. In a working document of 16 November 1998, the European Commission assessed the legal and financial implications of the Council proposal and also considered the question of future involvement of the applicant states, who had not made any contribution to the ECSC assets. In a further resolution adopted on 21 June 1999, the Council of Ministers reaffirmed that the ECSC assets and liabilities were to be transferred to the other Communities but to be managed separately from other EU funding and to be devoted specifically to research in the coal and steel industries. The results of this research should be made accessible to the coal and steel industries in the CEEC (technology transfer).
3. The COR is pleased that the Council plan will ensure that the ECSC assets, raised by levies on coal and steel enterprises, will benefit these industries. The ECSC levy placed a sustained financial burden on these enterprises and they are

therefore entitled to ECSC assets once the Treaty has expired.

4. The European Commission should however, ensure optimal transparency about the scale of ECSC assets when the Treaty expires and draw up a final balance sheet of all the ECSC's assets and liabilities; this document would also constitute an initial balance sheet for the special fund to be managed by the European Commission. The assets must not be spent on funding routine expenditure up to expiry of the Treaty to the extent that the special fund is no longer able to fulfil its intended role. Furthermore, this expenditure will have to be regarded as non-compulsory and will have to be charged to the budget without regard for the budgetary stabilisation principle laid down at the Berlin European Council in 1999. It is also essential to define clearly the ancillary sectors to be assisted from ECSC assets; it is important to ensure that appropriate use of the funding for the coal and steel industry is not undermined. It is also essential to lay down precise limits for the allocation of ECSC assets, in terms of the nature and objectives of the proposed projects. A fair solution also has to be found for inclusion of the applicant states.

## 2. Promoting research

1. ECSC efforts to promote research go back much further than those of the EC itself (cf. the framework programmes for research); there are also considerable differences between the research work carried out by the two Communities in terms of objectives and management. ECSC activities are not exclusively geared to cutting-edge research; they cover a much broader range of subjects. The fact that funding from the ECSC accounts for some 10-15% of overall expenditure on research in EU coal and steel industries makes it more significant for this sector than EU work in promoting research in other sectors. ECSC work in promoting research into mining technology is of much greater significance. ECSC work in these fields has thus made a tremendous contribution to improving the technological competitiveness of the EU coal and steel industries. This more applied and more market-orientated kind of research should continue after ECSC Treaty expiry and not be hindered by EU competition policy.
2. The decision to use ECSC assets to promote research in the coal and steel industries does, in principle, pave the way for further efforts to promote research in these two industries. It is essential to ensure that the tried and trusted processes for allocating funding are retained. As has been the case up to now, back-up research in the social field - including research into industrial safety in the coal and steel industry and research into environmental aspects and measures to rehabilitate polluted industrial sites - should also be continued. Research in this field should, however, be linked as closely as possible to technical research. The procedures for allocating funds for research should be coherent with the principles underlying the environmental policies of the EU. Research in the coal and steel sector funded by the EU must contribute to the aim of improved environmental protection.
3. The coal and steel industries have the same right as all other industries to participate in the framework programmes for research funded from general EU resources. The fact that a special fund has been established through levies on the coal and steel industries of the EU, and that this fund is to provide special support for research in these fields, does not warrant any discrimination under the framework programme for research. The COR also supports the suggestions of the Commission to direct a part of the EU funds towards RES research.

### 3. Provisions on financial aid

1. The coal and steel industries are both subject to special conditions of competition in view of the particular characteristics of their products and the specific conditions governing the market (the steel industry is a cyclical industry producing uniform products in a market hallmarked by highly volatile prices and world-wide overcapacity; the coal industry, for its part, helps to supply the energy market with indigenous sources of energy under unfavourable conditions of cost). These particular conditions of competition require aid provisions geared to the specific needs of each industry.
2. The payment of subsidies is, in principle, banned under the ECSC Treaty. Aid to the coal and steel industry is subject to derogations under Article 95 of the ECSC Treaty. When the ECSC Treaty expires the coal and steel industries will be wholly subject to the general provisions on financial aid set out in the EC Treaty. The Treaty provisions do, in principle, provide an appropriate basis for granting financial aid to the coal and steel industries. Enterprises, trade unions and the Member States concerned have however long been highlighting the need to establish, in good time, satisfactory, binding follow-up instruments based on the EC Treaty provisions, which are in tune with the conditions governing the coal and steel industries.
3. The European Commission has provided the framework for such derogations for the coal industry, thereby making it possible to grant state aid. These measures were provided for under a number of decisions, which received unanimous Council approval; the most recent one dated 28 December 1993, covered the period 1 January 1994 to 23 July 2002. By making these decisions, the European Commission has recognised the need for the coal industry to continue to ensure that the EU enjoys security of supply in energy products and to help curtail the EU's growing dependence on fuel imports. This can, however, only be achieved through subsidies.
4. The Committee of the Regions believes that the case for reviewing the aid arrangements provided for under the EC Treaty should be discussed, with a view to including a specific reference to the coal industry. Even without such revision, however, there is an urgent need to take the requisite steps to establish a specific framework, via a Council Regulation issued under Article 89, for aid to the coal industry. The European Commission has, however, so far failed to table such a regulation. The COR believes that it is essential for such a proposal to be submitted without delay - or at least well before the ECSC Treaty expires - in order to enable enterprises to plan ahead.
5. The iron and steel industry is facing a different situation as regards competition. In the past countries frequently sought to outbid each other in providing disastrous levels of subsidies. In order to counteract this phenomenon, the Council of Ministers, acting on a proposal from the European Commission, some time ago adopted a code of practice governing aid to the steel industry. The ECSC Treaty was the legal basis for this proposal. This code authorises subsidies in the fields of research and development, the environment, and social issues. It will now have to be brought into line with the EC Treaty provisions on competition.
6. To this end, the Commission has since put forward a proposal, in the form of a Community framework measure, governing state aid to the iron and steel

industries. This proposal essentially extends the strict rules on subsidies set out in the existing code of practice on aid to the steel industry; a number of adjustments are, however, made to bring it into line with the EC Treaty measures for the supervision of financial aid. Consideration should be given in this respect to drawing up a Council Regulation based on Article 89.

#### **4. Regulatory instruments**

1. The ECSC Treaty comprises a large number of regulatory instruments designed to ensure the smooth-operation of the markets in coal and steel; some aspects of these instruments differ sharply from their counterparts under the EC Treaty. They reflect, to a certain extent, the particular market conditions governing the coal and steel industries, such as short-term economic volatility; they do, however, in some cases also reflect a different basic approach to economic policy which was in vogue when the EC Treaty was signed. With the expiry of the ECSC Treaty, it will be necessary to bring the coal and steel industries in the EU under the regulatory instruments enshrined in the EC Treaty.
2. In this context, the Committee of the Regions calls for the retention of the ECSC instruments which have proved their worth in the past and will continue to be required to ensure the optimal, smoothest operation of the coal and steel markets. Take for example the special statistical information instruments, which are on a different scale of importance in sectors which produce uniform products; these instruments could also be retained as a back-up for Eurostat's current work. A further example is the possibility of introducing voluntary crisis-management measures in the coal and steel industries. The necessary measures should be taken under EU law to enable the abovementioned instruments to be retained. Steps should be taken to prevent any cut-back in the more far-reaching provisions of EU law (the "acquis communautaire") applying to the coal and steel industries in those areas in which they have proved their worth. It should also be emphasised in this context that full account should be taken of developments in the WTO and in the European Union's trade relations with the United States.

#### **5. Energy policy objectives**

1. It is in the EU's interests to maintain a coal-mining industry which is justifiable in macro-economic terms and can help curtail the EU's current growing dependence on imported energy.
2. Community energy policy measures must also take account of coal. To date preliminary steps only have been taken in pursuing such an approach. What we need is a positive Community strategy for the entire coal industry which underlines the future benefits of sustainable coal-mining and coal-use in Europe and highlights the global importance of modern European coal technology. Such a policy is also necessary against the background of enlargement.
3. Without wishing to re-open the debate on the creation of a legal basis for an EU energy policy - a matter which was raised in the negotiations on the Maastricht and Amsterdam Treaties - the Committee takes the view when the coal industry is brought under the EC Treaty, this will provide an opportunity for recognising the legitimacy of including the objective of security of supply in the EC Treaty.

#### **6. Supporting social-policy measures**

1. The structural adjustment process in the coal and steel industries will also go on after the ECSC Treaty expires in 2002 and will accelerate with the accession of the new Member States. Up to now resources have been available from the ECSC budget for adjustment, training and retraining measures. Once the ECSC Treaty is wound up, this legal basis will no longer be available. As a result the continued availability of social adjustment aid - a prerequisite for socially-acceptable restructuring of the coal and steel industries after 2002 - will be in jeopardy. The central and eastern European applicant states (CEEC) will have no prospect of receiving comparable aid to enable them to carry through the much more radical changes with which their coal and steel industries have to contend.

## **7. Supporting measures in the field of regional policy**

1. In order to support regional-policy measures, the ECSC for a long period provided soft loans to promote job creation in industries outside coal and steel. These loans ceased from 1 January 1997. A large part of the regions in which the European coal-mining and steel industries are located is eligible for assistance under Objective 1 or Objective 2 of the ESF. EU aid can therefore be used in these areas to support measures geared to restructuring the coal and steel industries and creating jobs in other industries. As a result of the reduction in the number of eligible areas and the expiry of RESIDER and RECHAR on 31 December 1999, a sizeable number of coal and steel-producing areas have, however, lost their entitlement to EU regional aid. These areas, too, may have to undergo major restructuring in the next few years.
2. The European Commission should therefore show flexibility - within the framework of the population ceilings established for Objective 1 and Objective 2 - in responding to such developments and should, where appropriate, correct the lists of eligible areas. The European Commission should also promote cooperation between coal and steel-producing areas - inter alia under strand C of the INTERREG programme - for example in regard to exchange of information on best practice. Regions not eligible for assistance under Objectives 1 and 2 should also be eligible for these measures.

## **8. Social dialogue**

1. One of the key features of the ECSC Treaty is the institutional social dialogue between representatives of industry, workers and consumers, within the "Consultative Committee". This committee has been, and continues to be, more than just an effective consultation tool for the European Commission; it has also promoted a readiness to cooperate and helped to create a particular spirit of consensus within the coal and steel industries; this may serve as an example, above all to the CEEC, in the light of the structural adjustment processes with which they will soon have to contend. In terms of optimum partnership, the involvement in the social dialogue of the regional authorities concerned could represent added value.
2. The COR believes that this dialogue should be continued in an appropriate, institutionalised form. With this aim in view, it is essential to provide for mandatory consultation of the consultative committee and for it to have a right of initiative in matters relating to coal and steel. The Commission should submit a proposal for establishing an appropriate legal basis for these measures, in consultation with the coal and steel industries.

## 9. Coal and steel industries in the CEEC

1. At about the time the ECSC Treaty expires, the European Union will be faced with a particular challenge as a result of the impending radical changes in the coal and steel industries of the applicant CEEC. For this reason the pace of restructuring within the coal and steel industries must be considerably stepped up. Enterprises and trade unions within the coal and steel industries are prepared - as are also the coal and steel-producing regions of the current EU Member States - to support the states and regions concerned, and the European Commission, in carrying out this difficult task.
2. In the context of the enlargement process, there is a need to consider precisely what aspects of existing EU law on coal and steel must be adopted forthwith by the applicant states. A clear position should be adopted, before specific negotiations get underway with the applicant states on this issue; this position should set out the terms of the exemptions which could be granted to the applicant states in the area of competition.
3. The COR calls upon the Commission, the Council and the European Parliament to make provision, in the programmes for assisting the CEEC and preparing for their accession to the EU, for adequate assistance for back-up measures to cushion the process of structural change in coal and steel. Account should also be taken of the need for such assistance in (a) the administrative aid to the CEEC (b) programmes for promoting regional cooperation, such as strand C of INTERREG III and (c) the Instrument for Structural Policies for Pre-Accession (ISPA).

## 10. Environmental Protection

The coal and steel industries have traditionally been a source of major environmental pollution. They also create large-scale emissions of CO<sub>2</sub>. Standards have been adopted under the EC Treaty for the purpose of protecting the environment and, in particular, of limiting greenhouse gas emissions. The Committee takes the view that these standards should be extended to include the coal and steel sectors once they are brought under the EC Treaty.

## 11. Institutional aspects

The Committee of the Regions believes there is a need to consider the precise changes which would have to be made to the EC Treaty in order to accommodate the sectors currently governed by the ECSC Treaty. Consideration should be given to the possible introduction of interim measures. The changes made should, at all events, reflect a number of specific aspects of the coal and steel sector, such as the financial arrangements, the need for security of supply, aid schemes, and, possibly, the retention of a number of powers vested in the Commission.

## 3. Conclusions

1. The COR highlights the ECSC's key contribution towards achieving and safeguarding peace in Europe, promoting political and economic integration and raising the level of prosperity; the ECSC has therefore fully accomplished its original objectives. In particular, it has substantially facilitated structural change in the coal and steel

industries and helped to shape this change in a socially acceptable way.

2. The COR believes that, in view of the ongoing tremendous pressure for restructuring, the expiry of the ECSC Treaty on 23 July 2002 will trigger serious economic and social problems for the coal and steel industries and the EU regions concerned. These issues will need to be resolved.
3. The COR notes that the special ECSC Treaty arrangements are scheduled to expire definitively, with the coal and steel industries then coming under the EC Treaties. The Committee takes the view that in those areas where the higher level of integration provided for under the ECSC Treaty than under the EC Treaty has proved its worth, the requisite provisions should be retained in respect of coal and steel, and an appropriate legal basis should accordingly be established under the EC Treaty; in line with EU energy policy objectives, lignite should be included as well as coal.
4. The COR welcomes the proposed transfer of ECSC assets to a special fund to be administered by the European Commission; this fund is to be used to finance (a) research projects for the benefit of coal and steel enterprises and (b) research into supporting scientific, technical, environmental and social measures. In the Committee's view, steps should be taken to ensure maximum transparency in the very near future as regards the actual scale of the ECSC's assets; to this end, the Committee proposes that a final balance sheet be drawn up which would at the same time constitute an initial balance sheet for the special fund. The tasks funded by the ECSC in the run-up to expiry must not absorb such a large amount of the ECSC assets as to prevent the special fund from fulfilling its intended tasks.
5. As well as benefiting from special aid for research funded from ECSC assets, the coal and steel industries are also entitled to participate fully in the EU's framework research programme. The Committee of the Regions feels that research for the coal and steel industries funded by the EU should be compatible with other EU policy aims, notably in the area of environmental protection. The general EU research funds should also be (partly) directed towards renewable energy sources.
6. The COR believes that the EC Treaty provisions for supervising state aid do in principle provide an appropriate basis for establishing follow-up instruments for aid arrangements for the mining and iron and steel industries. Would a Council regulation adopted under Article 89 provide an appropriate legal basis for such measures?
7. The COR broadly welcomes the Commission proposal that a new code be introduced in respect of aid to the steel industry, under the EC Treaty; the code would continue to provide for a strict ban on aid, in line with the specific situation applying to this industry, in order to prevent countries out-bidding each other in offering disastrous levels of subsidies.
8. The COR also calls upon the Commission to submit, well before 2002, a proposal setting out viable provisions for aid, to cover the coal industry, taking account of the fact that it is in the EU's interest to maintain a vigorous coal-mining industry. The Committee of the Regions urges the Commission to present a communication on the situation with regard to aid arrangements for the coal sector, and - where necessary - proposals for amendments to the arrangements.
9. The ECSC Treaty instruments which have ensured smooth, optimal operation of the coal and steel markets should be maintained; these include the statistical data instrument arrangements for voluntary crisis-management measures. The Committee

calls upon the Commission to formulate an appropriate legal basis for such action under the EC Treaty, in consultation with the coal and steel industries.

10. The expiry of the ECSC Treaty will remove the legal basis for funding social adjustment measures under Article 56. This also constituted a key provision for funding redundancy programmes in the coal and steel industries. The COR therefore urges the Commission and the Member States to provide for appropriate supporting measures for social adjustment in the coal and steel industries, when planning ESF activities for 2000-2006. Similar support for CEEC in advance of enlargement is also in urgent need.
11. The COR is concerned that the scaling-down of the areas eligible for assistance under Objectives 1 and 2 of the Structural Funds, coupled with the expiry of RESIDER and RECHAR on 31 December 1999, has meant that a number of coal-mining and steel areas will in future no longer receive EU regional aid.
12. Social dialogue within the ECSC consultative committee is, the COR thinks, an exemplary way of promoting cooperation between representatives of industry, employees and consumers; the COR requests the European Commission to submit a proposal for the continued operation of the consultative committee and providing for mandatory consultation of this committee.
13. The incorporation of the CEEC and the dramatic changes which enlargement will entail for the coal and steel industries will, in the Committee's view, constitute a special challenge for the entire EU. The Committee believes that account should be taken of the experience gained by coal and steel producing regions in the current EU Member States, when implementing the structural adjustment process. The requisite provisions should be incorporated in the programmes for preparing the applicant states for EU membership.

Brussels, 13 April 2000.

The President

The Acting Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

**Jos Chabert**

**Vincenzo Falcone**

<sup>1</sup> See OJ C 247 of 7.8.1998, page 5.

<sup>2</sup> See OJ C 190 of 7.7.1999, page 1.

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