COMMISSION DECISION

of 10 July 1975

authorizing the Federal Republic of Germany to grant aids to coal mining undertakings in 1974

(Only the German text is authentic)

(75/546/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 2, 3, 4 and 5 thereof;

Having regard to Commission Decision No 3/71/ECSC [1] of 22 December 1970 on Community rules for interventions by Member States for the benefit of the coal industry;

Having regard to Decision No 73/287/ECSC [2] of 25 July 1973 concerning coking coal and coke for the iron and steel industry in the Community, and in particular Article 9 (1) thereof;

Having consulted the Council;

Whereas the Government of the Federal Republic of Germany has informed the Commission under Article 2 of Decision No 3/71/ECSC of financial measures, both direct and indirect, which it intends to take in 1974 for the benefit of the coal industry; whereas of those measures the aids listed below require authorization under the abovementioned Decisions;

(a) Measures already in force in previous years which are to be continued in 1974:

	in DM million
For the Aktionsgemeinschaft Deutsche Steinkohlenreviere GmbH in respect of pit closures:	
— aids in respect of equalization of burdens payments	21·8
— closure premiums	180·0
Total	201·8
Aid to water supply undertakings in respect of expenditure incurred in removing underground water from closed pits	39·0
Coal-mining premiums for shift workers and piece-workers for every shift worked underground	94·0
Investment aids to individual projects under an overall investment programme	160·1
Payment of the instalments owed by RAG in respect of state-guaranteed compensation to the former mine-owning companies	50·0

(b) New measures proposed for 1974:

Subsidies towards the coal industry's contraction costs	99·0
Subsidies towards repayment of the coal industry's old debts	69·0
Aid for development and trials (testing of newly developed machinery) in the coal industry	10·0
Payment of instalments owed by Ruhrkohle AG in respect of the special item to offset depreciation in connection with pit closures	48·0
Measures to assist Preussag AG	60·0

Whereas the abovementioned aids meet the criteria laid down in Articles 6 to 9 of Decision No 3/71/ECSC in respect of the admissibility of such State assistance;

Whereas the aids to be paid through the Aktionsgemeinschaft Deutsche Steinkohlenreviere are to be granted only on condition that they are used in connection with 'a total or partial closure of pits' (Article 6 (1) of Decision No 3/71/ECSC);

Whereas the amounts of such aids do not exceed the permissible level;

[1] OJ No L 3, 5. 1. 1971, p. 7.
[2] OJ No L 259, 15. 9. 1973, p. 41.

Whereas, as regards the aid in respect of equalization of burdens payments, account is taken of the fact that the closure of a pit leads to the destruction of the original fixed assets to a considerable degree ; whereas the aid, which consists in the remission of two thirds of the property levy and the levy on profits from credits payable to the Equalization of Burdens Fund in respect of the closed pits, is in any case considerably lower than the capital loss resulting from the closures and is therefore within the limits laid down in Article 6 of Decision No 3/71/ECSC ;

Whereas the closure premiums paid to coal mining undertakings by the Aktionsgemeinschaft Deutsche Steinkohlenreviere in respect of closures are paid at a flat rate of DM 20 per metric ton produced ; whereas this amount is far below that required to cover actual closure costs ; whereas following closure the undertakings' continuing obligations in respect of damage caused by mining and social charges alone may be estimated at between DM 30 and 35 per metric ton for 1974 ;

Whereas the aid paid at a flat rate thus does not exceed the expenditure incurred as a result of pit closures and is therefore in accordance with the provisions of Article 6 (2) of Decision No 3/71/ECSC ;

Whereas the payment of aid amounting to DM 39 million for the removal of underground water from closed pits likewise meets the criteria laid down in Article 6 (1) of Decision No 3/71/ECSC ;

Whereas the aid towards payment of the coal-mining premium helps the coal industry to retain skilled workers, which is absolutely essential if its productivity is to increase ; whereas, moreover, the undertakings incur expenditure in respect of the necessary recruitment, training, adaptation and retention of staff which is several times greater than the amount of the aid towards payment of the coal-winning ;

Whereas the purpose and amount of the coal-winning premium show that the measure is in accordance with Article 7 (3) of Decision No 3/71/ECSC ;

Whereas the purpose of the investment aid is to increase the economic viability of the German coal industry ; whereas such aids are to be granted only to undertakings which are of optimum size within the meaning of Section 18 of the Law of 15 May 1968 on the adaptation and recovery of the German coal industry and the German coal mining regions ; whereas the undertakings may use the aids only for investment in pits and their auxiliary installations and in processing plant ; whereas a maximum of 30 % of the procurement costs and/or manufacturing costs incurred in respect of an investment project may be covered by the aid ;

Whereas it is not yet possible to indicate how the aid for 1974 will be apportioned among the individual projects ; whereas this will not be possible before the end of 1974 ;

Whereas the purpose and amount of the proposed aids show that the measure is in accordance with the provisions of Article 7 (2) of Decision No 3/71/ECSC ; whereas the Federal Government is required to notify the Commission at least once a year in respect of each project of the objective pursued, the amounts invested and the amounts of aid granted ;

Whereas provision has been made for 1974 for the public authorities to pay (in lieu of RAG) an instalment of DM 50 million to the former pit owners, who have a state-guaranteed claim to compensation from RAG ;

Whereas RAG suffered losses in 1973 ; whereas payment of the instalments by the public authorities is to be regarded as a measure aimed at preventing financial difficulties for RAG and avoiding temporary supply difficulties on the coal market ;

Whereas payment by the Federal Government of the instalments in respect of state-guaranteed compensation is therefore in accordance with the provisions of Article 9 (1) (1) of Decision No 3/71/ECSC ;

Whereas, as regards determining the amount of the aid by reference to the difference between production costs and income, it can be seen that the aid will cover only a fraction of the RAG's expected operating losses in 1974 ; whereas it is therefore in accordance with the provisions of Article 9 (2) of Decision No 3/71/ECSC ;

Whereas, in order to provide guidelines for coal and energy policy, the Federal Government adopted the Law of 15 May 1969 on the adaptation and recovery of the German coal industry (Coal Law : Bundesgesetzblatt I, p. 365) and introduced in the Bundestag a Programme for the Federal Government's Energy Policy (Energy Programme : Bundestag paper No 7/1057, 3 October 1973) ;

Whereas in the light of the situation on the world energy market, which has changed fundamentally since Autumn 1973, the Energy Programme was brought up to date in Autumn 1974 ; whereas the Federal Government has based some of the new measures proposed for 1974 either on the Coal Law or on the Energy Programme ;

Whereas undertakings in the German coal industry which, under their programmes for the adaptation of production to market conditions, carry out pit closures which after 1 January 1973 lead to a lasting reduction in coal production are to receive aids towards the costs arising from reduced production (contracting costs); whereas over a period of 5 years aid at the rate of DM 30 per metric ton of reduction in annual production capacity is to be paid, provided this does not exceed the contraction costs actually incurred by the undertaking;

Whereas the purpose and amount of the proposed aid show that the measure is in accordance with the provisions of Article 6 (1) (1) of Decision No 3/71/ECSC;

Whereas the subsidies towards payment of the coal industry's old debts are intended to supplement the closure premiums; whereas these old debts include costs incurred in respect of damage caused by mining, pensions and concessionary coal as a result of pit closures effected before 1 January 1972; whereas aid is granted towards such costs, which were actually incurred by the undertakings;

Whereas the purpose and amount of the proposed aid show that the measure is in accordance with the provisions of Article 6 (1) (1) of Decision No 3/71/ECSC;

Whereas it is necessary for the speedy and lasting recovery of the coal industry that the results of research should pass as rapidly as possible through the development and trial stages and be put to practical use in the production process; whereas aid is granted for individual projects which promise to produce tangible economic results for the coal industry in the medium term;

Whereas the aid, amounting to DM 10 million, proposed for 1974 represents a subsidy towards the costs actually incurred;

Whereas the purpose and amount of the aid show that the measure is compatible with Article 7 (1) of Decision No 3/71/ECSC;

Whereas payment on behalf of Ruhrkohle AG of instalments in respect of the special item to offset depreciation in connection with pit closures is a special measure for the benefit of RAG;

Whereas in previous years RAG has had to write off separately its assets lost on the occasion of pit closures; whereas under Article 8 (2) of the Tax Amendment Law of 1969 RAG is entitled to include in respect of such depreciation on the assets side of the balance sheets a special item which may be written off in instalments in subsequent years;

Whereas in 1969 it was assumed that the results of the undertaking in subsequent years would be so good that such depreciation by instalments could in fact be included in the calculation of production costs or income as appropriate;

Whereas in view of the unfavourable trends which have actually developed in subsequent years RAG is now no longer able to bear the additional burden of these amounts of depreciation from previous years;

Whereas in RAG's balance sheet as on 31 December 1973 the special item for offsetting depreciation in respect of pit closures amounted to some DM 700 million;

Whereas in order to enable RAG to cancel part of this special item, the public authorities are to pay aid of DM 48 million annually to it over a ten-year period;

Whereas special depreciation in the event of pit closures constitutes closure costs; whereas the aid is designed to reduce these costs and is therefore, having regard to its purpose and amount, compatible with Article 6 (1) of Decision No 3/71/ECSC;

Whereas, in order to avoid temporary supply difficulties and because of the regional and social importance for the Ibbenbüren area of the Ibbenbüren mines of Preussag AG, the Federal Government has decided to grant aid to this mining company, which has been operating at a loss for years; whereas the undertaking is unable to finance the necessary investment itself and is therefore to be granted a conditionally repayable subsidy to cover part of its losses;

Whereas the purpose of the aid and its amount (DM 60 million) show that the measure is in accordance with the provisions of Article 9 (1) and (2);

Whereas any examination of the compatibility of the German aids with the proper functioning of the common market must include all direct and indirect measures to be taken for the benefit of the coal industry in 1974 (Article 3 (2) of Decision No 3/71/ECSC);

Whereas on that basis of calculation the total cost of the proposed direct and indirect measures amounts to 395·8 million units of account, i.e. 3·99 units of account per metric ton produced;

Whereas this represents a 0·3 % increase in the total amount of aid compared with 1973; whereas the amount of aid per metric ton has risen from 3·82 units of account to 3·99 units of account, i.e. by 4·5 %;

Whereas the following remarks must be made in respect of the compatibility of the total amount of German aids with the proper functioning of the common market;

— there has been no noticeable decline in trade in coal between the Federal Republic of Germany and the other Community countries in 1974,

— the quantities of German coal sold at aligned prices in 1973 were negligible; no price alignment agreements were concluded in 1974,

— the prices of coking coal and boiler coal in Germany did not lead to indirect aids for industrial users of coal in 1974,

— the closure of unprofitable pits leads to rationalization and the concentration of production in pits where productivity is highest;

Whereas it can therefore be said that the German aids to the coal industry are compatible with the proper functioning of the common market;

Whereas this applies even if account is taken of the aids granted to the coal industry under Decision No 73/287/ECSC;

Whereas under Article 11 (1) of Decision No 3/71/ECSC the Commission must ensure that the aids authorized are used for the purpose set out in Articles 6 to 9 of that Decision; whereas to this end it must be informed in particular of the amount and apportionment of such aids,

HAS ADOPTED THIS DECISION:

Article 1

The Government of the Federal Republic of Germany is hereby authorized to grant to the German coal industry in the calendar year 1974 the following aids:

1. Remission of two thirds of the property levy and the levy on profits from credits on pits due to be closed;
2. Payment through the Aktionsgemeinschaft Deutsche Steinkohlenreviere of closure premiums amounting to DM 20 per metric ton of discontinued production;
3. Reimbursement of the costs of pumping out underground water from closed pits, up to a maximum of DM 39 million;
4. Partial remission of the wages tax due from coal mining undertakings, up to a maximum of DM 94 million;
5. Grant of investment aid not exceeding DM 160·1 million to coal mining undertakings in order to encourage investment;
6. Payment of instalments owed by RAG in respect of the payment of state-guaranteed compensation to the former mine-owning companies, up to a maximum of DM 50 million;
7. Subsidies towards the coal industry's contraction costs, up to a maximum of DM 99 million;
8. Subsidies towards payment of the coal industry's old debts, up to a maximum of DM 69 million;
9. Aid for development and trials, up to a maximum of DM 10 million;
10. Payment on behalf of Ruhrkohle AG, of instalments in respect of the special item to offset depreciation in connection with pit closures, up to a maximum of DM 48 million;
11. Measures for the benefit of the Ibbenbüren mines of Preussag AG, up to a maximum of DM 60 million.

Article 2

The Federal Government shall supply the Commission with particulars by 15 November 1975 regarding the aids granted pursuant to this Decision, in particular the amounts paid and the manner in which they were apportioned.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 10 July 1975.

For the Commission

The President

François-Xavier ORTOLI