COMMISSION

COMMISSION DECISION

of 17 December 1975

approving aids to be granted by the Federal Republic of Germany for the benefit of untertakings in the coal industry in respect of 1975

(Only the German text is authentic)

76/212/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Commission Decision 3/71/ECSC of 22 December 1970 on Community rules for intervention by Member States for the benefit of the coal industry [1],

Having regard to Decision 73/287/ECSC of 25 July 1973 on coking coal and coke [2], and in particular Article 9 (1) thereof,

Having consulted the Council,

Whereas the Government of the Federal Republic of Germany has informed the Commission, pursuant to Article 2 of Decision 3/71/ECSC, of the financial measures which it proposes to implement directly or indirectly for the benefit of the coal indutry for 1975; whereas, among these measures, the following aids should be authorized pursuant to the aforementioned Decision:

	million DM
Aids as follows to be paid through the 'Aktionsgemeinschaft Deutsche Steinkohlereviere GmbH' in respect of pit closures:	
— aid in respect of equalization of burdens (Lastenausgleich) payments	15·0
— closure premiums	112·5
Total	127·5
Aid to water supply undertakings in respect of expenditure incurred in removing underground water from closed pits	60·0
Subsidies in respect of expenditure resulting from concentration in the coal-mining industry	72·0
Subsidies in respect of the residual debts of the coal-mining industry	157·5
Sum discharging the Ruhrkohle AG from the liability to pay part sums towards the special item for depreciation following closures	48·0
Investment aids to individual projects under an overall investment programme	422·5
Premiums to shift workers and piece workers in respect of each shift worked underground	123·0
Aid for development and testing newly-developed equipment in the coal-mining industry	28·0
Payment of the instalments owed by RAG in respect of State-guaranted compensation to the former mine-owning companies	63·4
Measures for the benefit of the Preussag AG	30·0

Whereas the aforementioned aids are in accordance with the criteria laid down in Articles 6 to 9 of Decision 3/71/ECSC for the admissibility of such a State assistance;

Whereas the aid to be paid through the 'Aktionsgemeinschaft Deutsche Steinkohlenreviere' may be granted only on condition that it is used in connection with 'a total or partical closure of pits' (Article 6 (1) of Decision 3/71/ECSC);

[1] OJ No L 3, 5. 1. 1971, p. 7.
[2] OJ No L 259, 15. 9. 1973, p. 36.

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

Whereas as regards the aid in respect of 'equalization' payments the government has taken into account the fact that the closure of a pit leads to the destruction to a considerable degree of the original fixed assets; whereas the aid which consists in the remission of two-thirds of the levy on assets and 'credit gains' (Vermögens- und Kreditgewinnabgabe) to the Equalization Fund (Lastenausgleichsfonds) is in any case considerably lower than the amount of capital lost as a result of the closure of the pits and is therefore within the limits laid down in Article 6 of Decision 3/71/ECSC;

Whereas the closure premium paid to the undertakings in the coal industry by the 'Aktionsgemeinschaft Deutsche Steinkohlenreviere' in respect of the closures amount to a lump sum of DM 20 per metric ton produced; whereas this amount is far from sufficient to cover the actual costs of closures; whereas, after the closure, the continuing obligations of the undertakings in respect of mining damage and social charges can be estimated at DM 30 to DM 35 per metric ton produced for 1975;

Whereas the lump sum aid granted does not therefore exceed the expenditure on the closure of pits and is therefore compatible with Article 6 (2) of Decision 3/71/ECSC;

Whereas the payment of aid amounting to DM 60 million for the removal of underground water from closed pits is likewise compatible with Article 6 (1) of Decision 3/71/ECSC;

Whereas the German coal-mining undertakings — which, as part of their programme to adapt production to the market conditions, are undertaking pit closures leading to a lasting reduction of coal production after 1 January 1973 — receive aids towards the burdens resulting from the reduced production; whereas aid takes the form of a lump sum of DM 30 for each metric ton of reduction in annual capacity — spread over five years — without in any case exceeding the burdens actually incurred by the undertakings;

Whereas the purpose and amount of aid applied for show that this measure is compatible with Article 6 (1) (1) of Decision 3/71/ECSC;

Whereas the subsidies towards the residual burdens of the coal-mining industry complement the closure premium; whereas the residual burdens comprise costs for mining damage, pension obligations and concessionary coal obligations resulting from pit closures previous to 1 January 1972; whereas aid is granted for these burdens actually incurred by the undertakings;

Whereas the purpose and amount of aid applied for show that this measure is compatible with Article 6 (1) (1) of Decision 3/71/ECSC;

Whereas discharging the Ruhrkohle AG from the liability to pay part sums towards the special item for covering depreciation following closures is a special measure of behalf of the RAG;

Whereas the RAG has had to make special depreciation for the fixed assets lost during pit closures in past years; whereas the RAG has the right under Article 8 (2) of the 1969 tax amendment law to place a special item for the special deprecation on the assets side of their balance which can be paid off by instalments in the following years;

Whereas it was assumed in 1969 that the undertaking's profit-and-loss position in the following years would be so favourable that the step-by-step depreciation could actually be included in the production costs or profits; whereas, in view of the unfavourable development which actually took place in the following years, the RAG is no longer able to bear in addition the costs of this depreciation from earlier years;

Whereas the RAG is to receive aid from the public authorities of DM 48 million a year over a period of 10 years to enable it to write off part of the special item;

Whereas special write-offs in the event of pit closures are part of closure costs; whereas the aid serves to reduce costs and its purpose and amount is therefore compatible with Article 6 (1) of Decision 3/71/ECSC;

Whereas the investment aid of DM 422·5 million consists of normal aid (DM 197·5 million) and special investment aid (DM 225·0 million) granted as part of the measures to revive the economy as a whole;

Whereas the purpose of the investment aids is to increase the economic viability of the German coal industry; whereas the undertakings may use the aid for investments in pits, auxiliary installations and processing plant;

Whereas it is not yet possible to indicate how the aid for 1975 will be apportioned among the individual projects; whereas this will not be possible before the end of 1975;

Whereas the purpose and amount of the aid applied for show that this measure is compatible with Article 7 (2) of Decision 3/71/ECSC; whereas the Federal Government is bound to notify the Commission at least once a year in the case of each project of the objectives pursued, the amounts invested and the amount of aid granted;

Whereas the aid towards the payment of the coal-winning premium helps the coal industry to achieve a stable situation as regards qualified workers, which is absolutely imperative if its productivity is to increase; whereas the undertakings are moreover involved in expenditure on the recruitment, training, retraining and retention of workers which greatly exceeds the amount of the contribution to this premium;

Whereas the purpose and amount of the premium to coal-miners show that this measure is compatible with Article 7 (3) of Decision 3/71/ECSC; whereas a rapid and lasting recovery by the coal-mining industry demands that research results should be used in the production process as soon as possible after development and initial trials; whereas the aid is granted for individual projects which promise to be of tangible economic benefit to the coal-mining industry in the medium term;

Whereas the total aid of DM 28 million for 1975 represents a subsidy towards the financial burdens actually arising;

Whereas the purpose and amount of the aid allow that this measure is compatible with Article 7 (1) of Decision 3/71/ECSC;

Whereas provision has been made for 1975 for the public authorities (in lieu of RAG) to pay an instalment of compensation of DM 63·4 million to the former pit owners, who have a State-guaranteed claim to compensation against RAG;

Whereas in 1974 RAG still sufferred losses; whereas the payment of the instalments by the public authorities is to be regarded as a measure aimed at avoiding financial difficulties at RAG as well as temporary supply difficulties on the coal market;

Whereas payment by the Federal Government of the instalments in respect of State-guaranteed compensation is therefore compatible with the first paragraph of Article 9 (1) of Decision 3/71/ECSC;

Whereas as regards the calculation of the appropriations for aid from the difference between production costs and revenue it is found that the aid will not cover all the operating losses which can be expected during 1975;

Whereas such aid is therefore compatible with Article 9 (2) of Decision 3/71/ECSC;

Whereas the Federal Government grants aid to Preussag AG's Ibbenbüren mine, which has worked at a loss for years, in order to avoid temporary supply difficulties and because of the pit's importance for the Ibbenbüren area as regards regional and social policy; whereas the undertaking is itself unable to finance the necessary investments so that it has to be granted a partially repayable subsidy to cover part of the losses;

Whereas the purpose of the aid and the amount of DM 30 million paid show that this measure is compatible with Article 9 (1) and (2);

Whereas the examination of the compatibility of the German aid 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 1975 (Article 3 (2) of Decision 3/71/ECSC);

Whereas on that basis of calculation, the total cost of the proposed direct and indirect measures amounts to 360·8 million units of account, i.e. 3·52 units of account per metric ton produced; whereas this means an 11·3 % reduction in the total amount of aid compared to 1974; whereas the amount of aid per metric ton will drop from 4·02 units of account to 3·52 units of account, i.e. by 12·4 %;

Whereas the following remarks can be made on the compatibility of the total amount of the German aids with the proper functioning of the common market:

— no adverse effect on trade in coal between the Federal Republic of Germany and the other Member States is expected in 1975;

— no price alignment agreements are expected in 1975;

— the prices of German coking coal and boiler coal in 1975 do not amount to indirect aid to industrial consumers of coal;

— the closure of two or three unprofitable pits will lead to rationalization and the concentration of production in pits where productivity is highest;

Whereas it may therefore be concluded that the German aids for the benefit of the coal industry are compatible with the proper functioning of the common market;

Whereas this applies even when account is taken of those aids paid to the coal mines under Decision 73/287/EEC;

Whereas, pursuant to Article 11 (1) of Decision 3/71/ECSC, the Commission must ensure that the aids authorized are used for the purposes set out in Articles 6 to 9 of that Decision; whereas the Commission must be informed in particular of the amount of the aids and of the manner in which they are apportioned,

HAS ADOPTED THIS DECISION:

Article 1

The Government of the Federal Republic of Germany is hereby authorized to grant the following aids for 1975 for the benefit of the German coal industry:

1. remission of two-thirds of the obligations of pits due to be closed in respect of the levy on assets and 'credits gains' (Vermögens- und Kreditgewinnabgabe);
2. payment of a closure premium, at DM 20 per metric ton produced, through the 'Aktionsgemeinschaft Deutsche Steinkohlenreviere';
3. reimbursement of the cost of pumping out underground water from closed pits, up to a maximum of DM 60 million;
4. subsidies towards the cost of concentrating the coal industry, up to a maximum of DM 72 million;
5. subsidies towards the residual burdens of the coal industry, up to a maximum of DM 157·5 million;
6. discharging the Ruhrkohle AG from the liability to pay instalments towards the special item to cover depreciation as a result of closure, up to a maximum of DM 48 million;
7. grant of investment aid in an amount not exceeding DM 422·5 million to undertakings in the coal industry in order to encourage investment;
8. provision of premiums to shift workers and piece workers in respect of such shift worked underground, up to a maximum of DM 123 million;
9. backing for development and trials at a figure not exceeding DM 28 million;
10. payment of instalments owed by RAG in respect of the former mine-owning companies, up to a maximum of DM 63·4 million;
11. measures for the benefit of the Preussag AG's Ibbenbüren pit, up to a maximum of DM 30 million.

Article 2

The Federal Government shall notify the Commission by 30 April 1976 of details of the aids granted pursuant to this Decision, in particular as regards the amounts paid and the manner in which they are apportioned.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 17 December 1975.

For the Commission

Henri SIMONET

Vice-President