COMMISSION DECISION

of 18 July 1990

authorizing Spain to exclude from Community treatment, for a limited period, coal of third country origin imported after having been put into free circulation in another Member State

(Only the Spanish text is authentic)

(90/444/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 71 thereof,

Whereas in 1987, 1988 und 1989 the Spanish Government sent the Commission applications to exclude from Community treatment coal of third country origin which is imported after being put into free circulation in another Member State ;

Whereas the Commission granted the relevant authorization to the Spanish Government by applying the provisions relating to mutual assistance, but for a limited period on each occasion. An authorization of this type for 1989 expired on 31 December 1989 ;

Whereas by letter of 27 November 1989 the Spanish Government made another application to extend its restrictive measures on coal of third country origin to include coal in free circulation in another Member State. This application requested authorization of unlimited duration ;

Whereas current Spanish law allows limited quantities of coal of third country origin to be imported at a zero rate of duty. For coal other than anthracite the duty-free quota for 1990 would be increased to 12 million tonnes. The duty-free import quota for anthracite would remain limited at 12 000 tonnes ;

Whereas imports in excess of the zero-duty quota attract duty of up to 14 % ;

Whereas in principle, Article 71 of the Treaty leaves the Governments of the Member States their powers in matters of commercial policy. National rules remain therefore applicable as regards direct imports from non-member countries. However, Member States shall afford each other such mutual assistance as is necessary to implement measures recognized by the Commission as being in accordance with the Treaty and with existing international agreements ;

Whereas under the provisions of the Treaty the principle of free movement applies equally to products in free circulation in a Member State ;

Whereas where differences in commercial policy between Member States call for measures waiving the principle of the free movement of goods within the Community, such measures may be authorized only in exceptional circumstances and for a limited period, given the fundamental importance of the principle of free movement ;

Whereas according to the notification from the Spanish Government, the commercial policy measures on coal are intended to protect Spanish collieries, which are in a difficult economic situation as a result of competition from coal of third country origin, and to increase their productivity ;

Whereas to ease the difficulties affecting the coal industry, the Community has created instruments to support improvements in the competitiveness of the industry, thus helping to ensure better security of supply and to solve the social and regional problems related to the changes in the coal industry ;

Whereas this was the objective of Commission Decision No 2064/86/ECSC [1], establishing Community rules for State aid to the coal industry ; this regime creates the favourable conditions required for the Community coal industry to adapt to the realities of the energy market ;

Whereas the abovementioned measures permit the abandonment of market protection and the abolition of controls at internal Community frontiers ;

Whereas a withdrawal of the protective measures for coal originating in third countries and imported after having been put into free circulation in another Member State could however, without a period of transition, give rise to difficult problems of adaptation in the short term, for both economic and administrative reasons ;

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[1] OJ No L 177, 1. 7. 1986, p. 1.

Whereas it therefore seems advisable to authorize the Spanish Government to apply, on a temporary basis, the measures set out above;

Whereas in order that the Commission may carry out a final assessment of the issue, the Spanish Government should be asked to send the Commission a report on the implementation of these policy measures,

HAS ADOPTED THIS DECISION:

Article 1

Spain is hereby authorized to apply to coal of third country origin imported after having been put into free circulation in another Member State, imports of which exceed the zero-duty quota of 12 000 tonnes for anthracite or 12 million tonnes for coal other than anthracite, a customs duty of up to 14 %.

Article 2

This Decision shall apply until 31 December 1990.

Article 3

Spain shall, before 31 December 1990, send the Commission a report on the implementation of the measure referred to in Article 1.

Article 4

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 18 July 1990.

For the Commission

Frans ANDRIESSEN

Vice-President