COMMISSION DECISION

of 28 March 1990

concerning financial measures taken by the United Kingdom in respect of the coal industry in the 1987/88, 1988/89 and 1989/90 financial years

(Only the English text is authentic)

(90/634/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2064/86/ECSC of 30 June 1986 establishing Community rules for State aid to the coal industry [1],

Whereas :

I

In its letter of 9 February 1990 the United Kingdom Government informed the Commission, in conformity with Decision No 2064/86/ECSC, of the measures it intends to take to give support to the coal industry in 1989/90.

The United Kingdom Government also informed the Commission in this letter of the measures it intends to take in respect of the 1988/89 and 1987/88 financial years.

The following aid is submitted for the approval of the Commission pursuant to the above Decision :

— aid totalling £ 800 million to cover operating losses of British Coal Corporation incurred in 1989/90,

— aid totalling £ 203 million and £ 374 million to cover operating losses of British Coal Corporation incurred in 1988/89 and 1987/88 respectively,

— aid totalling £ 500 million to British Coal Corporation for the constitution of a provision to cover compensation for hearing loss arising from production activities prior to 1989/9,

— aid totalling £ 200 million to British Coal Corporation for the constitution of a provision for concessionary supplies of coal, smokeless fuel or, in certain cases, a payment in kind to mineworkers on retirement, former mineworkers or their beneficiaries, in respect of production activities prior to 1990/91,

— a financial measure totalling £ 2 600 million reflecting the decline in the underlying value of British Coal Corporation's fixed assets.

The measures planned by the United Kingdom Government to support the coal industry comply with Article 1 (1) of the Decision. Consequently, under Article 10 of the Decision, the Commission must determine whether the measures are compatible with the objectives and criteria laid down in the Decision and with the proper fluctioning of the common market.

II

In Decisions 87/452/ECSC [2], 88/294/ECSC [3], 89/175/ECSC [4] and 89/584/ECSC [5], the Commisison authorized aid to current production totalling £ 215,9 million, £ 14,5 million and £ 15,5 million for 1987/88, 1988/89 and 1989/90 respectively. The aid for 1987/88 comprised aid of £ 200 million to cover losses and aid of £ 15,9 million for occupational and geographical redeployment of workers. No aid to cover losses was granted for 1988/89 and 1989/90, although the forward financial accounts for the United Kingdom coal industry revealed a significant deficit. The measures notified and authorized in respect of these two financial years concerned exclusively aid for occupational and geographical redeployment of workers.

Considerable restructuring, rationalization and modernization has been carried out in the United Kingdom coal industry over the last five years. These measures have resulted in a reduction in the number of collieries from 169 in March 1985 to 75 in March 1990, and a drop in the British Coal Corporation workforce from 171 000 to 66 000 employees. Productivity in this period increased by over 75 %.

Closure of these pits has led to an appreciable increase in the Corporation's financial burdens in the form of exceptional depreciation. The industry has also had to bear a

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

[2] OJ No L 241, 25. 8. 1987, p. 13.
[3] OJ No L 125, 19. 5. 1988, p. 40.
[4] OJ No L 64, 8. 3. 1989, p. 14.
[5] OJ No L 326, 11. 11. 1989, p. 32.

growing share of its redundancy costs. As no aid was granted to cover losses during 1988/89 and 1989/90, these losses were covered through borrowings, since the Corporation had no capital or reserves.

The combination of high interest rates, the substantial proportion of short-term loans in overall borrowings and the increase in borrowings contracted has led to an increase in interest costs from £ 368 million in 1987/88 to almost £ 600 million in 1989/90.

The aid to cover operating losses in 1989/90 is granted for production totalling 96,6 million tonnes and does not exceed the difference, for each tonne produced, between foreseeable average costs and the foreseeable average returns, and therefore complies with Article 3 (1) of Decision No 2064/86/ECSC.

The aid to cover the losses notified by the United Kingdom Government in respect of 1987/88 and 1988/89 does not exceed the uncovered difference between the production costs incurred and the returns on the coal produced for the period to which the notification refers and is therefore compatible with Article 3 (4) of Decision No 2064/86/ECSC.

These measures contribute to the process of restructuring, rationalizing and modernizing the United Kingdom coal industry, by improving competitiveness through the closure of production capacities that offer no prospect of long-term economic viability, and the creation of new, economically viable capacities with the aid of new production techniques or new equipment. They are therefore compatible with the objectives specified in Article 2 (1) of the Decision.

III

The aid for a provision for claims for hearing loss arising from production activities prior to 1989/90 results from the obligation incumbent on British Coal Corporation to compensate workers and former workers who have suffered impaired hearing owing to noise at the workplace. In the past, this expenditure was booked on the basis of compensation claimed in the course of the year. In future, a provision will be made annually equal to the compensation to be paid subsequently from loss of hearing attributable to activity in the year in question, and will be an integral part of the production cost.

In order to permit transition to this new system, the United Kingdom Government proposes making a provision, through the grant of aid, totalling £ 500 million to cover potential compensation claims resulting from loss of hearing prior to 26 March 1989. This sum will cover compensation going back more than 30 years in some cases, to a period where the Corporation employed over 470 000 miners compared with 66 000 miners in 1990.

The financial aid can therefore be divided into two categories :

— aid totalling £ 410 million concerning compensation for former workers made redundant in the course of the restructuring, rationalization and modernization process, and for retired workers from mines closed during this process which cannot therefore be linked to current production,

— aid totalling £ 90 million concerning workers in active employment for noise-induced hearing loss arising from activity prior to 26 March 1989, and retired workers from working mines, on which the Commission must give an opinion pursuant to Article 10 (2) of the Decision.

Pursuant to Article 8 of the Decision, the part of the aid covering compensation regarded as inherited liabilities is compatible with the common market provided that it does not exceed the costs. As the measure concerns making provision in the accounts, the United Kingdom Government will inform the Commission annually of the amount of compensation actually paid and the corresponding volume of aid.

The balance of £ 90 million related to current production facilities the establishment of new accounting practices that will make production costs more transparent and facilitate the implementation of restructuring, rationalization and modernization measures, and hence improve the competitiveness of the coal industry in conformity with the first indent of Article 2 (1) of Decision No 2064/86/ECSC.

IV

The Corporation is obliged to provide concessionary coal, smokeless fuel or, in certain cases, cash-in-lieu to employees, former employees or their beneficiaries under the terms of the 'National Concessionary Fuel Agreement for Mineworkers, Cokeworkers, Weekly Paid Industrial Staff and their Beneficiaries', concluded on 2 March 1984 by British Coal Corporation and the National Union of Mineworkers. For the period up to 31 March 1990, the cost of these supplies was booked as and when they were made. This system will be modified with effect from 1 April 1990 as part of a process of improving accounting practices.

The United Kingdom Government proposes to make a provision, through the grant of aid, totalling £.200 million covering 340 000 beneficiaries in order to take account of the inherited liabilities represented by concessionary fuel supplies to beneficiaries having left the industry, or after they leave the industry, for the period prior to 31 March 1990.

The liabilities this aid covers can be divided into two categories :

— aid totalling £ 300 million covering supply obligations in respect of 200 000 beneficiaries, concerning employees made redundant during the restructuring, rationalization and modernization process, and retired employees or their beneficiaries from mines closed during this process which cannot therefore be regarded as related to current production,

— aid totalling £ 700 million reflecting concessionary fuel obligations towards 50 000 retired employees from working mines and towards 72 000 active employees for that part of the deliveries to be made after their retirement in respect of their activity prior to 31 March 1990, or towards their beneficiaries, on which the Commission must give its opinion pursuant to Article 10 (2) of the Decision.

Pursuant to Article 8 of the Decision, the part of the aid covering compensation regarded as inherited liabilities is compatible with the common market provided that it does not exceed the costs. As the measure concerns making provision in the accounts, the United Kingdom Government will inform the Commission annually of the amount of compensation actually paid and the corresponding volume of aid.

The balance of £ 700 million related to current production facilities the establishment of new accounting practices that will make production costs more transparent and facilitate the implementation of restructuring, rationalization and modernization measures, and hence improve the competitiveness of the coal industry in conformity with the first indent of Article 2 (1) of Decision No 2064/86/ECSC.

V

The continuing decline in the market share of coal produced in the United Kingdom, the prospects for coal prices and the technical problems encountered in deposits hitherto considered promising, suggest that over half of British Coal Corporation's assets must be written off.

Capital losses of £ 1 800 million on fixed assets are attributable to a drop of over 25 % in real terms in the coal prices obtained by the Corporation, and allowance for technical problems. The balance of £ 800 million has still to be confirmed in the light of technical, economic and geological studies in progress and the medium-term commercial prospects of the Corporation.

It therefore appears that, in the current circumstances, the Corporation cannot meet the break-even target in view of changes in the energy market and the long-term outlook.

The United Kingdom Government plans to make provision of £ 2 600 million to cover the decline in the underlying value of the Corporation's assets, in recognition of the fact that some of these assets will have a shorter life and lower earning power than originally expected, bringing the Corporation's outstanding borrowings more into line with the true value of its assets.

The measure notified by the United Kingdom Government cannot be regarded as provision of risk capital in accordance with standard corporate practice in a market economy, and therefore can be regarded as Community aid compatible with the proper fluctioning of the common market only if it helps to achieve one of the objectives specified in Article 2 (1) of the Decision.

The proposed aid will not only improve the transparency of the Corporation's accounting system and bring it into line with normal commercial standards, but more particularly it will avoid burdening collieries with good long-term prospects of achieving economic viability with interest costs related to uneconomic production capacities. In this respect the measure is compatible with the objective specified in the first indent of Article 2 (1) of the Decision.

According to the United Kingdom Government, the capital losses on fixed assets cannot be precisely evaluated until the detailed examination in progress on the future prospect of each colliery in the overall corporate strategy is completed.

Pending further information on the above matters, the Commission can rule only on a sum of £ 1 800 million corresponding to the loss of value already firmly established.

Apart from the aid to permit the Corporation to meet the cost of redundancies and other social costs of restructuring, rationalization and modernization of the coal industry, the United Kingdom Government has notified the Commission that it will not grant the Corporation any other type of aid in the coming financial years for as long as Decision No 2064/86/ECSC is applicable.

VI

The aid which is the subject of this Decision is therefore compatible with the proper functioning of the common market,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom Government is hereby authorized to grant aid totalling £ 5 100 million to the United Kingdom coal industry for the 1989/90 financial year. The total amount of aid breaks down as follows:

— aid not exceeding £ 800 million to cover operating losses incurred by British Coal Corporation,

— aid to British Coal Corporation not exceeding £ 500 million for the constitution of a provision to cover compensation for hearing loss arising from production activities prior to the 1989/90 financial year,

— aid to British Coal Corporation not exceeding £ 2 000 million for the constitution of a provision for concessionary supplies of coal, smokeless fuel or, in certain cases, cash-in-lieu to mineworkers on retirement, former mineworkers and their beneficiaries, in respect of production activities prior to the 1990/91 financial year,

— a financial measure not exceeding £ 1 800 million reflecting the decline in the underlying value of British Coal Corporation's fixed assets.

Article 2

The United Kingdom Government is hereby authorized to grant British Coal Corporation aid not exceeding £ 577 million towards the uncovered difference between the coal production costs and returns in respect of the 1987/88 and 1988/89 financial years.

Article 3

The United Kingdom Government shall take steps to ensure that it is reimbursed for any overestimated expenditure or expenditure not effected concerning any of the items that are the subject of this Decision.

Article 4

The United Kingdom Government shall communicate to the Commission by 1 October 1990 the information relating to British Coal Corporation's business strategy.

Article 5

The United Kingdom Government shall notify the Commission annually of the payments made to the beneficiaries under the terms authorized in Article 1 of this Decision.

Article 6

This Decision is addressed to the United Kingdom Government.

Done at Brussels, 28 March 1990.

For the Commission

António CARDOSO E CUNHA

Member of the Commission