II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 July 1991

on financial aid from the Federal Republic of Germany to the coal industry in 1991

(Only the German text is authentic)

(91/513/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

By letters dated 4 December 1990 and 22 May 1991, the Government of the Federal Republic of Germany informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of the financial measures it intends to take in order to support the coal industry in 1991.

Under that Decision, the Commission must give a ruling on the following financial measures submitted to it for approval :

— aid totalling DM 3 398,13 million to sales of coal and coke to the Community iron and steel industry,

— aid totalling DM 137 million under a scheme for maintaining the underground labour force in deep mines ('Bergmannsprämie'),

— aid totalling DM 270,4 million to finance social benefit schemes in the coal industry.

The measures which the German Government intends to take to support the coal industry comply with the provisions of Article 1 (1) of Decision No 2064/86/ECSC. The Commission must therefore give a ruling under Article 10 of the Decision as to whether they comply with the objectives and criteria set out in that Decision and whether they are compatible with the proper functioning of the common market.

II

In accordance with Articles 4 and 12 of the Decision, coal undertakings are authorized, where necessary, to grant rebates on their list prices or production costs for deliveries of coking coal, blast furnace coke and coal for injection into blast furnaces to the Community iron and steel industry under long-term contract. These rebates must not cause the delivered prices of Community coal and coke to work out lower than those which would be charged for coal from non-member countries and coke made from non-member country coking coal.

Since 1 January 1989, the German Government's policy on aid to sales of coal and coke to the Community steel industry has been based on the principle of placing a ceiling on the amount of such aid for a three-year period from 1 January 1989 to 31 December 1991. The overall amount of aid planned for that period is DM 10 960 million, while the total quantities of coal eligible for this aid are expected to be 69,8 million tonnes.

Under the terms of Commission Decisions No 90/199/ECSC [2] and No 91/406/ECSC [3] the German Government was authorized to grant aid of DM 3 847 million for

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

[2] OJ No L 105, 25. 4. 1990, p. 21.

[3] OJ No L 226, 14. 8. 1991, p. 28.

1989 and DM 3 550 million for 1990 under the new system to sales of coal and coke to the Community iron and steel industry.

Under this system, the German Government proposes to pay coal producers, as available budgetary resources allow, a sum of DM 3 398,13 million for 1991, in repect of production of 21,5 million tonnes of coal and coke.

In view of the information provided by the German Government, the Commission feels that the progressive reduction in aid which is one of the objectives of the new scheme is taking effect.

The Commission welcomes both the principle of setting a ceiling on aid and its progressive reduction, as this should further encourage the restructuring of the coal industry and thus improve its competitiveness in accordance with the first indent of Article 2 (1) of Decision No 2064/86/ ECSC.

Moreover, the aid is compatible with the provisions of Articles 4 and 12 of the Decision, as it does not lead to delivered prices lower than those which would be charged for coal from non-member countries.

It will also be necessary, pursuant to Article 11 (1) of Decision No 2064/86/ECSC, to ensure that the aid does not lead to discrimination within the meaning of the ECSC Treaty, as between buyers or users of coal or coke in the Community.

After the end of 1991, the German Government will communicate any changes with regard to sales in each of the three years of application of the aid scheme together with data on production costs and the guide price, so that the Commission can verify that all the abovementioned provisions have been complied with.

III

The aid of DM 137 million to finance mineworkers' bonuses ('Bergmannsprämie' of DM 10 per shift worked underground) enables the undertakings to maintain a skilled underground workforce. This aid, which contributes to improved productivity, is specifically provided for in Article 6 of Decision No 2064/86/ECSC and helps to improve the competitiveness of the industry in accordance with the first indent of Article 2 (1) of the Decision.

The information provided by the German Government regarding aid to finance social benefit schemes in the coal industry shows that the aid which the German Government intends to grant for these purposes makes the ratio between the burden per mineworker in employment and the benefits per person in receipt of benefit lower than the corresponding ratio in other industries. The difference between actual and standard charges in 1991 is expected to amount to DM 270,4 million. Since this exceeds the limits set in Article 7 of Decision No 2064/86/ECSC, this measure must be considered as indirect aid to current production and must be examined on the basis of Article 10 (2) of the Decision. The reduction of about 1 % in production costs which it entails will not give the German coal industry a significant competitive advantage over other Community coal producers. Since this measure reduces the industry's operating costs, it helps solve the social and regional problems relating to developments in the coal industry by permitting a better phasing of restructuring, rationalization and modernization measures. It thus helps to achieve the objective referred to in the third indent of Article 2 (1) of the Decision.

IV

Consequently, the aid measures referred to in this Decision are compatible with the proper functioning of the common market,

HAS ADOPTED THIS DECISION:

Article 1

The Federal Republic of Germany is hereby authorized to grant aid totalling DM 3 805 530 000 to the German coal industry for the 1991 calendar year. The total amount shall be made up of the following aid:

1. aid totalling DM 3 398,13 million to sales of coal and coke to the Community iron and steel industry;
2. aid totalling DM 137 million under a scheme for maintaining the underground labour force in deep mines ('Bergmannsprämie');
3. aid totalling DM 270,4 million to finance social benefit schemes in the coal industry, covering the difference between actual and standard social charges.

Article 2

The Federal Republic of Germany shall notify the Commission by 30 June 1992 of the total amounts of aid paid in 1991.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 17 July 1991.

For the Commission

António CARDOSO E CUNHA

Member of the Commission