II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 July 1990

ruling on a financial measure by Spain in respect of the coal industry during 1990

(Only the Spanish text is authentic)

(91/594/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], and in particular Articles 2 (1) and 10 thereof,

Whereas :

I

By letter of 26 September 1989, the Spanish Government informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of a compensatory payment to electricity producers using Spanish coal produced by undertakings that have negotiated contracts with the said electricity producers under the NSCCT (new system of public contracts for coal used in power stations), a system to be financed by a compensation fund managed by Ofico (Electricity Compensation Office).

By letter of 15 June 1990, in answer to the Commission's request of 1 December 1989, the Spanish Government also communicated further information.

The amount in question, financed by the compensation fund, is Pta 13 747 million.

II

The aim of the Ofico financial measure is to refund to the electricity generating companies any sums over and above the reference price which those companies have to pay the coal mining undertakings to cover almost the full amount of the latter's operating losses. The system applies to those mining undertakings that have concluded coal supply contracts with the electricity producers under the NSCCT system.

The measure covers some three million tce (tonnes coal equivalent) of Spanish coal a year.

This is a measure linked to coal sales which, even if not borne directly by public authority budgets, is nevertheless financed from levies imposed through a measure introduced by the State.

It also gives coal industry undertakings an economic advantage and therefore represents indirect aid to this industry within the meaning of Article 1 (1) of Decision No 2064/86/ECSC.

It must therefore be submitted for a Commission opinion pursuant to Article 10 (2) of that Decision.

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

III

In Decisions 87/454/ECSC [1], 88/505/ECSC [2] and 90/198/ECSC [3], the Commission authorized Ofico financial measures amounting to Pta 11 770 million in 1987, Pta 11 182 million in 1988 and Pta 12 625 million in 1989. The Commission authorized this aid in view of the fact that the new system was intended to make the coal industry more competitive and that the precipitate closure of uneconomic installations was likely to cause major social and regional problems. To this extent the measure was also calculated to attenuate the social and regional problems encountered in this industry.

The indirect aid which Ofico plans to grant in 1990 is 11 % up on the previous year, which in turn was some 13 % higher than in 1988.

IV

The trend during the first few years must therefore be evaluated in the light of the aims of Decision No 2064/86/ECSC, particularly those mentioned in Article 2 (1) thereof.

In this connection, it is important to emphasize that the system should go some way towards making the coal industry more competitive by improving the financial position of undertakings, reducing production costs and closing down production capacity with no long-term prospects of profitability.

V

In view of the transitional nature of Decision No 2064/86/ECSC, which expires on 31 December 1993, and the need to make the Community coal industry profitable in the long term, there must be phased reduction of Community aid and this must be accompanied by plans for restructuring, rationalization and modernization as mentioned in the conditions for implementing Decision No 2064/86/ECSC.

In Article 1 of Decision 90/198/ECSC, the Commission authorized compensatory payments to be made to electricity producers in 1989 because :

— putting an immediate stop to this aid would aggravate the social and regional problems linked with changes in this industry, and

— if the industry is to be made more competitive, the aid should be reduced gradually and this reduction should go hand in hand with the restructuring, modernization and rationalization of the Spanish coal industry.

However, the practical and legal circumstances which prompted the Commission to adopt Decision 90/198/ECSC relating to 1989 have not changed in 1990 such as to justify increasing this aid. In fact, the price increases which have taken place, or are expected, on the coal market should have resulted in a reduction in aid by relatively reducing the non-competitiveness of certain types of production covered by the new system of public contracts for coal used in power stations (NSCCT).

Thus the compensatory amount for 1990 should not exceed the amount authorized by Decision 90/198/ECSC for 1989, which was Pta 12 625 million.

This Decision does not call into question the compatibility of the NSCCT with the EEC and ECSC Treaties,

HAS ADOPTED THIS DECISION :

Article 1

The compensatory payment to be made under the Ofico financial measure to electricity producers using Spanish coal produced by undertakings that have negotiated contracts with the said electricity producers under the new system of public contracts for coal used in power stations is hereby authorized for an amount not exceeding Pta 12 625 million for 1990.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 25 July 1990.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

(1) OJ No L 241, 25. 8. 1987, p. 16.
(2) OJ No L 274, 6. 10. 1988, p. 41.
(3) OJ No L 105, 25. 4. 1990, p. 19.