II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 23 December 1992

on financial measures by Spain in respect of the coal industry in 1991, 1992 and 1993

(Only the Spanish text is authentic)

(93/145/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 the Community rules for State aid to the coal industry [1], and in particular Articles 2 (1) and 10 thereof,

Whereas :

I

By letter of 10 February 1992, the Spanish Government informed the Commission, pursuant to Decision 91/3/ECSC [2], of its plan to reduce aid to cover the operating losses up to 31 December 1993 of the undertakings Hunosa, Minas de Fiaredo and Mina de la Camocha, as part of a plan to restructure, rationalize and modernize the Spanish coal industry.

By letter of 16 November 1992 the Spanish Government also provided the Commission, in response to its request of 25 February 1992, with additional information, as well as informing it of the financial measures it intends to take in respect of the coal industry in 1991, 1992 and 1993.

Under Decision No 2064/86/ECSC, the Commission must give a ruling on the following financial measures in respect of Hunosa, Minas de Figaredo and Mina de la Camocha :

— aid to cover operating losses totalling Pta 50 034 million in 1991, Pta 50 034 million in 1992 and Pta 49 978 million in 1993,

— aid totalling Pta 14 348 million for 1992 for the constitution of a provision to cover social expenditure to be paid out to workers made redundant and other exceptional costs following measures to restructure, rationalize and modernize these undertakings,

— aid totalling Pta 8 734 million for 1992 for the constitution of a provision to defray the specific depreciation costs of fixed assets in connection with pit closures arising from measures to restructure, rationalize and modernize these undertakings.

II

The undertakings Hunosa, Minas de Figaredo and Mina de la Camocha are located in the central Asturias coalfield ; they work a difficult seam with high production costs. Their operating losses are covered partly by the general State budget in the form of contracts which these undertakings have signed with the State.

The increase in aid in recent years caused the Commission to check whether Decision No 2064/86/ECSC was being complied with.

[1] OJ No L 177, 1. 7. 1986, p. 1.
[2] OJ No L 5, 8. 1. 1991, p. 25.

Following this investigation the Commission asked the Spanish authorities to submit a plan for reducing this aid over a period ending on 31 December 1993 at the latest, as part of a plan to restructure, rationalize and modernize the Spanish coal industry.

The plan for these three undertakings which have signed contracts with the State, as submitted by the Spanish Government, provides for a reduction of 895 000 tonnes in annual production (23 % reduction) and the loss of 6 541 jobs (32 % reduction).

III

By Decisions 91/3/ECSC, 89/102/ECSC [1], 88/505/ECSC [2] and 87/454/ECSC [3] the Commission authorized aid to cover the operating losses of Hunosa, Minas de Figaredo and Mina dela Camocha for 1990, 1989, 1988 and 1987 on the grounds that it would help the process of restructuring the coal industry, particularly by staggering the dates of closure of certain pits with no prospect of economic viability, in the context of regional industrial redevelopment policy. The aid would thus help to selve the social and regional problems related to developments in the coal industry, in accordance with the third indent of Article 2 (1) of Decision No 2064/86/ECSC.

The aid which the Spanish Government intends to grant, totalling Pta 50 034 million for 1991, Pta 50 034 million for 1992 and Pta 49 978 million for 1993, is intended to cover operating losses and aims to offset part of the difference between average estimated costs and average estimates revenue for each tonne produced. The aid will not exceed estimated operating losses and thus complies with Article 3 (1) of Decision No 2064/86/ECSC.

The aid to be granted to the undertakings in question for 1991, 1992 and 1993 must be examined in the light of Decisions 91/3/ECSC and No 2064/86/ECSC.

The conclusion of such examination is that steadily deteriorating geological conditions will mean that the production capacity reductions planned in the period to the end of 1993 will not significantly improve the competitiveness of the three undertakings, as the cost of production par tonne will continue to rise. However, the aid planned for 1991 and 1992 has stabilized in relation to the aid authorized by the Commission for 1990, and the figures for 1993 show the beginning of a downward trend in relation to previous years.

As capacity reductions will involve the closure of the production units making the biggest losses, the planned measures will help improve the competitiveness of the Community's coal industry.

The Commission also welcomes the fact that the plans submitted reveal a significant increase in the intensity of the restructuring efforts carried out by the undertakings concerned, and that the aid notified is to come out of the general State budget, thus guaranteeing greater transparency of aid systems.

Reducing the amount of aid to reflect falling coal production will prevent the creation of replacement production capacity with no long-term prospect of economic viability and is a first step towards greater discipline in the management of these undertakings and towards a more rapid restructuring of the industry, leading in the long term to a significant reduction in aid.

By staggering the dates of closure of certain pits with no prospect of economic viability, the aid will help to solve the social and regional problems related to developments in the coal industry, pursuant to the third indent of Article 2 (1) of Commission Decision No 2064/86/ECSC.

IV

To enable the Commission to complete its study of the compatibility of aid to cover the operating losses of Mina de la Camocha with Decision No 2064/86/ECSC, the Spanish authorities should be asked to submit before 30 June 1993 the additional plan which they have undertaken to send the Commission. Pending receipt of this information, Spanish Government aid to Mina de la Camocha for 1993 must not exceed the amount authorized for 1992.

V

The aid totalling Pta 11 687 million for the constitution of a provision to cover exceptional social expenditure is designed to cover part of the cost of payments to some 6 000 workers of Hunosa, Minas de Figaredo and Mina de la Camocha forced to take early retirement by 31 December 1993 under the plan for the restructuring, rationalization and modernization of the Spanish coal industry.

The aid will also be used for the constitution of a provision to cover other exceptional expenditure relating to closures, totalling Pta 2 661 million, to finance the cost of maintaining the pumping equipment of closed pits.

These financial measures are not related to current production and should be considered as inherited liabilities. Pursuant to Article 8 of Decision No 2064/86/ECSC they may be considered compatible with the common market provided the amount does not exceed the costs.

As the aim is to constitute provisions, the Spanish Government will inform the Commission each year of the aid actually paid out and the costs covered by such aid.

VI

It follows from the phased closure of pits over the period to 31 December 1993 that a substantial proportion of the fixed assets of the undertakings concerned will be irrecoverable. The Spanish Government intends to constitute a provision which, through a financial measure totalling Pta 8 734 million, will defray part of the specific depreciation costs connected with the closure of pits arising from measures to restructure, rationalize and modernize the industry.

[1] OJ No L 38, 10. 2. 1989, p. 39.
[2] OJ No L 274, 6. 10. 1988, p. 41.
[3] OJ No L 241, 25. 8. 1987, p. 16.

This measure has to be considered as 'other aid' on which the Commission is required to be consulted pursuant to Article 10 (2) of Decision No 2064/86/ECSC. The purpose of this measure is to accelerate depreciation in connection with the closure, by 31 December 1993 at the latest, of the pits making the biggest losses, and, by enabling the closures to be phased more, to selve the social and regional problems related to developments in the coal industry pursuant to the third indent of Article 2 (1) of Decision No 2064/86/ECSC.

As the aim is to constitute a provision, the Spanish Government will inform the Commission each year of the aid actually paid out and the costs covered by such aid.

VII

The aid measures covered by this Decision are therefore compatible with the proper functioning of the common market.

This Decision does not prejudge the question of the compatibility of the NSCCT system (new system of public contracts for coal used in power stations) with the provisions of the Treaties,

HAS ADOPTED THIS DECISION :

Article 1

Spain is hereby authorized to grant undertakings which have signed contracts with the State, aid to cover operating losses totalling :

— Pta 50 034 million for 1991,
— Pta 50 034 million for 1992,
— Pta 49 978 million for 1993.

Article 2

Spain is hereby authorized to grant aid totalling Pta 23 082 million for 1992, the total amount being made up of the following items :

— aid totalling Pta 14 348 million for the constitution of a provision to cover exceptional social expenditure to be paid out to workers made redundant and other exceptional expenditure in connection with the maintenance of pumping equipment in pits to be closed following measures to restructure, rationalize and modernize the Spanish coal mining undertakings which have signed contracts with the State,
— aid totalling Pta 8 734 million for the constitution of a provision to defray the specific depreciation costs of irrecoverable fixed assets arising from measures to restructure, rationalize and modernize the Spanish coal mining undertakings which have signed contracts with the State.

Article 3

Spain shall, by 30 June 1993, provide the Commission with information on the second part of the business plan for the Mina de la Camocha undertaking.

Article 4

Spain shall inform the Commission each year of payments made to beneficiaries from the provisions authorized in Article 2.

Article 5

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 23 December 1992.

For the Commission
António CARDOSO E CUNHA
Member of the Commission