COMMISSION DECISION

of 23 December 1992

on a financial measure by Spain in respect of the coal industry in 1992 and 1993 and additional financial measures in respect of that industry in 1991

(Only the Spanish text is authentic)

(93/146/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 letter dated 13 September 1991 the Spanish Government provided the Commission with information on strategic plans for undertakings not covered by contracts with the State requested by the Commission in Decision 91/599/ECSC [2]. By letter of 16 November 1992 the Spanish Government, in response to the Commission's requests of 24 October and 16 November 1991, also provided additional information on the strategic plans.

By letter of 16 November 1992 the Spanish Government, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, informed the Commission of the financial measures it intends to take, directly of indirectly, in respect of the coal industry for 1992 and 1993 and of the additional financial measures it intends to take in respect of that industry for 1991.

Under Decision No 2064/86/ECSC the Commission must give a ruling on the following financial measures :

— Ofico (Electricity Compensation Office) financial measures totalling Pta 2 286 million for 1992 and Pta 2 059 million for 1993,

— aid totalling Pta 27 935 million for 1991 for the constitution of a provision to cover exceptional social expenditure in favour of workers made redundant following measures to restructure, rationalize and modernize undertakings not covered by contracts with the State,

— aid totalling Pta 18 680 million for 1991 for the constitution of a provision to defray part of the specific depreciation costs of fixed assets and other exceptional costs arising from measures to restructure, rationalize and modernize undertakings not covered by contracts with the State,

— investment aid totalling Pta 3 500 million for 1993,

— aid totalling Pta 120 million for 1993 for improving the mining environment.

II

The aim of the Ofico financial measure is to refund the electricity-generating companies the price supplements over and above a reference price of the order of ECU 107 per tonne coal equivalent (tce) in 1992 which those companies have to pay the coal-mining undertakings to cover virtually all the latter's operating losses. The system applies to those mining undertakings that have concluded coal supply contracts with the electricity generators under the NSCCT (new system of public contracts for coal used in power stations).

This is a measure linked to coal sales which, even if not borne directly by public authority budgets, is nevertheless financed from charges rendered compulsory by the fact of State intervention.

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

In its Decision 91/599/ECSC the Commission gave a ruling on Ofico compensatory payments for 1991 and on aid to cover exceptional costs arising from the restructuring of undertakings the total or partial closure of which was considered to be certain. The Commission also asked the Spanish Government to provide it with information on strategic plans for the other undertakings by 30 June 1991.

The Spanish Government provided information on strategic plans for 146 undertakings in a letter dated 13 September 1991, supplemented by a letter dated 16 November 1992. The restructuring, rationalization and modernization activities include the complete closure of 56 undertakings, the partial closure of six undertakings and specific activities to improve the competitiveness of 12 others. These measures will entail a 1,9 million tonne reduction in annual underground production capacity by 31 December 1993 and the loss of 7 645 jobs.

[1] OJ No L 177, 1. 7. 1986, p. 1.
[2] OJ No L 324, 26. 11. 1991, p. 30.

By 31 December 1993 annual production capacity benefiting from a price subsidy via Ofico financial measures will have fallen to 0,32 million tonnes, compared with 4,4 million tonnes in 1990. In its letter the Spanish Government states that the production capacity remaining after implementation of the plan to reduce Ofico subsidies (9,2 million tonnes year) will cost less than the reference price for Spanish coal sold to power stations under the NSCCT and will thus no longer benefit from a subsidy.

The restructuring, rationalizaiton and modernization activities will concentrate on the following coalfields: western and central Asturias, Bierzo-Villablino, Leon-North, Palencia, Teruel, Pirenaica and the Balearic Islands.

III

By Decisions 87/454/ECSC (1), 88/505/ECSC (2), 90/198/ECSC (3), 91/594/ECSC (4) and 91/599/ECSC, the Commission authorized Ofico financial measures to cover price subsidies totalling Pta 11 770 million in 1987, Pta 11 182 million in 1988, Pta 12 625 million in 1989, Pta 12 625 million in 1990 and Pta 6 208 million in 1991.

Financial measures totalling Pta 2 289 million for 1992 and Pta 2 059 million for 1993 are intended to cover the price authorities payable by the electricity-generating companies to the coal producers. These price subsidies cover virtually all the operating losses of the production capacity which should break even on the basis of the reference price applied in Spain following the implementation of the restructuring, rationalization and modernization measures which are the subject of this Decision.

The measures planned for 1992 and 1993 represent a reduction of 63 and 67 % respectively on 1991, as a result of the reduction in the activities of the pits with the biggest losses. This will contribute to the improved competitiveness of the Community coal industry. Consequently, these measures are compatible with the objectives of Article 2 (1) of Decision No 2064/86/ECSC.

(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.
(4) OJ No L 317, 19. 11. 1991, p. 32.

IV

The aid totalling Pta 27 935 million for the constitution of a provision to cover exceptional social expenditure is designed to cover part of the cost of redundancy payments to 5 345 workers of the undertakings affected by this Decision who will have to be laid off before 31 December 1993 following the implementation of the plan for the restructuring, rationalization and modernization of the Spanish coal industry.

This measure is not related to current production and should be considered an inherited liability. According to Article 8 of Decision No 2064/86/ECSC, it may be considered compatible with the common market provided the amount does not exceed the costs.

This measure will facilitate the process of restructuring, rationalizing and modernizing the Community coal industry by helping to improve its competitiveness by closing down production capacity which has no prospect of becoming economically viable in the long term.

Although it approved of the aid in principle, the Commission, in Decision 91/599/ECSC, ruled only on the amount of Pta 6 323 million, corresponding to social expenditure relating to total or partial closures considered at the time to be inevitable.

On the basis of the information provided, the Commission is now in a position to rule on an additional amount of Pta 27 935 million, corresponding to social expenditure relating to total or partial closures on which it has not yet ruled.

As the aim is to constitute a provision, the Spanish Government will inform the Commission each year of the payments actually made, the amount of aid concerned and the number of beneficiaries.

V

It follows from the plan for total and partial closures submitted by the Spanish authorities that a substantial proportion of the fixed assets of the undertakings concerned will be irrecoverable. Moreover, undertakings will incure exceptional expenditure as capacity is gradually closed down between now and 31 December 1993.

The Spanish Government proposes to constitute a provision totalling Pta 18 680 million, which will defray part of the specific depreciation costs of fixed assets and other exceptional costs arising from measures to restructure, rationalize and modernize the industry. Although it approved of the aid in principle, the Commission, in Decision 91/599/ECSC, ruled only on the amount of Pta 9 237 million, corresponding to specific depreciation costs and other exceptional costs arising from total or partial closures now considered to be inevitable.

On the basis of the information provided, the Commission is now in a position to rule on an additional amount of Pta 18 680 million, corresponding to specific depreciation costs of fixed assets and other exceptional costs arising from total or partial closures on which it has not yet ruled.

This measure will facilitate the process of restructuring, rationalizing and modernizing the Community coal industry by helping to improve its competitiveness by closing down production capacity which has no prospect of becoming economically viable in the long term in accordance with the criteria and objectives of Article 2 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, the mines to which it is paid and the corresponding reductions in capacity.

VI

In 1993 the Spanish Government is planning to grant aid totalling Pta 3 500 million to mining investment projects proposed by various undertakings to help restructure, rationalize and modernize the Spanish coal industry.

The aid is designed to improve the competitiveness of the production capacity of those undertakings which should break even on the basis of the Spanish reference price after implementation of the plan to restructure, rationalize and modernize the Spanish coal industry.

This measure complies with Articles 2 and 5 of Decision No 2064/86/ECSC.

VII

In 1993 the Spanish Government is planning to grant aid totalling Pta 120 million in respect of the mining environment. This aid is for work on spoil heaps and water purification.

The aid must be notified to the Commission under point (b) of Annex 2 as referred to in Article 9 (2) of Decision No 2064/86/ECSC and assessed in accordance with Article 10 (2) of that Decision.

The aid is to improve the environment in the areas concerned and will thus help to solve the regional problems related to developments in the coal industry, pursuant to the third indent of Article 2 (1) of Decision No 2064/86/ECSC.

VIII

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 with the provisions of the Treaties,

HAS ADOPTED THIS DECISION:

Article 1

The compensatory payment to be made to electricity producers in respect of undertakings that have negotiated contracts with the said electricity producers under the NSCCT system (new system of public contracts for coal used in power stations) is authorized for an amount not exceeding Pta 2 286 million in 1992 and Pta 2 059 million in 1993.

Article 2

Spain is authorized to grant aid totalling Pta 46 615 million for 1991, the total amount being made up of the following aid:

— an amount not exceeding Pta 27 935 million in aid for the constitution of a provision to cover exceptional social expenditure to be paid out to workers made redundant following measures to restructure, rationalize and modernize undertakings not covered by contracts,

— an amount not exceeding Pta 18 680 million in aid for the constitution of a provision to defray part of the specific depreciation costs of fixed assets and other exceptional costs arising from measures to restructure, rationalize and modernize undertakings not covered by contracts.

Article 3

Spain is authorized to grant aid totalling Pta 3 620 million in 1993 to undertakings not covered by contracts, the total amount being made up of the following aid:

— investment aid totalling Pta 3 500 million,

— aid totalling Pta 120 million for improving the mining environment.

Article 4

Spain shall inform the Commission each year of the payments made to beneficiaries from the provisions authorized under 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