COMMISSION

COMMISSION DECISION

of 3 November 1994

authorizing the granting of aid by Portugal to the coal industry in 1994

(Only the Portuguese text is authentic)

(Text with EEA relevance)

(94/994/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 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry [1], and in particular Articles 2 (1) and 9 thereof,

Whereas:

I

By letter of 5 August 1994 Portugal submitted to the Commission, in accordance with Article 8 (1) of Decision No 3632/93/ECSC, an activity-reduction plan for the Portuguese coal industry.

By the same letter Portugal informed the Commission, in accordance with Article 9 (1) of Decision No 3632/93/ECSC, of the financial measures it intended to take to support the coal industry in 1994.

Pursuant to Decision No 3632/93/ECSC the Commission is to:

— deliver an opinion as to whether the activity-reduction plan is in conformity with the general and specific objectives of the Decision,

— give its decision on the following financial measures:

  — aid to the Carbonífera do Douro company totalling Esc 358 651 000 for 1994 to cover operating losses,

  — aid to the Carbonífera do Douro company of up to Esc 700 000 000 for 1994, to cover exceptional social-welfare expenditure to compensate workers who lose their jobs as a result of measures taken to restructure the Portuguese coal industry.

The support measures for the coal industry proposed by Portugal meet the requirements of Article 1 (1) of Decision No 3632/93/ECSC. The Commission must therefore give a decision on those measures pursuant to Article 9 (4) of the Decision as regards their conformity with the aims and criteria set out in the Decision and their compatibility with the proper functioning of the common market.

II

The activity-reduction plan notified by Portugal must be examined in the light of the general objectives set out in Article 2 (1) of Decision No 3632/93/ECSC and the specific criteria and objectives set out in Article 4 thereof.

Coal production in Portugal is concentrated almost exclusively in the hands of the Carbonífera do Douro company, which is responsible for operations in the Pejao and San Pedro da Cova coalfields. Since the late 1980s, the company has suffered operating losses which have been covered by State aid. The losses are due mainly to

[1] OJ No L 329, 30. 12. 1993, p. 12.

geological conditions, gradual exhaustion of resources, difficulties in disposing of the output and poor quality coal. All these factors combined affect the economic viability of the operation. Furthermore, the main — and almost only — client, Electricidade de Portugal, will be converting the Tapada do Outeiro thermal power station to natural gas, so there will no longer be an outlet for the coal produced.

On 4 October 1994, the Portuguese Council of Ministers examined Carbonífera do Douro's business strategy. The aim is gradually to reduce the output and workforce of the Germunde mine between 1990 and 1994, when final closure is planned. At the same time the Council of Ministers approved an action plan to create new activities which would help to improve the employment situation in the Castelo de Paiva region and thereby offset the job losses resulting from the closure of the mine.

The activity-reduction plan for the Portuguese coal industry notified by Portugal in its letter of 5 August 1994 confirms the strategy of Carbonífera do Douro, forwarded to the Commission of 16 April 1991 further to its request, pursuant to Decision 91/2/ECSC [1].

This activity-reduction plan provides for final closure of the Germunde mine in 1995. This is a year later than the date given in the business strategy plan, owing to a corresponding delay in the conversion of the thermal power station to natural gas.

As the Carbonífera do Douro company is not in a position to improve its economic viability by reducing production costs, as stipulated in Article 3 (2) of the Decision, it must reduce its activities. Pursuant to Article 4 of the Decision, if the aid covering the company's production costs is to be considered compatible with the common market, it must, as well as satisfying the conditions laid down in Article 3 (1) of the Decision, be granted within the framework of a closure plan with a deadline occurring before the expiry of Decision No 3632/93/ECSC.

Given that those conditions have been fulfilled, the activity-reduction plan notified by Portugal is compatible with the general objectives and the specific criteria and objectives of Decision No 3632/93/ECSC.

III

For 1994 the Carbonífera do Douro company has provided for an operating loss of Esc 358 651 000 for that part of its activities involved in the production of 140 000 tonnes of coal.

The aid intended to cover operating losses must be viewed in the light of the objectives of Decision No 3632/93/ECSC, and in particular those of Article 2 (1) thereof, as part of the activity-reduction plan for the Portuguese coal industry, as notified to the Commission.

The aid is intended to help solve the social and regional problems created by the reduction in the activity of the production units, in accordance with the second indent of Article 2 (1) of the said Decision.

In 1994 production dropped by 15 % and the workforce was reduced by 16 % by comparison with 1993. This trend corresponds to the reduction of activity provided for in the closure plan.

The proposed aid will cover the difference between projected average costs and projected average revenue. It will not exceed expected operating losses and therefore complies with the conditions laid down in the first indent of Article 3 (1) of the Decision. The Commission has checked compliance with the other conditions laid down in Article 3 (1).

The matching of the level of aid to falling coal output, its transient nature and the implementation of a clearly-defined closure plan are in line with the conditions of implementation laid down in Article 4 of Decision No 3632/93/ECSC. Aid to cover operating losses will facilitate the execution of the activity-reduction plan for the Portuguese coal industry.

In view of the foregoing and of the information supplied by the Portuguese authorities, the aid to be granted in 1994 to the current production of the Portuguese coal industry is compatible with the objectives of Decision No 3632/93/ECSC and with the proper functioning of the common market.

IV

Aid to cover exceptional social costs, totalling Esc 700 000 000, is intended to provide partial cover for the compensation to be paid to some 450 employees of the Carbonífera do Douro company who will lose their jobs before 31 December 1994 as a result of implementation of the plan to close the company's mining operations in 1995.

[1] OJ No L 5, 8. 1. 1991, p. 25.

This aid is not connected to current production and must be regarded as covering inherited liabilities. In accordance with Article 5 (1) of Decision No 3632/93/ECSC, such aid, which is explicitly defined in the Annex to the Decision, namely the cost of paying social welfare benefits resulting from the pensioning-off of workers before they reach statutory retirement age, other exceptional expenditure on workers who lose their jobs as a result of restructuring and rationalization, and the payment of pensions and allowances outside the statutory system to workers who lose their jobs as a result of restructuring and rationalization and to workers entitled to such payments before the restructuring, may be considered compatible with the common market provided that the amount paid does not exceed costs.

V

In view of the foregoing, the aid to be granted by Portugal to the coal industry in 1994 is compatible with the proper functioning of the common market.

Pursuant to the second indent of Article 3 (1) and to Article 9 (2) and (3) of Decision No 3632/93/ECSC, the Commission must ensure that the aid authorized for current production is used exclusively for the purposes set out in Article 4 of the Decision. It must therefore be informed of the amounts of the payments and the manner in which they are apportioned,

HAS ADOPTED THIS DECISION:

Article 1

Portugal is hereby authorized to grant aid totalling Esc 1 058 651 000 to its coal industry for the 1994 calendar year.

This amount shall be broken down as follows:

— aid to the Carbonífera do Douro company amounting to Esc 358 651 000 to cover operating losses,

— aid of up to Esc 700 000 000 to provide funds to compensate workers who lose their jobs as a result of the progressive closure of the mining operations of the Carbonífera do Douro company.

Article 2

Portugal shall inform the Commission, by 30 June 1995 at the latest, of the actual amount of aid paid in respect of 1994.

Article 3

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 3 November 1994

For the Commission

Marcelino OREJA

Member of the Commission