II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 20 March 1996

authorizing the grant by the United Kingdom of aid to the coal industry

(Only the English text is authentic)

(96/514/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],

Whereas:

I

In a letter dated 7 November 1995 the United Kingdom notified the Commission, pursuant to Article 9 (1) of Decision No 3632/93/ECSC, of the aid which it intends to grant to the coal industry in the 1996/97 financial year. In a letter dated 25 January 1996 the United Kingdom also sent the additional information requested by the Commission.

In accordance with Decision No 3632/93/ECSC, the Commission must give a ruling on the following financial measures notified for the 1996/97 financial year:

— a payment of £ 37 million for the exceptional social-welfare benefits made necessary by the restructuring process,

— a payment of £ 115 million for contributions to pension schemes,

— a payment of £ 90 million for concessionary supplies of coal, smokeless fuel or, in some cases, payment in kind for former workers of the British Coal Corporation and their dependants, which basically amounts to reauthorizing a sum initially covered by the provision of £ 2 000 million authorized by Commission Decision 90/634/ECSC [2], which lapsed after the privatization of the enterprise,

— a payment of £ 35 million for compensation for industrial injury and damage to health,

— a payment of £ 95 million to cover the environmental damage caused by mining activities before privatization,

— a payment of £ 6 million to cover the costs arising from residual activities prior to dissolution of the British Coal Corporation following privatization.

The financial measures which the United Kingdom intends to take in respect of the coal industry fall within the scope of Article 1 (1) of Decision No 3632/93/ECSC. The Commission must therefore give a ruling pursuant to Article 9 (4) of the Decision on whether they comply with the objectives and criteria set out in the Decision and are compatible with the proper functioning of the common market.

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

[2] OJ No L 346, 11. 12. 1990, p. 22.

II

By Decision 94/754/ECSC [1], the Commission approved the modernization, rationalization and restructuring plan notified by the United Kingdom Government by letter of 30 March 1994, as complying with the general and specific objectives set out in Decision No 3632/93/ECSC.

The priority objective set by the plan is to make the United Kingdom coal industry fully competitive with coal prices on international markets and to privatize the British Coal Corporation. To achieve that objective, the industry has had to step up the restructuring process, which has led to the closure of a large number of production units.

On 5 July 1994 the Coal Industry Act 1994 received Royal Assent. The Act defined a new legal framework for the British coal industry, enabling the coal-mining operations of the public undertaking known as the British Coal Corporation to be fully privatized, and providing for the establishment of a public-sector body, the Coal Authority, to be responsible for granting rights over, and licences to work, unworked coal and coal mines in the United Kingdom hitherto owned by the British Coal Corporation.

On 14 April 1994 the United Kingdom Government invited bids to purchase a number of successor companies to which were to be transferred all the coal mining operations of British Coal Corporation, and a number of mines which were, at that time, mothballed. The sale of the successor companies to which the coal-mining operations were transferred, to three private sector companies (Mining (Scotland) Limited, RJB Mining plc, and Celtic Energy Limited), was completed on 31 December 1994. In addition, companies owning two mothballed mines were sold: one to Goitre Tower Anthracite Limited on 22 December 1994 and one to Coal Investments plc on 24 April 1995.

The United Kingdom coal industry now consists exclusively of private undertakings which received no aid under Articles 3, 4, 6 and 7 of Decision No 3632/93/ECSC in respect of any period after 31 March 1995.

The aid to cover inherited liabilities (Article 5 of the Decision), covered by this notification, is paid only to former workers of the British Coal Corporation directly or to the coal pension funds or to the public-sector bodies, particularly the Coal Authority and the British Coal Corporation, and exclusively in respect of inherited liabilities arising from the period prior to privatization.

III

The aid to cover exceptional social-welfare benefits arising from the restructuring and closure of British Coal Corporation mines meets the Corporation's and the Government's obligation to pay compensation to workers who have been made redundant or been transferred to other mines as a result of the restructuring, rationalization and modernization of the United Kingdom coal industry. To cover these costs, the United Kingdom Government intends to pay £ 37 million in the 1996/97 financial year. These financial measures meet obligations entailed by the restructuring, rationalization and modernization of the United Kingdom coal industry and cannot therefore be considered related to current production (inherited liabilities).

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned 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, can be considered compatible with the common market provided that the amount paid does not exceed the costs.

IV

The aid for contributions to pension schemes and other pension arrangements for British Coal Corporation workers meets the Corporation's obligations with regard to the pensions of some 600 000 members for that part of their employment spent with the Corporation. To cover these contributions, the United Kingdom Government intends to pay £ 115 million in the 1996/97 financial year. These financial measures meet obligations made necessary by the restructuring, rationalization and modernization of the United Kingdom coal industry and cannot therefore be considered to be related to current production (inherited liabilities). Responsibility for pensions of British Coal Corporation workers who continued to work for the companies established after privatization in respect of the period of entitlement arising after privatization is being met by separate industry-wide pension schemes funded entirely by the new companies.

[1] OJ No L 220, 25. 8. 1994, p. 12.

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned 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, 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, can be considered compatible with the common market provided that the amount paid does not exceed the costs.

V

The aid for concessionary entitlement to coal or smokeless fuel or, in certain cases, cash-in-lieu to former workers or their dependants meets the British Coal Corporation's obligations under the agreements signed with the mining trade unions. Since privatization, the companies established after privatization have borne the obligation to supply fuel to British Coal Corporation workers transferred to them. To cover the obligations to supply fuel to former British Coal Corporation workers who have retired or been made redundant, or to their dependants, the United Kingdom Government intends to pay £ 90 million in the 1996/97 financial year. This aid was initially covered by the provision of £ 2 000 million authorized by Decision 90/634/ECSC. The provision, set up within the British Coal Corporation, was retransferred to the Government on the occasion of the privatization and consequently lapsed, leading to the necessity to reauthorize the various amounts for the financial years subsequent to privatization.

These financial measures meet the obligations to supply workers who retired or were made redundant in the process of restructuring, rationalization and modernization of the United Kingdom coal industry or their dependants and cannot therefore be considered as related to current production (inherited liabilities).

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely the supply of free coal to workers who lose their jobs as a result of restructuring and rationalization, may be considered compatible with the common market provided that the amount paid does not exceed the costs.

VI

The aid cover compensation for industrial injury and damage to health suffered by former workers of the British Coal Corporation meets the Corporation's obligations to pay compensation for industrial injury and damage to health suffered in the course of their employment within the Corporation before privatization. For accidents occuring after that date, the companies established after privatization must assume full liability. To compensate former workers of the British Coal Corporation for industrial injury and damage to health arising from employment before privatization, the United Kingdom Government intends to pay £ 35 million in the 1996/87 financial year.

As the beneficiaries of these financial measures are workers who have been made redundant, have retired or have been transferred to the private companies, this aid is therefore intended to cover the costs arising from the modernization, rationalization or restructuring of the coal industry and is not related to current production.

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely residual costs to cover former miners' health insurance, may be considered compatible with the common market provided that the amount paid does not exceed the costs.

VII

The aid which the United Kingdom intends to grant to the Coal Authority and/or, on a transitional basis, to the residual part of the British Coal Corporation covers liabilities for the environmental damage caused by underground production activities before privatization of the British Coal Corporation. Part of these liabilities are for damage caused on the surface by subsidence. The other liabilities include the rehabilitation of abandoned mine sites and tips, methane venting and water pumping from old workings. The companies succeeding the British Coal Corporation are responsible for the obligations connected with the working of the resources or mines transferred to them as this is one of their areas of responsibility defined in their operating licences.

To cover the costs arising from mining activities before privatization, the United Kingdom Government intends to pay £ 95 million in the 1996/97 financial year.

This aid is therefore designed to cover the costs arising from the modernization, rationalization or restructuring of the coal industry which are not related to current production (inherited liabilities). In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely additional underground safety work resulting from restructuring, mining damage provided that it has been caused by zones of working previously in service and residual costs resulting from contributions to bodies responsible for water supplies and for the removal of waste water, may be considered compatible with the common market provided the amount paid does not exceed the costs.

VIII

The aid to cover the costs arising from the British Coal Corporation's residual activities between privatization and the dissolution of the Corporation meets the Corporation's obligation to cover certain residual activities not related to current production, such as the management and disposal of the Corporation's residual property assets and liabilities in the period up to December 1997, the privatization of the remaining subsidiaries, particularly the taxes on the revenue from sale of these subsidiaries, the obligations to complete certain ongoing research programmes, the Corporation's responsibilities with regard to certain legal action taken against it (other than action for compensation for industrial injury or damage to health) and, finally, the cost to the Coal Authority of activities relevant to maintaining access to coal reserves after mining has stopped.

To cover those residual activities, the United Kingdom Government intends to pay £ 6 million in the 1996/97 financial year.

These financial measures meet obligations made necessary by the restructuring, rationalization and modernization of the United Kingdom coal industry and cannot therefore be considered to be related to current production (inherited liabilities).

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely residual costs resulting from administrative, legal or tax provisions and costs in connection with maintaining access to coal reserves after mining has stopped, may be considered compatible with the common market provided that the amount paid does not exceed the costs.

IX

With respect to the new legal and regulatory framework established for the United Kingdom coal industry by the Coal Industry Act 1994, the United Kingdom Government will ensure that the aid granted pursuant to this Decision gives rise to no discrimination between producers, purchasers or users on the Community coal market.

In the light of the foregoing and on the basis of the information supplied by the United Kingdom, the aid measures referred to in this Decision are compatible with the provisions of Articles 2 to 9 of Decision No 3632/93/ECSC and with the proper functioning of the common market,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom Government is hereby authorized to take the following financial measures, totalling £ 378 million, in the 1996/97 financial year:

— a payment of £ 37 million for the British Coal Corporation or the public administration succeeding it to cover exceptional social-welfare benefits for workers who lose their jobs as a result of the restructuring, rationalization and modernization of the United Kingdom coal industry,

— a payment of £ 115 million for contributions to pension schemes for former workers of the British Coal Corporation and their dependants,

— a payment of £ 90 million for a concessionary entitlement to coal and smokeless fuel, or in certain cases, cash-in-lieu for former British Coal Corporation workers and their dependants,

— a payment of £ 35 million for compensation for industrial injury and damage to health for former workers of the British Coal Corporation and their dependants,

— a payment of £ 95 million to cover the environmental damage caused by mining activities before privatization,

— a payment of £ 6 million to cover the costs arising from the residual activities of the British Coal Corporation.

Article 2

The United Kingdom shall give notification by 30 September 1997 of the amount of aid actually paid in the 1996/97 financial year to the recipients referred to in Article 1 of this Decision and shall report on any changes made compared with the amounts originally notified.

Article 3

The United Kingdom shall ensure that it is reimbursed for any overestimated expenditure or cancelled expenditure on any of the items covered by this Decision.

Article 4

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 20 March 1996.

For the Commission
Christos PAPOUTSIS
Member of the Commission