COMMISSION DECISION

of 3 June 1998

on financial measures by Spain in respect of the coal industry in 1997

(notified under document number C(1998) 2044)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(98/636/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 Article 2(1) and Article 9 thereof,

Whereas:

I

By letter of 25 March 1997 Spain notified the Commission, pursuant to Article 9(1) of Decision No 3632/93/ECSC, of the financial measures which it intended to take in respect of the coal industry in 1997.

By letters of 4 September 1997, 20 February 1998 and 31 March 1998, Spain also provided the additional information requested by the Commission in its letters of 23 April 1997 and 24 October 1997.

Pursuant to Decision No 3632/93/ECSC, the Commission must rule on the following financial measures relating to 1997:

(a) aid of ESP 130 738 million to cover operating losses by coal undertakings;

(b) aid of ESP 51 244 million to cover exceptional welfare aid paid to workers who lose their jobs as a result of the measures to modernise, rationalise, restructure and reduce the activity of the coal industry;

(c) aid of ESP 9 113 million to cover the technical costs of closing down mining installations as a result of the measures to modernise, rationalise, restructure and reduce the activity of the coal industry.

The financial measures proposed by Spain for the coal industry fall within the provisions of Article 1 of Decision No 3632/93/ECSC and must be approved by the Commission, in accordance with Article 9, on the basis, in particular, of the general criteria and objectives laid down in Article 2 and the specific criteria established by Articles 3 and 4 of that Decision. In accordance with Article 9(6) of that Decision, the Commission must assess whether the measures are in conformity with the 1994 to 1997 phase of the plans to modernise, rationalise, restructure and reduce the activity of the Spanish coal industry, as provided for in Decision 94/1072/ECSC [2].

II

The aid of ESP 130 738 million consists of ESP 116 877 million intended to compensate in full or in part for operating losses suffered by coal producers and ESP 13 861 million to help with marketing coal.

The aid of ESP 116 877 million to cover operating losses subdivides into operating aid of ESP 47 347 million pursuant to Article 3 of Decision No 3632/93/ECSC and aid of ESP 69 530 million to reduce activity pursuant to Article 4 thereof.

Of the operating aid of ESP 47 347 million for coal production totalling 14,6 million tonnes, ESP 46 347 million will be covered by the specific costs included in the payments for the activities of the national electricity system, while the remaining ESP 1 000 million will be charged to the public budgets.

Spain proposed to the Commission that part of the aid to the coal industry for 1997 be entered in mechanisms considered strictly equivalent to entry in the public

[1] OJ L 329, 30. 12. 1993, p. 12.

[2] OJ L 385, 31. 12. 1994, p. 31.

budgets, as provided for by Article 2(2) of Decision No 3632/93/ECSC. This mechanism would consist in inserting a clause into Law 12/1996 of 30 December 1996 on the general State budgets for 1997 [1] stipulating that the specific costs associated with coal mining will be included in the electricity tariff and setting a value of 4,864 % of the amount invoiced by the electricity distributors. The Commission considers that entry of the aid in the public budgets offers better guarantees of transparency and notes Spain's undertaking to amend accordingly the mechanisms proposed as strictly equivalent and applied in 1997.

The Spanish coal producers which receive operating aid must reduce their production costs by 2 % per year, at constant prices, which will contribute to a trend towards a reduction in production costs at 1992 prices, as provided for by Article 3(2) of Decision No 3632/93/ECSC. This reduction, although not very sharp, is in line with the objective of degression of aid. A sharper reduction would endanger the survival of the undertakings, which would have grave social consequences since the mines are in isolated, economically backward regions.

The inclusion of those measures in the 1994 to 1997 phase of the modernisation, rationalisation, restructuring and activity-reduction plan approved by the Commission meets the objectives of the first and second indents of Article 2(1) of Decision No 3632/93/ECSC, namely to help to solve the social and regional problems created by developments in the coal industry in a context of further progress towards economic viability with the aim of degression of aid.

Of the aid of ESP 69 530 million to reduce activity, pursuant to Article 4 of that Decision, ESP 20 235 million will be covered by the specific costs charged to the national electricity system, while ESP 49 295 million will be borne by the public budgets.

The aid totalling ESP 49 295 million from the general State budget is intended for Hunosa, Minas de Figaredo SA and Mina de la Camocha SA, all of which lie in the central Asturian coalfield, for a production of 2,43 million tonnes of coal. In the case of Hunosa and Minas de Figaredo, this aid will be paid via the public-sector shareholder in the undertakings, the Agencia Industrial del Estado (AIE), of which the revenue and expenditure estimates have been entered in the general State budgets for 1997. In 1997 those undertakings cut production by 7,6 % compared with 1996, in keeping with the principle of progressive and continuous activity reduction provided for in Article 4 of Decision No 3632/93/ECSC.

The remaining ESP 20 235 million covered by the specific costs charged to the national electricity system is intended for the same undertakings and for others in the coalfields in north-west, north-east and southern Spain, which must close before Decision No 3632/93/ECSC expires.

This aid will help to solve the social and regional problems created by developments in the coal industry. It forms part of a closure plan and is therefore in line with the provisions of Article 4 of Decision No 3632/93/ECSC.

Spain authorised a premium of 10 % on world market prices to support the marketing of Community coal in 1997. This measure constitutes support by public authorities linked to marketing of coal which gives an economic advantage to coal undertakings by reducing the costs which they would normally have to bear. This support totals ESP 13 861 million. It constitutes aid pursuant to Article 1(2) of Decision No 3632/93/ECSC.

The measure is justified by the need for a gradual transition from the old system of regulated prices to prices freely agreed in the light of the conditions prevailing on the world market.

In view of the gradual reduction of this premium from 25 % in 1994 to 17 % in 1995, 14 % in 1996 and 10 % in 1997 and of its complete disappearance with effect from 1 January 1998, this marketing aid scheme can be considered Community aid and, as such, compatible with the proper functioning of the common market.

The Commission notes Spain's undertaking to take the necessary measures to ensure that by 31 December 1997 at the latest the selling price of Spanish coal will be agreed freely between the contracting parties, in the light of conditions on the world market.

In its notification, Spain confirmed that the aid to be granted will not exceed, for each undertaking or production unit, the difference between production costs and foreseeable revenue.

[1] Boletín Oficial del Estado No 315, 31. 12. 1996, p. 38 918.

The amount of aid notified by Spain for 1997 is 1,5 % lower than the aid approved by the Commission for 1996, after comparison with selling prices, taking account of conditions on the world market. Spain has notified the Commission that this will be reduced by 4 % per year from 1998 onwards.

In view of the above and on the basis of the information provided by Spain, this aid is compatible with the objectives of Decision No 3632/93/ECSC and with the proper functioning of the common market.

III

The aid of ESP 51 244 million which Spain proposes to grant will cover compensation for those of the 7 300 workers in Spanish coal undertakings who have to take early retirement or who lose their jobs under the 1994 to 1997 modernisation, rationalisation, restructuring and activity reduction plan for the Spanish coal industry and for early retirement, outside the statutory system, for workers who lost their jobs as a result of the restructuring before 31 December 1993.

Part of this aid, amounting to ESP 33 316 million, is to be granted to Hunosa, Minas de Figaredo SA and Mina de la Camocha SA and will be charged to the general State budgets. The payments to Hunosa and Minas de Figaredo will be made via the AIE.

The remaining ESP 17 928 million of aid are intended for the other undertakings affected by modernisation, rationalisation, restructuring or activity reduction measures and will be covered by the specific costs charged to the national electricity system.

Those financial measures relate to action necessitated by the modernisation, rationalisation and restructuring of the Spanish coal industry and cannot therefore be considered to be related to current production (inherited liabilities).

Pursuant to Article 5 of Decision No 3632/93/ECSC, the aid mentioned explicitly 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 other exceptional expenditure on workers who lose their jobs as a result of restructuring and rationalisation, may be considered compatible with the common market, provided that the amount paid does not exceed such costs.

The Commission notes Spain's undertaking to enter this aid in the public budgets with effect from 1 January 1998.

In view of the above and on the basis of the information provided by Spain, this aid is compatible with the objectives of Decision No 3632/93/ECSC and with the proper functioning of the common market.

IV

The aid of ESP 9 113 million which Spain proposes to grant is intended to cover part of the loss of value of the fixed assets of coal undertakings which have to close down totally or partially, and other exceptional costs resulting from the progressive closures under the 1994 to 1997 modernisation, rationalisation, restructuring and activity reduction plan for the Spanish coal industry.

Part of this aid, totalling ESP 5 538 million, is to be granted to Hunosa and Minas de Figaredo SA and will be covered by the general State budget via the AIE. The remaining ESP 3 575 million of aid are intended for the other undertakings restructuring or reducing their activity and will be covered by the specific costs charged to the national electricity system.

These financial measures relate to obligations imposed by the modernisation, rationalisation and restructuring of the Spanish coal industry and cannot therefore be considered to be related to current production (inherited liabilities).

Pursuant to Article 5 of Decision No 3632/93/ECSC, the aid mentioned explicitly in the Annex to the Decision, namely exceptional intrinsic depreciation, may, provided that it results from the restructuring of the industry (without taking account of any revaluation which has occurred since 1 January 1986 and which exceeds the rate of inflation) and other additional work and residual costs arising from closures of installations, be considered compatible with the common market on condition that the amount paid does not exceed such costs.

The Commission notes Spain's undertaking to enter this aid in the public budgets with effect from 1 January 1998.

In view of the above and on the basis of the information provided by Spain, this aid is compatible with the objectives of Decision No 3632/93/ECSC and with the proper functioning of the common market.

V

Spain will ensure that the aid granted under this Decision gives rise to no discrimination between producers, purchasers and users on the Community coal market.

In view of the above and on the basis of the information provided by Spain, this aid is compatible with the objectives of Decision No 3632/93/ECSC and with the proper functioning of the common market.

In accordance with the second indent of Article 3(1) and with Article 9(2) and (3) of Decision No 3632/93/ECSC, the Commission must verify that the aid authorised relates solely to the purposes set out in Articles 3, 4 and 5 of the Decision. To this end, it must be informed of the amounts involved and the distribution of payments,

HAS ADOPTED THIS DECISION:

Article 1

Spain is hereby authorised to pay the following aid in respect of 1997:

(a) operating aid of ESP 47 347 million pursuant to Article 3 of Decision No 3632/93/ECSC;

(b) aid for the reduction of activity of ESP 69 530 million pursuant to Article 4 of Decision No 3632/93/ECSC;

(c) aid of ESP 51 244 million to cover exceptional welfare aid paid to workers who lose their jobs as a result of the measures to modernise, rationalise, restructure and reduce the activity of the Spanish coal industry, pursuant to Article 5 of Decision No 3632/93/ECSC;

(d) aid of ESP 9 113 million to cover the exceptional technical costs of closing down mining installations as a result of the measures to modernise, rationalise, restructure and reduce the activity of the Spanish coal industry, pursuant to Article 5 of Decision No 3632/93/ECSC.

Article 2

In accordance with Article 86 of the ECSC Treaty, Spain shall adopt all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising under this Decision. It shall ensure that the aid authorised is used exclusively for the purposes intended and that any unspent, overestimated or incorrectly used aid for any item covered by this Decision is repaid to it.

Article 3

Spain shall notify the Commission, by 30 September 1998 at the latest, of the amount of aid actually paid in respect of 1997.

Article 4

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 3 June 1998.

For the Commission

Christos PAPOUTSIS

Member of the Commission