II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 February 2001

authorising the United Kingdom to grant aid to the coal industry, covering the period from 17 April 2000 to 31 December 2000

(notified under document number C(2001) 401)

(Only the English text is authentic)

(Text with EEA relevance)

(2001/340/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 9 thereof,

Whereas:

I

(1) By letters of 24 November and 14 December 2000, the United Kingdom notified to the Commission, in accordance with Article 9(1) of Decision No 3632/93/ECSC, financial aid which it proposed to grant the coal industry for the year 2000, and more precisely for the period from 17 April 2000 to 31 December 2000. Following a request from the Commission of 15 January 2001, the United Kingdom notified additional information on 16 January 2001.

(2) In the light of the information submitted by the United Kingdom, the financial measure it envisages is aid amounting to GBP 59,078 million to cover operating losses for the period from 17 April 2000 to 31 December 2000 at six production units.

(3) That financial measure is covered by Article 1 of Decision No 3632/93/ECSC, and the Commission must therefore take a decision on it pursuant to Article 9(4) of that Decision. The Commission's approval is subject to the general objectives and criteria laid down in Article 2 and the specific criteria set out in Article 3 of Decision No 3632/93/ECSC and must be compatible with the proper functioning of the common market. In addition, in its assessment the Commission must check, in accordance with Article 9(6) of Decision No 3632/93/ECSC, whether the measures are in conformity with the restructuring plan of the the United Kingdom coal industry which was approved by Commission Decision C(2000)3709 final of 15 November 2000, approving the modernisation, rationalisation and restructuring plan for the United Kingdom coal industry, covering the period from 17 April 2000 to 23 July 2002 (hereinafter referred to as 'the restructuring plan') [2].

II

(4) The sum of GBP 59,078 million which the United Kingdom is proposing to grant to the coal industry in accordance with Article 3 of Decision No 3632/93/ECSC is intended to cover the difference between the production cost and the selling price of coal freely agreed between the contracting parties in the light of the prevailing conditions on the world market for coal of similar quality from non-member countries.

(5) The proposed aid is intended for the following units:

— GBP 13,560 million for the Maltby production unit of RJB Mining Plc,

— GBP 3,207 million for the Rossington production unit of RJB Mining Plc,

[1] OJ L 329, 30.12.1993, p. 12.

[2] OJ L 43, 14.2.2001, p. 27.

— GBP 14,722 million for the Harworth production unit of RJB Mining Plc,

— GBP 23,187 million for the Selby production unit of RJB Mining Plc,

— GBP 3,932 million for the Hatfield production unit of Hatfield Coal Company Ltd,

— GBP 0,470 million for the Blenkinsopp production unit of Blenkinsopp Collieries Ltd.

(6) The proposed aid is intended to allow those production units to improve their economic viability by reducing their production costs. In accordance with the restructuring plan adopted by the United Kingdom, the effort made towards reducing production costs should be evaluated over a reference period of three consecutive years. This method should ensure that the development of production costs is not evaluated by reference to a period of activity that is not representative of the operating conditions of the production units concerned. In order to prevent any discrimination among coal producers, the units must fix the reference period themselves, between 1 January 1994 and 31 December 2000.

(7) According to the restructuring plan, the production units have prospects for improving their economic viability if it can be considered that their production costs will not exceed a threshold of GBP 1,15/GJ [1] in 2002. This cost level should enable the companies concerned to continue operating without the need for any financial support beyond 2002.

(8) It appears from the data communicated by the United Kingdom authorities that the development of production costs between the reference period determined in accordance with recital 6 and the year 2002 is as follows, at constant 1999 prices: Maltby […] (*); Rossington […]; Harworth […]; Selby […]; Hatfield […]; Blenkinsopp […].

(9) Moreover, the production costs, at constant 1999 prices, should in 2002 be at a level equal to or below the threshold of GBP 1,15 per GJ referred to in recital 7. Only the production costs at […] unit will be slightly above this threshold, with GBP 1,16 per GJ in 2002. However, the […] unit will reach the cost level of GBP 1,15 per GJ from 2003.

(10) Moreover, according to estimates made for the period up to 2004, the production units should continue to improve their economic viability through new reductions in production costs. In this regard, the Commission notes that the costs of several production units should by 2004 reach a level very close to […] per GJ.

(11) At the request of the United Kingdom authorities, a technical report was drawn up by an independent expert to assess whether the modernisation, rationalisation and restructuring measures envisaged for the various production units would enable them to improve their economic viability and, specifically, to achieve the objectives set out in recital 7. In drawing up this report, the expert took into account the geological and technical conditions in which the units operate and the quality of the coal which they produce. The report concluded that the various measures envisaged are consistent and realistic with a view to achieving the estimated production costs worked out for each of the production units referred to in recital 5.

(12) For these reasons, the United Kingdom considers that the modernisation, rationalisation and restructuring measures of the various production units will lead to an improvement of their economic viability. The units should be able to reach the threshold of GBP 1,15 per GJ production cost, enabling them to continue their activities beyond 2002 without any further public subsidy.

III

(13) In accordance with Article 3(2) of Decision No 3632/93/ECSC, the aid which the United Kingdom proposes to grant is intended to improve the economic viability of the production units concerned by reducing their production costs.

(14) The Commission considers the reductions in production costs as indicated in recital 8 to be significant. In order to assess the extent of these reductions, the Commission has taken account of the difference between average production cost calculated for the reference period (see recital 6) and the target cost for 2002, determined at GBP 1,15 per GJ. While the reduction in costs calculated for […] is below the average of the other production units, the absolute cost level of […] in 1998 was only slightly higher (less than […] per tce) than the selling price of coal extracted in this unit.

(15) The sums of aid should help to improve the viability of the production units to enable them to continue their activities beyond 2002 without further public subsidy. In accordance with the restructuring plan approved by the Commission in its Decision C(2000) 3709 final, the production costs of the […] units should in 2002 not exceed the threshold of GBP 1,15 per GJ referred to in recital 7. The extent to which this threshold is exceeded by the […] unit, whose production costs in 2000 are GPB 1,16 per GJ, is negligible and cannot have any real effects in terms of competitveness. In fact, the production cost will be reduced to GBP 1,15 per GJ from 2003.

(16) In accordance with Article 3(1)(i) of Decision No 3632/93/ECSC, the aid per tonne as notified does not exceed, for each production unit, the difference between production costs and foreseeable revenues, as calculated on the basis of the financial information for the period covered by the aid, that is from 17 April 2000 to 31 December 2000.

[1] 1 tonne coal equivalent (tce) = 29,302 gigajoules (GJ).
(*) Confidential information.

(17) The modernisation, rationalisation and restructuring measures implemented by each production unit, and in particular the temporary nature of the financial support necessary to achieve these measures, will allow the aid to be degressive, in accordance with Article 2(1)(i) of Decision No 3632/93/ECSC.

(18) The Commission notes that for each production unit an auditor has stated that the financial data notified by the United Kingdom accurately depict the company's accounts. The auditor also stated that the forecasts had been drawn up using the accounting standards that were in use before the period covered by the aid.

(19) In the light of the foregoing and on the basis of the information provided by the United Kingdom, the aid proposed for the period from 17 April 2000 to 31 December 2000 for the production units referred to in recital 5 is compatible with Decision No 3632/93/ECSC, and in particular with Articles 2 and 3 of that Decision.

IV

(20) The United Kingdom must ensure that the proposed aid does not cause any distortion of competition and does not discriminate between coal producers, purchasers or consumers in the Community.

(21) In accordance with Article 3(1)(iii) of Decision No 3632/93/ECSC and with the relevant provisions of Commission Decision C(2000) 3709 final, the United Kingdom is required to take all the necessary measures to ensure that the amount of the aid granted to each production unit will not cause delivered prices for Community coal to be lower than those for coal of a similar quality from non-member countries.

(22) Moreover, in accordance with Article 2(2) of Decision No 3632/93/ECSC, the aid must be entered in the United Kingdom's national, regional or local public budgets and must comply with strictly equivalent mechanisms.

(23) In accordance with Article 3(1)(ii) and Article 9(2) and (3) of Decision No 3632/93/ECSC, the Commission is to check that the aid authorised is used only for the purposes stipulated in Article 3 of that Decision. At the latest by 30 September 2001, the United Kingdom must notify the amounts of aid actually paid during the year 2000 and declare any corrections made to the amounts originally notified. Any information required to ascertain that the criteria laid down in Article 3 of Decision No 3632/93/ECSC have been complied with must be provided along with this annual breakdown.

(24) The United Kingdom should justify any deviations from the restructuring plan and from the economic and financial forecasts notified to the Commission on 24 November and 14 December 2000. In particular, should it turn out that the conditions laid down in Article 3(2) of Decision No 3632/93/ECSC cannot be satisfied, the United Kingdom is responsible for proposing the requisite corrective measures to the Commission.

(25) The restructuring plan provides that the total amount of aid that could be granted by the United Kingdom to the coal industry in the period from 17 April 2000 to 23 July 2002 may not exceed GBP 110 million. By its Decision C(2000)4056 final of 13 December 2000 [1], the Commission has already authorised the grant of aid to the Longannet production unit amounting to GBP 17,462 million, covering the period from 17 April 2000 to 31 December 2000. The Commission notes that the aid authorised by Decision C(2000)4056 final, aggregated with that covered by the present Decision, does not exceed the maximum sum of GBP 110 million laid down in the restructuring plan,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom is authorised, subject to Article 3 of Decision No 3632/93/ECSC, to grant operating aid amounting to GBP 59,078 million for the Maltby, Rossington, Harworth, Selby, Hatfield and Blenkinsopp production units for the period from 17 April 2000 to 31 December 2000.

Article 2

The United Kingdom shall ensure that the authorised aid is used only for the purposes declared and that any expenditure relating to any of the items covered by this Decision that is cancelled, overestimated or misused, is reimbursed.

Article 3

By 30 September 2001 at the latest, the United Kingdom shall communicate to the Commission, in addition to the information referred to in Article 9 of Decision No 3632/93/ECSC, the amounts of aid actually paid during the 2000 financial year.

Article 4

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

Done at Brussels, 13 February 2001.

For the Commission

Loyola DE PALACIO

Vice-President

[1] Not yet published in the Official Journal.