COMMISSION DECISION
of 25 July 2001
authorising the United Kingdom to grant aid to four coal production units for 2001

(notified under document number C(2001) 2434)

(Only the English text is authentic)

(Text with EEA relevance)

(2001/807/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry [1], and in particular Article 9(4) thereof,

Whereas:

I

(1) By letter of 15 May 2001, the United Kingdom notified the Commission, in accordance with Article 9(1) of Decision 3632/93/ECSC, of the financial aid which it proposed to grant to the coal industry for 2001.

(2) In the light of the information submitted by the United Kingdom, the Commission is required to take a decision on operating aid amounting to GBP 21 091 500 to cover operating losses, for the period from 1 January 2001 to 31 December 2001, in four product units.

(3) The financial measures are covered by Article 1 of Decision 3632/93/ECSC. The Commission must therefore take a decision on these measures pursuant to Article 9(4) of that Decision. Accordingly, 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 3632/93/ECSC and must, more generally, be compatible with the proper functioning of the common market. In addition, in its assessment the Commission is required to check, in accordance with article 9(6) of that Decision, whether the measures notified are in conformity with the plan for the modernisation, rationalisation and restructuring of the United Kingdom coal industry approved by the Commission by Decision 2001/114/ECSC [2], and by Decision 2001/597/ECSC of 11 April 2001 [3] (the restructuring plan).

[1] OJ L 329, 30.12.1993, p. 12.
[2] OJ L 43, 14.2.2001, p. 27.
[3] OJ L 210, 3.8.2001, p. 32.

II

(4) The sum of GBP 21 091 500 which the United Kingdom is proposing to grant to the coal industry under Article 3 of Decision 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 third countries.

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

(a) GBP 20 324 500 for Selby Complex production unit of RJB Mining plc;

(b) GBP 217 000 for the Blaentillery No 2 production unit of Ffynonau Duon Mines Ltd;

(c) GBP 264 000 for the Hay Royds Colliery production unit of J. Flack & Sons Ltd;

(d) GBP 286 000 for the Eckington Colliery production unit of Moorside Mining Company Ltd.

(6) By Decision 2001/340/ECSC [4], the Commission has already authorised the United Kingdom to grant operating aid pursuant to Article 3 of Decision No 3632/93/ECSC for the period for 17 April 2000 to 31 December 2000, amounting to GBP 23 187 000 for Selby Complex. Similarly, by Decision 2001/597/ECSC it has authorised operating aid of GBP 113 000 for Blaentillery No 2, GBP 79 000 for Hay Royds Colliery and GBP 88 000 for Eckington Colliery. In accordance with Article 3(2) of Decision 3632/93/ECSC, the Commission was of the opinion that the aid which the United Kingdom proposed to grant for 2000 was intended to improve the economic viability of the production units concerned by reducing their production costs. The aid should, in accordance with the restructuring plan, help to make the production units viable, enabling them to continue their activities beyond 2002 without public subsidy.

[4] OJ L 122, 3.5.2001, p. 23.

(7) The information transmitted by the United Kingdom in its letter of 15 May 2001 notifying the aid for 2001 confirms the analysis and conclusions of the Decision 2001/597/ECSC with regard to aid for 2000. Production costs at the Selby Complex, Hay Royds Colliery and Eckington Colliery units must be reduced significantly and should not exceed the economic viability threshold of GBP 1,15/GJ set in the restructuring plan, or a very similar value, at 1999 prices [1].

(8) The level of production costs for the Hay Royds Colliery and Selby Complex units, which should be more than GBP […] (*) GJ above the limit defined in recital 7 is in fact negligible and should not have any real impact in terms of competitiveness. As from 2003, production costs for both units are set at a level below the GBP 1,15/GJ threshold. Owing to temporary operating problems, the average production costs of Blaentillery No 2, for the whole of 2002, should reach GBP […]/GJ. However, these temporary problems should be resolved in the course of 2002; as a result, the production costs should progressively decrease, to reach a level below GPB 1,15/GJ by the end of that year. Consequently, the level of the production costs of Blaentillery, estimated for the whole of 2002 at GPB […]/GJ, is not enough to jeopardise the economic viability of this production unit. In addition, according to estimates made up to 2004, the above production units should continue to improve their economic viability by further reducing production costs.

(9) In accordance with Article 3(2) of Decision 3632/93/ECSC, the aid which the United Kingdom proposes to grant for 2001 is therefore intended to improve the economic viability of the production units concerned by reducing their production costs.

(10) In accordance with the first indent of Article 3(1) of Decision 3632/93/ECSC, the aid per tonne as notified does not exceed, for each production unit, the difference between production costs and foreseeable revenue for 2001.

(11) 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 the first indent of Article 2(1) of Decision 3632/93/ECSC.

(12) In accordance with the restructuring plan approved by Decision 2001/114/ECSC, the amount of aid must be limited to the difference between the coal production costs and sales revenue, and must not exceed GBP 75 million for any one firm for the period 17 April 2000 to 23 July 2002. In this context, the British authorities have limited the amount which may be granted to the Selby Complex unit of RJB Mining plc to GBP 20 324 500. The Commission has already authorised, by Decision 2001/340/ECSC, GBP 54 676 000 in aid to four production units run by RJB Mining plc.

(13) 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. In drawing up the report, the expert took account of the geological and technical conditions in which the units operate and the quality of the coal produced. The report concluded that the various measures envisaged are consistent and realistic to achieve a situation of economic viability.

(14) The Commission notes that, for each production unit, an auditor has certified that the financial data notified by the United Kingdom are an accurate reflection of the company's accounts. The auditor also stated that the forecasts had been drawn up using the same accounting standards as were in use before the period covered by the restructuring plan.

(15) In the light of the above and on the basis of the information provided by the United Kingdom, the aid proposed for 2001 for the production units listed in recital 5 is compatible with Decision 3632/93/ECSC, and in particular with Articles 2 and 3 thereof.

III

(16) The United Kingdom is required to ensure that the aid does not cause any distortion of competition and does not discriminate between coal producers, buyers or consumers in the Community.

(17) In accordance with the third indent of Article 3(1) of Decision 3632/93/ECSC and with the provisions of Decision 2001/114/ECSC relating thereto, the United Kingdom will take all necessary measures to ensure that the amount of the aid granted to each production unit does not cause delivered prices for Community coal to be lower than those for coal of a similar quality from third countries.

(18) Moreover, in accordance with Article 2(2) of Decision 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.

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

(19) In accordance with the second indent of Article 3(1) and with Article 9(2) and (3) of Decision 3632/93/ECSC, the Commission has 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 2002, the United Kingdom shall send notification of the amount of aid actually paid during the course of 2001 and shall declare any changes made to the amounts originally notified. Any information required to ascertain that the criteria laid down in Article 3 of the Decision have been complied with shall be provided together with this annual breakdown.

(20) The United Kingdom is required to justify any departures from the restructuring plan and from the economic and financial forecasts notified to the Commission on 15 May 2001. In particular, should it turn out that the conditions laid down in Article 3(2) of Decision 3632/93/ECSC cannot be met, the United Kingdom must itself propose to the Commission the corrective measures required,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom is authorised, subject to the conditions set out in Article 3 of Decision 3632/93/ECSC, to grant operating aid of GPB 21 091 500 to the Selby Complex, Blaentillery No 2, Hay Royds Colliery and Eckington Colliery production units for 2001.

Article 2

The United Kingdom shall ensure that the authorised aid is used only for the purposes declared in its notification of 15 May 2001 and that any expenditure on items covered by this Decision which is cancelled, overestimated or misused is reimbursed.

Article 3

Without prejudice to the obligations laid down in Article 9(1), (2) and (3) of Decision 3632/93/ESCS, the United Kingdom shall, by 30 September 2002 at the latest, communicate the amounts of aid actually paid during the financial year 2001.

Article 4

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

Done at Brussels, 25 July 2001.

For the Commission

Loyola DE PALACIO

Vice-President