COMMISSION DECISION

of 24 April 2002

authorising the United Kingdom to grant aid to four coal production units for 2001

(notified under document number C(2002) 1447)

(only the English text is authentic)

(Text with EEA relevance)

(2002/582/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 9(4) thereof,

Whereas:

I

(1) By letter of 13 February 2002, the United Kingdom notified the Commission, in accordance with Article 9(1) of Decision No 3632/93/ECSC, of financial aid which it intends 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 4 055 520 to cover the operating losses of four production units for the period from 1 January 2001 to 31 December 2001.

(3) The financial measures are covered by Article 1 of Decision No 3632/93/ECSC. The Commission must therefore take a decision on these measures pursuant to Article 9(4) of that Decision. The Commission's approval is subject to compliance with 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, more generally, to the aid's being 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 modernisation, rationalisation and restructuring of the United Kingdom coal industry approved by the Commission by Decision 2001/114/ECSC [2], and Decision 2001/597/ECSC [3] (hereinafter 'the restructuring plan').

II

(4) The sum of GBP 4 055 520 which the United Kingdom is proposing to grant to the coal industry under 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 conditions prevailing on the world market for coal of similar quality from third countries.

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

(a) GBP 739 000 for the North East Surface Mines production unit of H.J. Banks and Co., Ltd;

(b) GBP 832 000 for the Central Surface Mines production unit of H.J. Banks and Co. Ltd;

(c) GBP 1 157 520 for the Hatfield Colliery production unit of Coalpower Ltd;

(d) GBP 1 327 000 for the Ayrshire Coalfields production unit of LAW Mining Ltd.

(6) The Commission has already authorised the United Kingdom to grant operating aid to North East Surface Mines and Central Surface Mines pursuant to Article 3 of Decision No 3632/93/ECSC amounting to GBP 703 000 and GBP 661 000 respectively for the period from 17 April 2000 to 31 December 2000 by Decision 2001/597/ECSC. In accordance with Article 2 of Decision No 3632/93/ECSC, the Commission was of the opinion that the aid which the United Kingdom proposed to grant was intended to improve the economic viability of the production units concerned by reducing their production costs. In accordance with the restructuring plan, the aid should help to make those production units viable enabling them to continue their activities beyond 2002 without the need for public subsidy.

(7) The information transmitted by the United Kingdom in its letter of 13 February 2002 confirms the analysis and conclusions in Decision 2001/597/ECSC. The reduction in the production costs of North East Surface Mines and Central Surface Mines will make it possible to achieve economic viability of those mines in 2002. Production costs should be respectively GBP 0.89/GJ and GBP 1,02/GJ in 2002.

[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.

(8) The Commission has already authorised the United Kingdom to grant operating aid to Hatfield Colliery pursuant to Article 3 of Decision No 3632/93/ECSC amounting to GBP 3 932 000 for the period from 17 April 2000 to 31 December 2000 by Decision 2001/340/ECSC [1] and GBP 3 807 000 for 2001 by Decision No 2001/683/ECSC [2]. In accordance with Article 3(2) of Decision No 3632/93/ECSC, the Commission was of the opinion that the aid which the United Kingdom proposed to grant was intended to improve the economic viability of the production unit concerned by reducing its production costs.

(9) In August 2001, Hatfield Coal Company announced that it had put its Hatfield Colliery into liquidation. In spite of good prospects of a long-term reduction in production costs which had been considered realistic by an independent technical expert and could have guaranteed the future of the production unit, the company was forced to cease its activities following a breaking-off of negotiations with the financial institution which was to provide investment cover. In accordance with the conditions for granting aid set out in the restructuring plan, the United Kingdom authorities therefore requested reimbursement of the aid which had been granted to Hatfield Colliery.

(10) On 5 October 2001, the Hatfield Colliery unit was bought out by Coalpower Ltd. The putting of Hatfield Colliery into liquidation as a result of financial difficulties did not call into question the economic viability of the coalfields. Coalpower Ltd therefore drew up a new investment plan for the mine to optimise production. This investment plan and the production plans were evaluated by an independent expert at the request of the United Kingdom authorities. This expert expressed the opinion that once production had been restored to its optimum level, the strategy presented by Coalpower should ensure the economic viability of Hatfield Colliery from 2003. Production costs should be reduced significantly. At 1999 prices, they should fall to GBP […] (*) in 2003, below the level of GBP 1,15/GJ considered to be the economic viability threshold for the coal industry in the United Kingdom.

(11) Hatfield Colliery resumed its activities in November 2001. 208 workers were taken on again. 58 000 tonnes of coal were extracted in November and December 2001.

(12) In October 2001, the United Kingdom authorities paid Coalpower Ltd aid amounting to GBP 951 750. This constituted the balance of the aid of GBP 3 807 000 that the Commission had authorised for Hatfield Colliery for 2001 by Decision 2001/683/ECSC and which had not been paid to Hatfield Coal Company when it went into liquidation.

(13) The additional aid of GBP 1 157 520 that the United Kingdom authorities are asking the Commission to authorise will enable Hatfield Colliery to cover all operating losses for 2001. This sum is necessary given on the one hand the low revenue in 2001 due to the fact that production did not resume until November and on the other the considerable costs involved in restarting production.

(14) As regards Ayrshire Coalfields, the aid proposed should also enable that production unit to improve its economic viability by reducing its production costs. According to estimates, production costs should be GBP […] in 2003, well below the level of GBP 1,15/GJ considered to be the economic viability threshold for the United Kingdom coal industry.

III

(15) In accordance with Article 3(2) of Decision No 3632/93/ECSC, the aid which the United Kingdom proposes to grant for 2001 is intended to improve the economic viability of the production units concerned by reducing their production costs.

(16) In accordance with the first indent of Article 3(1) 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 revenue for 2001.

(17) The modernisation, rationalisation and restructuring measures carried out at each production unit, and more specifically the temporary nature of the financial aid necessary for such measures, will moreover allow the aid to be degressive, in accordance with the first indent of Article 2(1) of Decision No 3632/93/ECSC.

(18) At the request of the United Kingdom authorities, an independent expert has compiled technical reports examining the potential of modernisation, rationalisation and restructuring measures planned for the various production units to achieve the objective of economic viability. In drawing up his report, the expert took account of the geological and technical operating conditions and the quality of the coal produced by the production units. The reports conclude that the various measures envisaged were consistent and realistic in terms of attaining economic viability.

(19) An auditor has certified, for each production unit, that the financial data notified by the United Kingdom are an accurate reflection of the accounts of the company. The auditor has also stated that the forecasts were drawn up using the same accounting standards as were in use before the period covered by the aid.

(20) The Commission notes that the aid notified on 13 February 2002, when added to the amounts of aid already authorised by the Commission under the restructuring plan for the United Kingdom coal industry, remains below the ceiling of GBP 170 000 000 laid down by that restructuring plan.

[1] OJ L 122, 3.5.2001, p. 23.
[2] OJ L 241, 11.9.2001, p. 10.
(*) Confidential information.

(21) In view of the above and on the basis of the information provided by the United Kingdom, the aid proposed for 2001 for the North East Surface Mines, Central Surface Mines, Hatfield Colliery and Ayrshire Coalfields production units is compatible with Decision No 3632/93/ECSC, and in particular with Articles 2 and 3 thereof.

IV

(22) 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.

(23) In accordance with the third indent of Article 3(1) of Decision No 3632/93/ECSC and with the provisions of Decision 2001/114/ECSC, the United Kingdom will take all measures necessary 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.

(24) 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 and local public budgets or comply with strictly equivalent mechanisms.

(25) 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 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 should notify the amount of aid actually paid for 2001 and 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 should be provided together with this annual statement.

(26) 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 13 February 2002. In particular, should it turn out that the conditions laid down in Article 3(2) of Decision No 3632/93/ECSC cannot be met, the United Kingdom is to propose to the Commission the requisite corrective measures,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom is authorised, in the framework of Article 3 of Decision No 3632/93/ECSC, to grant operating aid of GBP 4 055 520 to the North East Surface Mines, Central Surface Mines, Hatfield Colliery and Ayrshire Coalfields 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 13 February 2002 and that any expenditure on an item 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 No 3632/93/ECSC, the United Kingdom shall, by 30 September 2002 at the latest, communicate the amount of aid actually paid for 2001.

Article 4

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

Done at Brussels, 24 April 2002.

For the Commission

Loyola DE PALACIO

Vice-President