II

(Non-legislative acts)

DECISIONS

COMMISSION DECISION (EU) 2016/286

of 1 October 2014

on State aid No SA.20867 (12/C) (ex 12/NN) implemented by Italy in favour of Carbosulcis S.p.A.

(notified under document number C(2014) 6836)

(Only the English text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having regard to Article 107(3)(e) of the Treaty on the Functioning of the European Union,

Having regard to the Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines ([1]),

Having called on interested parties to submit their comments pursuant to the provisions cited above ([2]) and having regard to their comments,

Whereas:

1. PROCEDURE

(1) Following receipt of a complaint, the Commission learned that Italy granted State aid to subsidise a mining operator, Carbosulcis S.p.A. ('Carbosulcis'), on the basis of Article 11(14) of Law 80/2005 on urgent measures in the framework of the action plan for economic, social and territorial development ([3]). By letter dated 6 September 2006 (and reminder of 22 December 2006), the Commission requested additional information, which was provided by letter dated 25 January 2007. By letters dated 22 June and 27 July 2007 the Commission requested further information which was provided in two letters dated 15 October 2007. Italy also submitted information on 28 November 2007.

([1]) OJ L 336 of 21.12.2010, p. 24 (the 'Council Decision'). With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the Treaty on the Functioning of the European Union ('TFEU'). The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate. The TFEU also introduced certain changes in terminology, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this Decision.

([2]) OJ C 20 of 23.1.2013, p. 1.

([3]) Published in *Supplemento Ordinario* to *Gazzetta Ufficiale*, No 111, 14 May 2005.

(2) By letters dated 8 September 2008 and 17 June 2009 (with reminders sent on 6 October 2009 and on 21 January 2010), the Commission requested further clarification which was provided respectively by letters of 3 November 2008 and of 6 May 2010.

(3) Meetings took place with the Italian authorities on 19 September 2010 and 30 March 2011.

(4) By e-mail of 21 October 2010, the Commission requested additional information, which was provided by letters of 18 and 23 November 2010 and of 10 May 2011.

(5) By letter dated 20 November 2012, the Commission informed Italy that it had decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union in respect of the aid granted to Carbosulcis.

(6) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* ([4]). The Commission invited interested parties to submit their comments on the aid measure.

(7) Italy submitted its observations by letter dated 21 December 2012. The only third party comments received by the Commission were those submitted by the employees of Carbosulcis. By letter dated 18 March 2013, the Commission forwarded the third parties' comments to Italy, which was given the opportunity to respond; no comments were received.

(8) Several meetings and exchanges of information took place in 2013 between the Commission and the Italian authorities and finally by letter dated 9 April 2014, Italy submitted a final plan for the closure of the mine (the 'Closure Plan' or the 'Plan') in accordance with the Council Decision. The plan was amended on 17 July 2014.

(9) The Italian authorities have stressed the urgency of a decision concerning aid intended to finance the irrevocable orderly winding down of activities of the Nuraxi Figus mine operated by Carbosulcis (the 'aid measure' or the 'measure'). Indeed, the closure plan needs to be implemented as a matter of urgency due to the need to ensure a controlled and safe closure, while limiting the social tensions which have been emerging in the region. Therefore, the present decision is confined to assessing the aid measure described in paragraph 8 above.

(10) On 2 September 2014, Italy waived its rights under Article 342 TFEU in conjunction with Article 3 of Regulation No 1 ([5]) to have the decision adopted in Italian and agreed that the decision be adopted in English.

2. **DETAILED DESCRIPTION OF THE CLOSURE PLAN**

(11) Carbosulcis is the only company in Italy that exploits the hard coal extracted from the Nuraxi Figus mine in the Sulcis-Iglesiente area in Sardinia. Nuraxi Figus is the only operational coal mine and the only coal basin in Italy. It consists of a single production unit. The products obtained by the company can only be sold in the domestic market for the purpose of producing electricity ([6]). The total output of Carbosulcis is purchased by the nearby Portovesme thermal power plant. Sulcis coal has an average NCV of 5 100 kcal/kg, an average sulphur content of 6,5 % and an average ash content of 15 %. Therefore it is of low quality and has a low calorific value.

(12) Whilst the mine was initially conceived to be part of an integrated project to extract coal and produce electricity in a new coal-fired power plant to be built, the project suffered from delay. Since 1996, the mine was exploited on a temporary basis pending the award by the Region of Sardinia of an integrated concession, which was never ultimately granted.

([4]) Cf. footnote 2.

([5]) Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385/58).

([6]) Article 3 of Law No 351 of 27 June 1985 laying down rules for the reopening of the Sulcis coalfield 'norme per la riattivazione del bacino carbonifero del Sulcis: è consentito impiegare il carbone del bacino carbonifero del Sulcis nelle centrali termoelettriche e negli impianti di produzione combinata e non di energia elettrica e vapore esclusivamente ubicati in Sardegna, nonché negli impianti industriali, pure ubicati in Sardegna nei quali durante il processo produttivo o di combustione lo zolfo viene fissato, fissato e combinato ovvero combinato con il prodotto che si ottiene'.

(13) According to the Italian authorities, Italy decided to definitively abandon the initial integrated project and to close the mine in accordance with the Closure Plan.]. Since 1 January 2011, activity in the mine has been limited essentially to maintaining minimum production and to carrying out maintenance works necessary to ensure the plant's safety. Such activities are preparatory to the implementation of the Closure Plan. The Closure Plan provides for the cessation of subsidised coalmining by the end of 2018 and the completion of safety measures for the decommissioning of the mine by the end of 2027.

(14) Italy emphasised the particular disadvantaged economic and social situation in the Sulcis-Iglesiente area where the unemployment rate is higher than in the rest of the country. Alleged prospects of a potential abrupt closure of the mine have already caused serious social tensions culminating in [protests and] demonstrations.

2.1. **Legal basis and granting authority**

(15) The legal basis for the aid measure was Law 99/2009 and Resolution of the Council of Autonomous Region of Sardinia No 53/75 of 20 December 2013. The Region of Sardinia and the Minister of Economic Development are the granting authorities of the aid measure.

2.2. **The Closure Plan**

(16) Pursuant to the Closure Plan the decommissioning of the mine is to take place in three phases: (1) completion of the extraction of coal from panel W3 in accordance with the longwall method; securing of galleries and carrying out of additional works to ensure the ongoing safety of underground worksites; (2) provision of incentives to retire and the cultivation of panels in accordance with the shortwall method; (3) completion of the cultivation of the panels and reduction in levels of production, adoption of further incentives to retire and additional measures to help staff find new jobs.

(17) The production of merchant coal in 2011 amounted to 63 059 tons, whereas in 2018 it is expected that only 30 000 tons will be extracted.

(18) The objective of the aid measure is to facilitate the closure of the mine by the end of 2018, to cover current production losses in the period 2011-2018 arising from the operation of the mine in accordance with the rules set out in the Council Decision. The measure is further intended to cover exceptional costs arising from the definitive closure of the mine.

(19) The Plan is designed to implement a gradual phasing-out process in a socially sustainable manner. Italy contends that on the basis of such an approach, 2018 is the earliest date at which the mine can be closed. The number of staff will be gradually reduced from 467 in 2011 to 119 in 2018. Older workers will benefit from incentives to take retirement. Additional measures will be necessary to help younger staff find new jobs.

(20) At the end of 2018, the remaining workers will be needed to carry out safety and environmental remediation works that will begin upon completion of the regional environmental impact study and is expected to continue until 2027. Once the mining ends; the underground mining equipment will be recovered and the abandoned tunnels filled with ash from the nearby Portovesme thermal power plant.

(21) The workers who in the course of the implementation of the Closure Plan will lose their jobs in the coal mining industry will require new employment. To this end, the Plan provides for the adoption of labour policies intended to assist re-training of workers and facilitating their transfer to other industries.

(22) Following the closure of the mine, the time needed for the completion of the Plan will depend on the time it takes to recover the equipment from underground, which is estimated to take over two years.

(23) The duration of the works will also depend on the time needed to seal the tunnels, by filling them with ash-based sludge from the thermal plant in Portovesme. The duration of such works is estimated at about six years.

(24) The environmental remediation of the above-ground areas will also be performed. Such remediation shall include the sealing of the tailing ponds, construction of water drainage systems and the planting of native plant species.

2.3. **Eligible costs, form of the aid and aid amount**

(25) The measure provides for the granting of aid to cover the positive difference between current production costs and revenues from the coal mine to be closed (production losses). The aid is also intended to cover costs arising from the closure of the mine that are not related to current production (exceptional costs). The aid granted in respect of production losses is intended to cover costs arising between 2011 and 2018 and will end with the cessation of production in 2018.

(26) It is proposed that the aid take the form of a direct grant and can be split as follows:

(a) Euro 213 126 607 million of aid already granted and to be granted in the period 2011-2018 to cover production losses. The costs that are eligible to be taken into account are production costs: material expenses (including energy, depreciation and transport costs) and personnel expenses as further detailed in Annex 1, including the financial-economic forecasts (of costs).

Table 1

	2011	2012	2013	2014	2015	2016	2017	2018
Production costs	61 761 625	62 253 732	40 516 662	36 714 704	27 313 944	24 753 204	17 686 600	15 207 600
Revenues	4 582 000	12 912 702	6 251 329	4 709 016	3 474 216	2 898 428	3 951 360	1 481 760
Difference between production costs and revenues	57 179 625	49 341 030	34 265 333	32 005 689	23 839 729	21 854 776	13 735 240	13 725 840
Aid pursuant to Article 3 of the Council Decision	55 000 000	18 700 000	34 265 333	32 005 689	23 839 729	21 854 776	13 735 240	13 725 840

(b) According to the aid measure, the aid intended to cover the exceptional costs will continue to be required after 2018 until 2027. The aid measure proposes the payment of direct grants with respect to the following categories of exceptional costs:

i. Exceptional expenditure on workers who have lost or who lose their jobs:

(27) The costs under Point 1(b) of the Annex to the Council Decision include the provision of resignation incentives: under the Plan, two years' salary is to be granted to workers who retire in circumstances where they could still remain in service, and to those who opt to start their own business or otherwise leave the company, after participating in re-training and employment schemes.

(28) Pursuant to the aid measure/the maximum amount of this type of aid proposed to be granted in the period 2013-2027 will be EUR 45,5 million. This maximum amount would be reached in the event that all excess personnel who could not remain in their position until retirement, were to commence a self-employed activity or otherwise leave the company. The aid would amount to EUR 30 million in the event that all excess personnel are employed in alternative activities.

ii. Costs for the readaptation of workers in order to help them find new jobs outside the coal industry:

(29) The costs under Point 1(d) of the Annex to the Council Decision include the costs of re-training the personnel who have lost or will lose their job in the coal industry.

(30) Under the one-year re-training scheme, such personnel will be re-employable primarily in alternative activities to be implemented at the Carbosulcis site and/or in environmental operations for the clean-up of former mining and industrial areas. Alternatively, they may start their own businesses, or otherwise leave the company and receive a termination bonus equivalent to two years of salary. The training courses will be delivered in:

(a) 2016 (with capacity for 62 workers);

(b) 2019 (with capacity for 54 workers);

(c) 2028 (with capacity for 35 workers).

(31) It is anticipated that the total cost of training personnel who will lose their jobs in the coal industry will be approximately EUR 11,5 million.

(32) These costs include the workers' salaries during their year in training (for a total of some EUR 8,1 million) and the cost of training (approximately EUR 3,4 million).

iii. Residual costs resulting from administrative, legal and tax provisions which are specific to the coal industry

(33) The costs under Point 1(f) of the Annex to the Council Decision include payment of the concession fee for exploiting the mine for the years from 2019 to 2026, totalling approximately EUR 800 000.

iv. Additional underground safety work resulting from the closure of coal production units:

(34) After the production at the mine ceases, safety works such as the closure of the face of the mine or transportation of the machines earlier used for the mining will be performed. According to the Italian authorities, the following detailed safety requirements are essential within the abandonment works: the recovery of the underground machinery, equipment and safety devices; the mine ventilation should be carried out in order to dilute and remove noxious gases; the drainage pumping should be maintained; and the filling of the abandoned tunnels with ash from the Portovesme power plant.

(35) Italy indicates that in the period 2014-2026 a further EUR 28 million will be necessary to cover the non-recurring costs linked to the additional safety works required for closure of the mine.

(36) Over the years in which equipment is being recovered and the abandoned tunnels are being filled with ash, in addition to personnel costs, other costs will be incurred, such as the use of electricity for ventilation and pumping equipment as well as the procurement of services and materials needed to carry out the works.

(37) According to the Italian authorities, the work of recovering the equipment from underground sites and sealing the tunnels by filling them with ash cannot begin before 2018 because the staff and equipment are currently engaged in coal mining activities. The use of ash to seal the tunnels will also be subject to prior authorisation.

(38) Once the mine has closed, the time needed for the completion of the Plan will depend on the time it takes to recover the equipment from underground, which is estimated at over two years. Such equipment may, for example, include:

(a) conveyor belts: about five kilometres to be dismantled and taken to the surface;

(b) pipework: more than 30 km to be dismantled and taken to the surface;

(c) electric power and telephone lines running tens of kilometres, electrical substations, transformers, circuit breakers, etc.;

(d) old equipment, still stored in the tunnels.

(39) The duration of the Plan will also depend on the time needed to seal the tunnels by filling them with ash-based sludge from the thermal power plant at Portovesme. The process of filling the tunnels will be divided into several stages, summarised below:

(a) removing old equipment no longer needed, such as discarded machinery, power lines, pipework, etc.;

(b) installing the equipment needed to pump the ash and water grout underground (pipework, valves, de-pressurisation systems, sound system and pressure monitoring system);

(c) constructing walls to retain sludge and delimit sections to be filled;

(d) preparing a ventilation circuit to ensure pressurised ventilation once normal ventilation is interrupted by the filling of the tunnel;

(e) preparing the plant for mixing and pumping the grout to be pumped underground;

(f) filling each section of tunnel once it has been prepared;

(g) after the sludge has dried, preparing the next section for filling.

(40) By way of indication it is estimated that it will be possible to fill about 7 000 m of tunnel with a section of about 20 m^2, which will thus be able to hold about 140 000 m^3 of sludge consisting of ash from the Portovesme thermal plant mixed with a proportion of water to form a mixture fluid enough to be pumped. The material will be pumped underground at a rate of one section of about 500 m^3 a week. The plant can handle a maximum of about 80 m^3/h, so that in one shift it will be possible to pump no more than the volume that will fill one section. The following four working days will be used to move back the piping to change the discharge point, perform maintenance on surface equipment, and screen the sludge needed to fill the next section of tunnel. This means that for each working day an average of about 100 m3 of sludge can be transferred underground. It is therefore estimated that sealing the tunnels by filling them with ash will take about six years:

140 000 m^3/100 m^3 per working day = 1 400 working days = 6 years.

(41) Sealing the tunnels by filling them with ash from the thermal plant will have the following environmental advantages:

(a) reducing the open-air area needed for dumping special non-hazardous waste;

(b) preventing spontaneous combustion in the tunnels;

(c) correcting the acidity of any mine water with which the ash comes into contact (the ash has an average CaO content of over 35 %);

(d) reducing the probability of subsidence.

(42) Filling the tunnels with ash will also generate revenue that will help to reduce the aid necessary. The revenue from the disposal of the waste has already been taken into account and subtracted from the volume of aid needed pursuant to Article 4 of the Council Decision, as shown by Annex 2.

(43) The actual costs under this heading are estimated to come to approximately EUR 40 million.

(44) The filling of the tunnels with the ash from the thermal power plan, should generate revenue in the amount of approximately EUR 12 million, thereby reducing the amount of aid necessary under letter (g), paragraph 1 of the Annex to the Council Decision to approximately EUR 28 million.

v. Mining damage, provided it has been caused by the coal production units which have been closed or which are being closed:

(45) The environmental remediation of the above-ground areas consists in the sealing of the tailings ponds, and the environmental remediation of the waste rock dumps and of all the other land areas affected by mining operations.

(46) For the covering and remodelling of sites, inert materials from coal processing will be used, topped by a layer of topsoil.

(47) Once the morphological remediation of the sites has been completed, water drainage systems will be constructed.

(48) The reclaimed sites will be put partly to industrial use, such as a photovoltaic installation and will be partly re-naturalised by the planting of native plant species.

(49) Other above-ground works at the former mine site will be the refurbishment and securing of the existing built heritage.

(50) In the period 2014-2026, the aid under letter (h), paragraph 1 of the Annex to the Council Decision will amount to approximately EUR 8,7 million.

vi. Exceptional intrinsic depreciation, provided it results from the closure of coal production units

(51) The costs under Point 1(l) of the Annex to the Council Decision include the share of asset depreciation which could not be depreciated under normal accountancy rules due to the closure of the mine, and are estimated at EUR 25,8 million.

2.4. **Plan of measures to mitigate the environmental impact of coal production**

(52) Italy has drawn up a plan to take measures aimed at mitigating the environmental impact of the production of coal by the production unit to which closure aid is granted.

(53) The measures aimed at mitigating the environmental impact of coal will be in the field of renewable energy and coal desulphurisation.

(54) The plan provides for two renewable energy projects. The first renewable energy system will comprise four windmills for a total power capacity of 12MW. The second system will consist of a photovoltaic power station covering about 10 ha with a total power capacity of some 4 MWp. These will be located in the mining site.

(55) Carbosulcis holds a patent for sulphur removal from coal by leaching. The by-product of this process is humic acids, which can be used in agriculture.

(56) Accordingly, Italy intends to take measures for the development, on a pilot scale first and on an industrial scale at a later date, of a process to remove sulphur from coal, which produces humic acids. If the process produces the expected results, producing a positive operating margin already during the mine's gradual decommissioning period, it will be possible to reduce the sulphur content of the coal feeding the nearby Portovesme thermal power plant.

(57) According to Italy, as the project is still at a preliminary stage, the environmental benefits of sulphur removal can currently be estimated only in qualitative terms, and not yet in quantitative terms, as they are linked to two factors which will need to be assessed during the pilot phase of the process. The environmental benefits are mainly linked to the following factors applicable to high sulphur coals:

(a) the leaching process should reduce the coal's sulphur content by about 30 %, which will in turn reduce atmospheric SOx emissions when the coal is burnt in the thermal power plant;

(b) the sulphur removal process produces as by-products humic acids which can be used in agriculture as fertilisers and soil improvers. Carbon sequestration through the application of soil organic matter (SOM) is one of the possible measures to mitigate the effects of climate change by reducing the emission of greenhouse gases into the atmosphere listed by the Intergovernmental Panel on Climate Change, IPCC 2007.

(58) According to the Italian authorities, the quantitative contribution of this activity to the mitigation of the environmental impact of coal production at the Nuraxi Figus mine can be assessed once the pilot implementation stage has been concluded.

3. **ASSESSMENT OF THE MEASURE**

3.1. **Presence of state aid pursuant to Article 107(1) of the TFEU**

(59) A measure constitutes State aid within the meaning of Article 107(1) of the TFEU if the following conditions are cumulatively fulfilled: the measure (a) confers an economic advantage to the beneficiary; (b) is granted by the State or through State resources; (c) is selective; (d) has an impact on intra-union trade and is liable to distort competition within the EU.

(60) Undertakings are favoured within the meaning of Article 107(1) of the TFEU if they obtain an economic advantage which they would not otherwise obtain under market conditions. Carbosulcis is the sole beneficiary of the measure and will receive (and has already received) aid by means of State resources transferred directly from the State and the Sardinian Region's budget to offset its operating losses and to cover social and safety costs which constitutes an economic advantage. The market for coal is fully open to competition. Consequently, the financial aid from the State strengthens the position of the beneficiary in relation to its competitors in the EU and has potentially distortive effects on competition and is liable to affect intra-EU trade.

(61) Consequently, the Commission concludes that the measure in favour of the company constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. **Lawfulness of the aid**

(62) Italy implemented part of the measure without prior notification and therefore in breach of Article 108(3) TFEU.

3.3. **Compatibility of the aid**

(63) The Commission has assessed the compatibility of the measure according to the Council Decision, which sets out the criteria for compatibility of the State aid under examination pursuant to Article 107(3)(e) TFEU.

(64) The coal produced at the mine Nuraxi Figus falls within the definition of coal set out in Article 1(a) of the Council Decision according to which coal means high-grade, medium-grade and low-grade category A and B coal within the meaning of the international codification system for coal laid down by the United Nations Economic Commission for Europe.

(65) According to Article 2(2) of the Council Decision, 'aid shall cover only costs in connection with coal for the production of electricity, the combined production of heat and electricity, the production of coke and the fuelling of blast furnaces in the steel industry, where such use takes place in the Union'. Carbosulcis produces coal used for the local production of electricity. Therefore this criterion is complied with.

(66) Italy intends to grant closure aid in the context of a closure plan of the mine. As defined in Article 1(c) of the Council Decision, the closure plan drawn up by the Member State must provide for measures culminating in the definitive closure of coal production units. The Closure Plan submitted by Italy includes the legislative and other measures adopted by Italy described in recitals 11 to 61, including the financial measures planned to accompany the definitive and irrevocable closure of the units concerned, thus leading to an orderly winding down of activities of such units at the planned dates.

(67) Italy has submitted all relevant data required for the assessment of the Closure Plan pursuant to Article 7(2) of the Council Decision, notably the identification of the coal production unit, the real or estimated production costs for each coal production unit per coal year, the estimated coal production, per coal year, of coal production unit forming the subject of a closure plan and the estimated amount of closure aid per coal year.

3.3.1. *State aid to cover the production costs*

(68) Pursuant to Article 3(1) of the Council Decision aid to an undertaking intended specifically to cover the current production losses of coal production units may be considered compatible with the internal market only if it satisfies the following conditions:

'The operation of the coal production unit concerned must form part of a closure plan the deadline of which does not extend beyond 31 December 2018'

(69) The Italian authorities committed to permanently close the Nuraxi Figus mine, which comprises only one production unit, by 31 December 2018. The mine is operated by Carbosulcis, fully owned by the Region of Sardinia which issued and approved the Closure Plan.

'The coal production units concerned must be closed definitively in accordance with the closure plan'

(70) The Closure Plan includes the legislative and other measures adopted by Italy and the Region of Sardinia and described in recitals 11 to 61 put in place to accompany the orderly winding down of the activities of such unit within the planned dates.

'The aid notified must not exceed the difference between the (foreseeable) production costs and the foreseeable revenue for a coal year. The aid actually paid must be subject to annual correction, based on the actual costs and revenue, at the latest by the end of the coal production year following the year for which the aid is granted'

(71) As shown above in Table 1, the annual aid for coal production in the closing production unit does not exceed the difference between the (foreseeable) costs and (foreseeable) revenues.

'The amount of aid per tonne coal equivalent must not cause prices for Union coal at utilisation point to be lower than those for coal of a similar quality from third countries'

(72) Italy considers that it is not possible to relate payments for Sulcis coal to a commercial reference price, similarly to the Commission's findings in the case of Hungary (SA.33861(12/N)).

(73) Italy submits that Sulcis' low grade coal cannot be procured from third countries and there is no market for coal of such low quality. The selling price paid by Portovesme thermal power plant to Carbosulcis takes account of the fluctuation of the price of the coal that is regularly traded on the world market and the quotation of standard grades of coal are reduced to take account of the particular grade being bought. According to Italy, this makes it impossible to determine a reference price for coal of a similar quality coming from third countries.

(74) Article 3 of Law No 351 of 27 June 1985 laying down rules for the reopening of the Sulcis coalfield reads as follows: 'Coal from the Sulcis coalfield may be used in thermal power stations and plants for the production of electric power and steam in combination or otherwise, provided they are located solely in Sardinia, or in industrial plants, likewise located in Sardinia, in which during the production or combustion process the sulphur is fixed, or fixed and combined, or combined with the product obtained'. Thus Sulcis coal can, in theory, only compete with other coals within Sardinia and most importantly cannot be sold on the world market.

(75) The Commission cannot exclude that it is in fact possible to calculate a reference price for coal of similar quality. Consequently, Italy has committed itself to monitoring annually the price of Sulcis coal as calculated in the context of its sale to Portovesme thermal power plant using the relevant formula provided in the purchase contract to check if the price of Sulcis coal falls below the price of coal of a similar quality from third countries. The amount of aid per ton equivalent will be updated according to the actual sale price for each coal year.

(76) In line with Commission's precedents ([7]), the Commission therefore considers that this condition is fulfilled in the present case.

'The coal production unit concerned must have been in activity on 31 December 2009'

(77) The Nuraxi Figus mine was in activity in 2009.

'The overall amount of closing aid granted by a Member State must follow a downward trend: by the end of 2013 the reduction must not be less that 25 %, by the end of 2015 not less than 40 %, by the end of 2016 not less than 60 % and by the end of 2017 not less than 75 % of the aid granted in 2011'

(78) The Commission concludes from Table 1 above that state aid to be granted follows the downward trend and complies with the the minimum level of reduction stipulated in the Council Decision. The degressivity criterion prescribed by the Council Decision is therefore complied with.

'The overall amount of closure aid to the coal industry of a Member State must not exceed, for any year after 2010, the amount of aid granted by that Member State and authorised by the Commission in accordance with Articles 3 and 5 of Regulation (EC) No 1407/2002 for the year 2010'

(79) No aid was authorised by the Commission in accordance with Articles 3 and 5 of Regulation (EC) No 1407/2002 for 2010. In any event since Regulation (EC) No 1407/2002 expired on 31 December 2010, the specific rules of that Regulation cannot be applied to the present measure ([8]). Therefore there is no amount of aid for 2010 that could be taken as the benchmark for the purpose of Article 3(g) of the Council Decision and this condition is not applicable to the case at issue.

'The Member State must establish a plan to take measures aimed at mitigating the environmental impact of the production of coal by production units to which aid is granted pursuant to this Article, for example in the field of energy efficiency, renewable energy or carbon capture and storage'

(80) The Italian authorities have provided an environmental protection plan to mitigate the environmental impact of coal production which includes renewable energy installations, and coal desulphurisation.

(81) Article 3(1)(h) of the Council Decision explicitly mentioned initiatives involving renewable energies as examples of measures which can be included in a mitigation plan. The Commission notes that those Italian measures are directly related to the mine still active in coal production to be closed down.

(82) As to the coal desulphurisation project, in view of the fact that the viability of the project is uncertain and conditional at the outcome of the pilot to be launched, the Commission cannot establish that this measure will result in a substantial improvement of environmental conditions that can be related to coal production in the same region pursuant to Article 3(1)(h) of the Council Decision.

(83) In light of the considerations set out in recitals 80 to 81 above, the Commission considers that the renewable energy installations included in the environmental protection plan submitted by the Italian authorities alone already meet the conditions laid down in Article 3(1)(h) of the Council Decision.

(84) It should be noted that some of the measures referred to by Italy may involve the granting of State aid. The acceptance of these measures as part of the environmental mitigation plan for the purpose of authorising aid to coalmining in application of the Council Decision cannot be construed as a clearance of such measures under Articles 107 and 108 of TFEU. It remains Italy's responsibility to ensure that measures liable to constitute State aid are duly notified to the Commission pursuant to Article 108(3) TFEU.

([7]) Case SA. 18869 (N 92/05) State aid to the coal industry — Hungary, Case SA.33033 National Hard Coal Company Petrosani — Romania, and Case SA.33861 (12/N) Aid to facilitate the closure of coal mines — Hungary.

([8]) Commission notice on the determination of the applicable rules for the assessment of unlawful State aid (OJ C 119, 22.5.2002, p. 22).

(85) This Decision is without prejudice to Italy's obligations under EU environmental legislation.

(86) The assessment above demonstrates that all substantive criteria of Article 3 of the Council Decision regarding production aid to be granted under the Closure Plan are complied with.

3.3.2. *State aid to cover exceptional costs*

(87) According to Article 4(1) of the Council Decision, State aid granted to coal mines to cover the costs arising from the closure of coal production units and which are not related to current production may be considered compatible with the internal market provided the amount paid does not exceed such costs.

(88) The exceptional costs notified by the Italian authorities cover:

— the costs arising from the closure of the mine, defined in Points 1(f), (g), (h), and (l) of the Annex to the Council Decision,

— the social costs and the costs generated by the occupational retraining programs of personnel following the closure of the mine defined in Point 1(b) and (d) of the Annex to the Decision.

(89) The Commission notes that Italy does not plan grand aid that would exceed the costs arising from the closure of coal production. Moreover, the planned exceptional costs and the categories of costs planned to be covered correspond to eligible categories defined in the Annex to the Council Decision, for the purposes of Article 4. Pursuant to the Closure Plan, the granting of the aid is subject to the presentation of supporting documentation.

(90) Aid to cover exceptional costs will continue to be required also after the cessation of production in 2018. In any event, aid will be granted until 2027 so prior to the expiry of the Council Decision.

(91) Theoretically, revenues can accrue from the sale of plants and machinery. However according to Italy this is unlikely given the age of those items at the end of 2018. Furthermore, even if the plants and machineries were still to have some small residual value, it would not be possible to sell them, because of an agreement between Carbosulcis and the municipality of Gonnessa dated 15 February 1990. Article 16 of the agreement provides that Carbosulcis undertakes that upon the cessation of mining activity all the immovable and movable property (offices, services, coal-working plant and machinery etc.) will be conserved in compliance with the original architecture, so that the mine and its plants can be kept as a historical local monument.

(92) The plants and machineries will therefore all be taken out of service and used to create a museum and industrial archaeology site, and preserved as a historic local monument.

(93) The Italian authorities contend that the sealing of the mine and the environmental clean-up cannot be expected to lead to an increase in the value of the land, because apart from the areas used for the renewable energy plants, the site will constitute abandoned industrial land and no further use can be foreseen.

(94) Apart from the areas used for the renewable energy plants, once the land has been cleaned up it will be maintained in its current state, in order to preserve the historical memory of the mining industry, as provided in the agreement between Carbosulcis and the municipality of Gonnessa. In any event, as regards the costs referred to in Point 1(h) of the Annex to the Council Decision, Carbosulcis is not the owner of the land, and does not benefit from any increase in the value of the land ([9]).

(95) The Italian authorities confirm that the costs covered by the aid are not related to the financing of costs resulting from non-compliance with environmental regulations, such as:

— Directive 2006/21/EC of the European Parliament and of the Council ([10]),

([9]) At present, Carbosulcis is the owner of 200 ha where offices and plants are located, whereas the mine extends onto 5940 ha.

([10]) Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC — Statement by the European Parliament, the Council and the Commission (OJ L 102, 11.4.2006, p. 15).

— Directive 2004/35/EC of the European Parliament and of the Council ([11]),

— Directive 2000/60/EC of the European Parliament and of the Council ([12]),

— Council Directive 92/43/EEC ([13]),

— Council 85/337/EEC ([14]).

(96) The aid will not be combined with other State aid within the meaning of Article 107(1) TFEU or with other forms of European Union financing for the same eligible costs (Article 5 of the Council Decision). The Commission would like, in addition, to remind the Italian authorities that in case of co-financing through Structural Funds of the Union, the rules applicable to those Funds must be respected.

(97) Moreover, pursuant to Article 5 of the Council Decision all aids received by the Nuraxi Figus mine are required to be shown in the profit-and-loss accounts as a separate item of revenue distinct from turnover. Carbosulcis is also required to keep separate accounts for production and closing works (Article 6). It follows that the aid meets the conditions laid down in the Council Decision as to cumulation and separation of accounts of the beneficiary, in case of any other economic activities which are not related to coal mining.

(98) Italy has submitted very detailed information in the context of the notification of the Closure Plan. In particular, Italy has provided detailed costs estimates for the mine, broken down by individual items, for each year covered by the Closure Plan. The Commission takes the view that the information provided by Italy (including the one contained in Annex 1 and Annex 2 of the present Decision) satisfies also the requirements of Article 7(4) of the Council Decision for the entire period covered by the measure.

(99) Moreover, pursuant to Article 7(5) of the Council Decision, the Italian authorities have committed to ensuring that the accounts of the mine will be communicated to the European Commission within six months after the end of each reporting period.

(100) It follows that the aid complies with the relevant conditions laid down in the Council Decision.

(101) The Commission has therefore concluded that both the Closure Plan and the aid which has already been granted and which is proposed to be granted can be authorised.

4. **CONCLUSION**

(102) The Commission regrets that Italy put part of the aid into effect, in breach of Article 108(3) of the Treaty on the Functioning of the European Union.

(103) However, the Commission has decided that the aid granted to Carbosulcis from 1 January 2011 until 31 December 2027 can be considered compatible with the internal market pursuant to Council Decision.

(104) The Commission reminds the Italian authorities that, in accordance with Article 108(3) of the TFEU, any plan to refinance, alter or change this measure is required to be notified to the Commission pursuant to Commission Regulation (EC) No 794/2004 ([15]). Moreover, notifications pursuant to Article 7(3) of the Council Decision must be submitted if the Closure Plan is amended. Pursuant to Article 7(4), notifications must also be submitted if the aid Italy plans to grant to the coal industry during a coal year exceeds the amounts authorised in the present decision or if the details relevant to the calculation of the foreseeable production costs planned to be aided in the Closure Plan differ from those indicated in the present notification. Italy will need to submit separate annual notifications where there is a discrepancy between the annual measures and the approved Closure Plan. It shall duly inform the Commission of the amount and of the calculation of the aid actually paid each year until the end of the Closure Plan, as laid down in Article 7(5) of the Council Decision.

([11]) Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56).

([12]) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

([13]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

([14]) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40).

([15]) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).

(105) The Commission also reminds the Italian authorities that, in accordance with Article 7(5) of the Council Decision, they shall inform the Commission of the amount and of the calculation of the aid actually paid during a coal year no later than six months after the end of that year. Where any corrections are made to the amounts originally paid during a given coal year, the Italian authorities shall inform the Commission before the end of the following coal year.

(106) According to Article 3(3) of the Council Decision, if the mine to which aid is granted is not closed at the date fixed in the Closure Plan as authorised by the Commission, Italy shall recover all aid granted in respect of the whole period covered by the Closure Plan,

HAS ADOPTED THIS DECISION:

Article 1

The State aid granted by Italy to Carbosulcis S.p.A. in accordance with the closure plan submitted 9 April 2014, as amended on 17 July 2014, is compatible with the internal market pursuant to Decision 2010/787/EU.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 1 October 2014.

For the Commission
Joaquín ALMUNIA
Vice-President

ANNEX 1

Country: ITALY

Coalfield SULCIS

Company CARBOSULCIS SPA

Underground production unit: NURAXI FIGUS – Monte Sinni mine

	Data 2011	Data 2012	Estimated data 2013	Estimated data 2014	Estimated data 2015	Estimated data 2016	Estimated data 2017	Estimated data 2018
1. **GENERAL INFORMATION**								
(a) Underground production [tce] '000	**[…]** (*)	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**
(b) Yield (tce/year/work unit)	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(c) Average net calorific value [kcal]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(d) Average registered staff	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
2. **COST OF PRODUCTION**								
(a) Labour costs [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(b) Cost of materials [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(c) Direct depreciation according to normal accounting rules [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(d) Return on capital [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(e) Costs of transport to the place of delivery [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(f) Company's overheads [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(g) Other expenditure [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(h) Increase fixed assets [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(i) Waste disposal costs [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(h) ***Costs connected with current production (per tce produced)***	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**

	Data 2011	Data 2012	Estimated data 2013	Estimated data 2014	Estimated data 2015	Estimated data 2016	Estimated data 2017	Estimated data 2018
3. **DELIVERIES AND RECEIPTS**								
— Information specific to deliveries to thermal power plants:								
— production in the coal reference year [tce]	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**
— stock variation [tce]	[…]	[…]	[…]					
(a) ***Total***	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
— Yield:								
— production in the coal reference year [EUR/tce]			[…]	[…]	[…]	[…]	[…]	[…]
— stock variation [EUR/tce]			[…]					
(b) ***Average sales price [EUR/tce]***	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**
4. **PROPOSED AID**								
(a) Loss of current production [EUR/tce]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(b) Loss of curent production [EUR]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
(c) Proposed aid [EUR/tce]	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**
(d) [EUR]	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**

N.B. The data given In red are those resulting from the reclassification of the profit and loss accounts for 2011 and 2012
(*) Business secret

ANNEX 2

		2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	total
(b)	Other exceptional expenditure on workers who have lost or who lose their jobs;	7 804 000	3 852 000	2 180 000	9 080 000	692 000	9 920 000	6 212 000	960 000	404 000	96 000	212 000	308 000	96 000	96 000	3 660 000	45 572 000
(b_1)	Retirement incentive (managers)	160 000	160 000	160 000	0	0	0	0	0	0	0	0	0	0	0	0	480 000
(b_2)	Retirement incentive (technicians)	3 132 000	812 000	580 000	696 000	116 000	4 640 000	232 000	0	116 000	0	116 000	116 000	0	0	0	10 556 000
(b_3)	Retirement incentive (workers)	4 512 000	2 880 000	1 440 000	1 632 000	576 000	5 280 000	576 000	960 000	288 000	96 000	96 000	192 000	96 000	96 000	96 000	18 816 000
(b_4)	Incentive to set up own business (technicians)	0	0	0	4 640 000	0	0	1 276 000	0	0	0	0	0	0	0	1 740 000	7 656 000
(b_5)	Incentive to set up own business (workers)	0	0	0	2 112 000	0	0	4 128 000	0	0	0	0	0	0	0	1 824 000	8 064 000

		2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	total
(d)	The costs covered by the undertakings for the reskilling of workers in order to help them find new jobs outside the coal industry, especially training costs;	0	0	0	4 764 800	0	0	3 911 600	0	0	0	0	0	0	0	2 793 600	11 470 000
(d_1)	Remuneration of technicians during the training course	0	0	0	2 320 000	0	0	638 000	0	0	0	0	0	0	0	995 000	3 953 000
(d_2)	Remuneration of workmen during the training course	0	0	0	1 056 000	0	0	2 064 000	0	0	0	0	0	0	0	1 037 000	4 157 000
(d_3)	Cost of the training (compatible with the ESF vademecum on costs)	0	0	0	1 388 800	0	0	1 209 600	0	0	0	0	0	0	0	761 600	3 360 000

		2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	total
(f)	Residual costs resulting from administrative, legal or tax provisions which are specific to the coal industry;							100 000	100 000	100 000	100 000	100 000	100 000	100 000	100 000	0	800 000
(f_1)	Mining royalty							100 000	100 000	100 000	100 000	100 000	100 000	100 000	100 000	0	800 000
(g)	Additional underground safety work resulting from the closure of coal production units;	0	0	200 000	0	0	0	4 480 800	3 836 800	3 495 800	3 370 800	3 363 800	3 237 800	3 127 800	3 086 800	0	28 200 400
(g_1)	Project and environmental impact assessment of filling galleries with ash	0	0	200 000	0	0	0	0	0	0	0	0	0	0	0	0	200 000
(g_2)	Making secondary shafts safe	0	0	0	0	0	0	0	0	0	0	70 000	74 000	0	0	0	144 000
(g_3)	Making main shafts safe	0	0	0	0	0	0	0	0	0	0	0	0	65 000	72 000	0	137 000

		2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	total
(g_4)	Cost of work — technicians	0	0	0	0	0	0	1 160 000	1 044 000	1 015 000	986 000	957 000	899 000	870 000	870 000	0	7 801 000
(g_5)	Cost of work — workmen	0	0	0	0	0	0	2 160 000	1 632 000	1 320 000	1 224 000	1 176 000	1 104 000	1 032 000	984 000	0	10 632 000
(g_6)	Costs of mine structure materials and services	0	0	0	0	0	0	950 000	950 000	950 000	950 000	950 000	950 000	950 000	950 000	0	7 600 000
(g_7)	Cost of materials and services for filling galleries with ash	0	0	0	0	0	0	500 000	500 000	500 000	500 000	500 000	500 000	500 000	500 000	0	4 000 000
(g_8)	Cost of electricity (ventilation, drainage etc.)	0	0	0	0	0	0	1 250 000	1 250 000	1 250 000	1 250 000	1 250 000	1 250 000	1 250 000	1 250 000	0	10 000 000
(g_9)	Potential revenues from ash disposal	0	0	0	0	0	0	– 1 539 200	– 1 539 200	– 1 539 200	– 1 539 200	– 1 539 200	– 1 539 200	– 1 539 200	– 1 539 200	0	– 12 313 600
(h)	Mining damage, provided that it has been caused by the coal production units which have been closed or which are being closed;		998 931	1 198 931	1 198 931	798 931	798 931	738 648	738 648	738 648	738 648	738 648					8 687 898

		2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	total
(h_1)	Making safe area and buildings and environmental restoration of the Seruci site	0	798 931	798 931	798 931	798 931	798 931	0	0	0	0	0	0	0	0	0	3 994 656
(h_2)	Environmental characterisation of the Nuraxi Figus site	0	200 000	400 000	400 000	0	0	0	0	0	0	0	0	0	0	0	1 000 000
(h_3)	Making safe area and buildings and environmental restoration of the Nuraxi Figus site	0	0	0	0	0	0	738 648	738 648	738 648	738 648	738 648	0	0	0	0	3 693 242
(l)	Exceptional intrinsic depreciation provided that it results from the closure of coal production units;		5 169 143	5 169 143	5 169 143	5 169 143	5 169 143	0	0	0	0	0	0	0	0	0	25 845 714
(l_1)	Special amortisation rate for tangible fixed assets	0	4 071 036	4 071 036	4 071 036	4 071 036	4 071 036	0	0	0	0	0	0	0	0	0	20 355 179

		2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	total
(l_2)	Special amortisation rate for intangible fixed assets	0	1 098 107	1 098 107	1 098 107	1 098 107	1 098 107	0	0	0	0	0	0	0	0	0	5 490 535
Grand total		7 804 000	10 020 074	8 748 074	20 212 874	6 660 074	15 888 074	15 443 048	5 635 448	4 738 448	4 305 448	4 414 448	3 645 800	3 323 800	3 282 800	6 453 600	120 576 012