COMMISSION OF THE EUROPEAN COMMUNITIES

COM (78) 516 final

Brussels, 19 October 1978

DRAFT COMMISSION DECISION

CONCERNING COAL AND COKE FOR THE IRON AND

STEEL INDUSTRY OF THE COMMUNITY

COM (78) 516 final

EXPLANATORY MEMORANDUM

1. The current system

The existing Commission decision no. 73/287/ECSC of 25 July 1973 concerning coal and coke for the iron and steel industry in the Community[1] (coking coal scheme) has its roots in the Protocol of an agreement on energy problems[2] adopted by the former six Member States of the Community on 21 April 1964 and more specifically in the Protocol of an agreement on coking coal and coke destined for the iron and steel industry agreed upon by the governments of the ECSC Member States meeting within the Council on 16 February 1967[3]. A series of Commission decisions with the unanimous endorsement of the Council have firmly established the coking coal scheme within the ECSC. The basic justification of the scheme can be described as follows:

- A large part of Community coal production is in deficit over both the short and the medium term; heavy cutbacks in production capacity could, therefore, prove necessary.
- Uncertainty exists as to what would be the situation with regard to the supply of coking coal from third countries as a result of an excessively rapid or heavy run-down of the Community's production capacity in this sector.
- There is a traditionally high intra-Community trade with coking coal and coke.
- Keeping the coking coal capacity in production forms an integral part of the Community's general energy policy to maintain its coal mining industry on the level of 1973 for reasons of security of supply.
- The factor of security of supply is of particular importance for the Community steel industry relying heavily on the steelmaking process based on pig-iron from blast furnaces. Community coking coal is of high quality which, under normal market conditions, is in short supply worldwide.

---

[1] O.J. No. L 259, 15.9.1973, p. 36/42

[2] O.J. No. 69, 30.4.1964, p. 1099/1100.

[3] O.J. No. 36, 28.2.1967, p. 561.

The scheme is to enable the coal producers in the Community to align their selling prices to world market levels when their production costs exceed this level. The Community steel industry, however, remains free to choose its supplier both within and outside the Community.

The financial mechanism of the scheme provides for a "production aid" paid from the national budgets of the coal-producing Member States and a "sales aid" financed by a special Community fund.

Other important features of the system are special price rules deviating from the provisions of the ECSC Treaty (art. 60) and the establishment of a "guide price" based on running long-term supply contracts for coking coal from third countries.

The sales aid is of particular importance since its purpose is to make Community coking coal and coke more competitive against imported coal when delivered in intra-Community trade. In most cases imported coal is delivered directly into consumption from marine bulk carriers without incurring additional costs while Community coal and coke delivered overland incurs high transportation costs.

The tonnage benefitting from the sales aid in intra-EC trade is set at a maximum of 15 million tonnes per year. The average sales aid amounts to 2.11 EUA per tonne. Consequently, the special fund amounts to approximately 31 m.EUA. It is financed through contributions from the steel industry (17 m.EUA = 55%), the ECSC budget (6 m.EUA = 20%) and six Member States (8 m.EUA = 25%).

2. Present market situation

Present problems in the area of coking coal result from the combination over recent years of three principal elements: reduction in iron and steel production, the appreciation of European currencies against the US dollar; the varying evolution of maritime freight rates and European transport costs.

The fall in steel production is reflected in lower coking coal sales; blast-furnaces in the Community in fact consumed 44 m.t. of coke in 1977 compared with 60 m.t. in 1974.

Trade in coking coal and coke within the Community fell progressively from 20 m.t. in 1974 to 12 m.t. in 1977.

Coal production capacity has remained practically unchanged and coal production itself has not fully reflected the change in demand; this has resulted in increased coke and coal stocks.

The production and storage costs of this unsold tonnage remain a charge for the coal producers.

In addition to the cost of these stocks proceeds have been reduced as a result of the alignment of sale prices on the world market price level for coking coal. The prices for coal traded internationally are expressed in US dollars whereas production costs for Community coal are in national currencies.

Intra-Community exchanges of coking coal and coke are represented as to over 90% by German deliveries. Accordingly, the following refers to cost developments and the market situation as they apply to German producers.
The appreciation of the DM against the dollar during 1977 and 1978 has been such that the gap between world market prices (practically the guide-price established by the Commission) and production cost for coking coal has widened considerably (see table A, para.4). For this reason production aid in Germany increased to 38,40 DM per tonne from 1 January 1978 compared with 13,50 DM in 1977; this is a difference of more than 12 US$.

3. <u>The recent trend in transport rates</u>

Three principal points have characterised this trend over recent years:

(a) the maritime freight element (USA/Australia-Europe) incorporated in the Commission's guide price diminished from ±6 dollars/t (15 DM) in 1974 to ±5 dollars/t (10 DM) in 1977;

(b) there has been some change in transport rates from north sea ports to iron and steel industry or mining industry locations in the Community but increases have been only of the order of 2 DM t.;

(c) rail charges on the main intra-Community trading routes have risen from 22-23 to 28-30 DM/t, i.e. an increase of 6 to 7 DM/t.

Element (a) is already included in the guide price trend. As a result of elements (b) and (c) the range of transport costs has, in general, widened in favour of imported third-country coals adding further to the Community producers' alignment burden. (see table B, paragraph 4).

4. Development of production costs, receipts and alignment margins

Table A summarises the different elements set out in paragraphs 2 and 3 above. The guide-price in US dollars has remained stable over the last four years (it is practically identical for all coastal steel works in the EC). It has declined when converted into DM for comparison with production costs and the corresponding receipts for Community coal.[1]

Table A

Year	Guide price US-$	Guide price DM/t	Net receipts for producers DM/t	Production cost DM/t
1975	62	152	145	144
1976	63	159	153	155
1977	62	144	138	160
1978 (estd.)	62	127	119	168

The net receipts for the producers in the EC shown in the table are average figures. In practice the receipts vary; they are lower when deliveries are made to users remote from the coal field (due to transport costs) and higher for deliveries near to the mine.

Table B below, illustrates the trend of alignment margins, i.e. the differences in price (in US dollars per tonne) between imported and Community coking coals between the years 1972 and 1978 taking German coal as an example. Five typical points of consumption are shown: 4 located in regions remote from the production area and for which sales aid is payable (2 on the coast and 2 inland) and the fifth - by way of comparison - situated close to the production area.

[1] Average value of the dollar in DM:

1974	2.604	= 100
1975	2.452	94
1976	2.526	97
1977	2.33	89
1978 (I-IX)	2.05	79

Table B

	1.7.72	1.1.78
Genoa (It)	13	36
Rotterdam (NL)	10	31
Liège (B)	8	26
Thionville (F)	7	24
Duisburg (D)	5	22

In 1973 the rate of sales aid for intra-Community trade was fixed at an average of 2 UA per tonne i.e. approximately 2.65$/t which, at that time, varied according to case from about one fifth to 2 fifths of the alignment margin. (The average rate of aid was increased to 2.22 EUA/t in 1976).

On average, alignment margins have since tripled, so considerably reducing the effectiveness of the aid; the revision of the rate of aid would, therefore, seem justifiable.

5. The new proposal

There is no question of using a new aid to completely cover the current levels of alignment margins. It is, however, necessary to maintain a high level of Community production capacity for the products concerned which are extensively traded within the Community. To this end the principles and methods already established and proven should be retained:

- production aids and sales aids;
- publication of a guide price serving as a reference for the calculation of alignment margins;
- long-term contracts between producers and consumers;
- Community financing of sales aid in respect of intra-Community trade for a total of 15 million tonnes.

Considering the present economic situation (see paragraph 4 above) it is proposed to increase the average per tonne rate of sales aid from 2.11 to 4.67 EUA for 3 years (1979-1981) and the provision of the special fund from 31 to 70 m EUA.

6. Financing the new scheme

The contributors to the special fund will continue to be as at present: i.e. the iron and steel industry, the ECSC budget and the Member States.

The advantages derived from the system by blast furnace operators in the steel industry justify their participation in the finance arrangements. In the present situation the operators could not be expected to increase their contributions; these, therefore, are maintained at the maximum 1978 level of 17 m EUA and as previously, apportioned on a pro-rata basis according to blast-furnace consumption. The contribution of the UK iron and steel industry will continue to be treated as at present.

The Community contribution will also be maintained at the 1978 level, i.e. 6 m. EUA.

The balance of the finance is 70 - (17 + 6) = 47 m. EUA (rounded figures) and comprises the Member State contributions apportioned according to the following considerations.

Given the interest of the system for Member States participating in intra-Community trade their current contribution is maintained unchanged at 8 m. EUA as an integral part of the scheme and apportioned on the existing scale:

% B 13 F 28 G 31 I 12 L 10 N 6

The balance (47 - 8 = 39 in EUA) is to be shared according to a scale which reflects the economic capacities of the Member States expressed by their GDP on the one hand, and, on the other by the shares of the Member States in exchanges of coking coal and coke, which appears to be an equitable solution. This results in the following average percentages indicated in the Decision.

B 8 % DK 2 % D 30 % UK 15 %

IRL 1 % IT 12 % L 2 % NL 10 %

7. Other amendments

The scope of the system is extended to include coals and cokes intended for the sintering of minerals. These have been excluded until now because in the past the traded volume of classic coking coals has continually equalled or exceeded the finance ceiling. This is no longer a problem.

The general and final provisions of decision 73/287/ECSC are integrally maintained.

The operative period of the decision is limited to three years (1979-1980-1981) since changes are possible in both the industries concerned.

DRAFT

COMMISSION DECISION

of

concerning coal and coke for the iron and steel industry in the Community

SECTION 1

Aids by Member States

Article 1

The Member States are authorized to grant to coal undertakings under their jurisdiction which supply coking coal and blast-furnace coke to the Community iron and steel industry aids to facilitate production, marketing in regions far away from the production areas and intra-Community trade, and the conclusion and implementation of long-term contracts for supply and collection. To this end the following aids may be granted :

(a) a production aid, for which the governments shall each year determine a rate per coalfield, while taking particular account of the average costs of production in that coalfield, the price of coking coal referred to in article 5, delivered in its principal sales area and the long-term supply conditions ;

(b) a sales aid applying to deliveries to areas remote from the coalfield or effected by way of intra-Community trade. The rate of any such aid may not exceed seven units of account per tonne of coking coal in the case of deliveries to installatio which can be supplied direct via maritime transport or where in the case of intra-Community trade, supply via maritime transport is necessary and four units of account per tonne of coal in all other cases. No scale adopted by a government shall introduce any element of discrimination into the aids relating to the deliveries made by the coal undertakings. When intra-Community trade does not attain the tonnage specified in article 8.1, the above rates are increased by the same pe centage in order to take up the special funds available.

Article 2

1. Where a Member State makes use of its option under Article 1, the following rules shall apply :

(a) the aids shall be paid to the coking-coal producer undertakings in respect of their disposals of their own coal ;

(b) the aids may be paid only where the coal is used for coking and the coke in question is actually consumed in the blast furnaces of the Community iron and steel industry;

(c) the aids may be paid only where deliveries of coking coal and blast-furnace coke are made under a long-term contract.

2. The production aids referred to in Article 1 (a) of this Decision may be paid only after the rates thereof have been authorized by the Commission. The authorization shall be given by the Commission with due regard to the criteria referred to in Article 1 (a). For this purpose Member States shall, by 1st November of each year, submit their applications for the following calendar year, together with supporting documents. The Commission shall give its ruling within two months after receipt of the application.

3. The sales aid referred to in Article 1 (b) may be granted only if it is passed on in the form of price rebate to the purchaser of coking coal or blast-furnace coke. When a coal undertaking passes the production aid on to his buyers, this shall not give rise to discrimination between the various long-term contracts to be performed by that undertaking.

SECTION II
Pricing rules
Article 3

1. Coal undertakings are authorized, where necessary, to grant rebates on their list prices, for disposals of coking coal and blast-furnace coke for the Community iron and steel industry under long-term contract, even where there is no actual competition from coal or coke from non-member countries at the point of consumption.

2. The rebates allowed under (1) above shall not cause the delivered prices of Community coal and coke to work out lower than those which would be charged for coking coal from non-member countries and coke made from non-member country coking coal.

3. All other provisions concerning the alignment provided for by Article 60 2 (b) last subparagraph of the Treaty, and decisions in implementation thereof, shall apply to the transactions referred to in (1) above, in particular those which allow the Commission, in the event of abuse, to abrogate or restrict the right of the undertakings concerned to grant such rebates.

Article 4

Should an undertaking infringe the rules laid down in Article 3, the provisions of Article 64 of the Treaty shall apply.

Article 5

1. The delivered prices of coking coal from non-member countries referred to in articles 1 a) and 3 (2) shall be calculated from the prices cif Community ports for comparable transactions. For this purpose the Commission fixes guide cif prices.

2. The delivered prices of blast-furnace coke from non-member countries referred to in Article 3 (2) shall be calculated from the cif prices for coking coal referred to in (1) above in such a way as to cover in full the net coking costs of th supplying coking plants.

SECTION III

Sintering coals

Article 6

1. The aids granted by the Member States and the rules referred to in section I above apply equally to deliveries of coal and coke made under long-term contract and intended for the sintering of minerals for the blast-furnaces of the Community iron and steel industry.

2. The provisions in respect of price, applicable to these transactions are those provided for by article 60, in particular paragraph 2 b) of the Treaty, and decisions in implementation thereof.

SECTION IV

Community financing arrangements

Article 7

Community financing arrangements shall be set up for :

- sales aids paid in pursuance of sections I and III of this Decision in respect of intra-Community trade;

- the amount of the contributions by the iron and steel industries of member countries not engaged in intra-Community trade, insofar as their production of coking coal covers at least 75% of the requirements of their blast-furnaces.

A special fund administered by the Commission shall be instituted for this purpose.

Article 8

1. The Community financing arrangements shall cover an annual quantity of coking coal amounting to 15 million tonnes and an amount of 70 million EUA per year.

2. The special fund shall be financed annually as follows :

(a) The contribution of the European Coal and Steel Community shall be 6 million EUA i.e. 0.40 EUA per tonne of coal;

(b) The Member States shall provide an overall contribution of 47 million EUA, i.e. 3.133 EUA per tonne of coal; this amount shall be contributed on the following scale :
B 8% DK 2% D 30% F 20% IRL 1% It 12% L 2% NL 10% GB 15%;

(c) The overall contribution of the iron and steel industries not referred to in the second indent of article 7 shall be 17 million EUA, i.e. 1.133 EUA per tonne of coal; this amount shall be apportioned among the iron and steel undertakings on the basis of their consumption of blast-furnace coke and sinter coals and cokes.

The contribution of the iron and steel industries referred to in the second indent of article 7 is calculated on the basis of the rate per tonne of consumption applicable to the other undertakings.

Article 9

1. The supplier States may apply for reimbursement from the special fund of aids actually paid.

2. The Commission shall check the applications and determine the amounts to be reimbursed from the special fund to the Member States concerned. If the tonnages or amounts of aid concerned exceed the limits fixed in Article 8 (1), the reimbursements shall be correspondingly reduced. The percentage of the reduction is the same for each of the supplier States.

3. The Commission shall fix the contributions to be paid into the special fund.

4. To speed up Community financing, the supplier countries shall notify the Commission of the deliveries of coal qualifying for aid made during the preceding quarter under Article 7. On the basis of these notifications, the Commission shall request the Member States to pay the corresponding amounts. The Commission shall forthwith apportion these amounts between the supplier States, at the same time as the corresponding contribution of the European Coal and Steel Community. The Commission shall call for contributions from the steelmaking undertakings and immediately apportion the payments among the States concerned.

5. The final accounts shall be settled at the beginning of each calendar year in respect of the preceding year.

SECTION V

General and final provisions

Article 10

1. The Commission shall take into account the aids provided for in this Decision in assessing whether the aids referred to in Articles 6 to 12 of Decision No 528/76/ECSC of 22 December 1970 are liable to interfere with the proper functioning of the Common Market.

2. The Commission shall also ensure that the aids provided for in this Decision do not have the effect of distorting conditions of competition between coal, coke and iron or steel undertakings.

Article 11

1. In an emergency, the Commission may, by decisions taken after consultation with the Consultative Committee and after the unanmimous assent of the Council has been given, amend :

- the rate of the sales aids,
- the ceiling to intra-Community trade,
- the rules governing the financing of the special fund,
- the scale referred to in Article 8, paragraph 2 (c)

These amendments shall take account of the long-term trend of supply conditions and the supply pattern within the Community.

2. If at the request of a Member State or on its own initiative the Commission finds that :

(a) the implementation of this Decision is liable to give rise to serious disturbances in the common market for coal and steel, or to difficulties which may result in a deterioration in the regional economy, or that

(b) appreciable changes are taking place in the conditions, volume or pattern of intra-Community trade, thus altering the economic conditions prompting the adoption of this Decision, it may suspend application of this Decision. It shall refer the matter to the Council and the European Parliament forthwith.

3. If at the request of a Member State or acting on its own initiative the Commissi finds that performance of the long-term contracts is jeopardizing the attainment of the objectives of this Decision, it may, in respect of the undertakings in question, limit or abolish the benefits deriving from the application of Article 1.

4. As an emergency, the Commission shall, on the request of a Member State, lay dowr without delay the necessary safeguarding measures, notify the other Member States accordingly and refer the matter to the Council forthwith.

Article 12

The Commission shall periodically report to the Council and the European Parliament on the application of this Decision and on developments in the supply situation, in particular in connection with intra-Community trade.

Article 13

After consulting the Council and the Consultative Committee, the Commission shall take all measures necessary for the application of this Decision.

Article 14

This Decision cancels and replaces decision 73/287/ECSC of 25 July 1973, most recently modified by decision 1613/77/ECSC of 15 July 1977. It shall enter into force on the day of its publication in the Official Journal of the European Communities and shall take effect from 1 January 1979. It shall cease to have effect on 31 December 1981.

This Decision shall be binding in its entirety and directy applicable in all Member States.

Done at Brussels

The new decision on "coal and coke for the iron and steel industry" ; commentary on new or modified provisions in relation to Decision 73/287/ECSC

Article 1 a) : In referring to article 5, the price criterion which is used in the determination of production aid is linked directly to the guide cif price referred to in articles 3.2 and 5.

Article 1 b) : The rates per tonne increase from 3.165 to 7 EUA and from 1.688 to 4 EUA (the average increases from 2.11 to 4.67 EUA) reflecting present economic conditions more adequately.

- The 7 EUA rate will apply not only to coastal installations but also to inland installations for which deliveries of non-national Community coal involve the use of maritime transport (as in the case of the United Kingdom taking supplies from the continent).
- The rates will be increased in the event of deliveries falling short of the stipulated tonnage (15 mt, art. 8). Such a shortfall is in effect usually accompanied by a softening of world market prices. Conversely, deliveries in excess of 15 mt would lead to a reduction in the aid payments and hence, in effect, in the rates (art. 9.2).

Article 2.2 : The date of submission of dossiers will be the same as that provided in Decision 528/76 regarding measures to assist the coal-mining industry (1st November instead of 30th September).

Article 5.1 : The new text formalizes the practice followed since 1970 and defines the role of the guide price as a floor price for alignment calculations.

Article 5.2 and 5.3 : These provisions might be cancelled. The Commission does not envisage the publication of standard values or criteria in the areas referred to.

./.

Section III : Set of provisions relating to sinter fuels.

Article 6 : (new) Coals and cokes used for sintering minerals and coking coals and blast-furnace cokes are treated alike under this article in respect of aids.

However, because only small quantities of sinter fuels are traded on the world market, the publication of a guide price is not envisaged. For this reason and particularly in respect of alignment, the provisions of article 60 are referred to ; this also avoids confusion with the specific rules on coking coal under section II.

Article 8.1 : The tonnage of 15 mt determines the fixed amount of overall contributions, ie 70 mEUA per annum.

Article 8.2 : The percentage apportionment between the ECSC, the iron and steel industry and Member States is : 9 - 24 - 67 % respectively.

Articles 9, 10 and 11 : straight forward technical amendments.

Article 14 : In replacing decision 73/287 the new decision takes the same duration.