

COMMISSION OF THE EUROPEAN COMMUNITIES

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PROPOSAL FOR A COUNCIL REGULATION FOR A
COMMUNITY AID SYSTEM FOR INTRA-COMMUNITY TRADE IN
POWER STATION COAL

(Presented by the Commission to the Council)

COM (78) 364 final

Explanatory Memorandum

The Community energy policy as it relates to coal

In the objectives for energy policy laid down for the Community, in 1974 and 1975 emphasis was put on the need for the energy sources available in individual Member States to be developed in order to reduce dependence on imported energy, particularly oil. It was expressly requested that production of hard coal be maintained at the 1973 level (250 million tce) and a stable and regular market for Community coal was regarded as a precondition for this.

The consideration behind these objectives remain unchanged. The balance-sheet which the Commission drew up in its "Second Report on the Achievement of Community Energy Policy Objectives for 1985" (Doc. COM(77)395 final) from an examination of the national energy programmes of Member States clearly showed the need to reduce the Community's dependence on imported energy by 50%, and also to bring down the proportion of oil in the Community's energy consumption by a considerable amount - both by 1985. In this context the foreseeable delay in nuclear power programmes would have to be supplemented by an additional coal-burn of 30 million tonnes in thermal power-stations.

The well-known WAES ¹ study also reaches the conclusion that coal is the only fossil energy source which can be expected to remain plentiful until the end of this century and far into the next at comparatively low costs. It is one of the chief energy substitutes which can fill the gap between the oil and gas era and the age of renewable energy sources. WAES considers

¹ Workshop on Alternative Energy Strategies.

that this depends on an active development programme involving consumers and producers.

In view of the universally-held conviction that, unless coal can make a substantial contribution to supplying world energy needs in the medium-term, more petroleum will be needed in its place than the oil-exporting countries can be expected to produce at reasonable prices and actions of the Community to aid Community coal are urgent and necessary. The Member States have different attitudes according to whether a particular country covers its coal requirements predominantly from its own production or through imports from non-member countries.

Despite the extremely advantageous supplies available on the world market the maintenance of Community coal production - even if costly - may be justified in the grants that indigenous coal offers a high degree of security of supply and protection for the consumers against abrupt price increases.

2. The present situation in the coal-mining industry

The conditions under which the Community's coal-mining industry has to work since Community energy policy objectives were established are in clear contradiction with the medium-term prospects and assumptions which influenced the deliberations of the Council. The world recession - and particularly the steel crises - have led to a drop in demand for energy and temporary surpluses in oil, gas and coal supply. The world market prices reflect this situation. The position of the Community coal-mining industry has been marked by a general drop in coal consumption and a sharp increase in imports from non-member states.

It is widely known that because of the prevailing natural conditions the European coal-mining industry produces at relatively high cost and can only cushion the effects of economic conditions on demand and price fluctuations to a limited extent.

Meanwhile currency trends (the fall of the US dollar) have resulted in a further weakening of the competitiveness of the European coal-industry. Actual production has fallen from 270 million tonnes in 1973 to 240 million tonnes in 1977. Imports from non-member countries have increased from 30 million tonnes in 1973 to 46 million tonnes in 1977 and some 63 million tonnes of coal and coke stocks have built up. In some of the important mining districts these supplies cannot be further increased, nor can short-time working in pits be continued indefinitely; consequently definitive reductions in capacity are unavoidable in the foreseeable future. This runs counter to the Community's long-term interests which, for reasons of security of supply, are oriented towards the ability to maintain substantial coal reserves thereby reducing dependence on imported oil, moreover, considering the economic policies of the Community in other sectors it is not justifiable that the effects of the recession should hit the Community coal-mining industry alone.

The Community has of course spoken in favour of an open market and a long-term increase in imports of coal from non-member countries, without at the same time jeopardizing the objective of maintaining the Community's own production capacity. On the other hand, it seems unrealistic to envisage combining the coordination of import levels between Governments of Member States, Community coal consumers and producers and coal exporters in non-member countries with due allowance for the coal available in the Community. Experience has shown that loose agreements are just not practicable. Direct protection of the Community's coal, however in the form of import duties or quantity restrictions would work against the necessary diversification of sources of supply which should be a long-term objective. It would also be ineffective because of the increasingly uncompetitive position of Community coal.

3. Need for a Community measure

Sales promotion measures cannot all be concentrated on consumption in general, but must have some specific aim. The market in power-station coal, which is generally expanding seems from the energy policy point of view particularly suitable for absorbing additional quantities of Community coal provided that the price is competitive.

The coal-producing Member States ensure the sale of power-station coal by national measures which are sometimes very costly. Nevertheless, coal production in general has decreased and at the same time pithead stocks of coal and coke have been building up. The order of magnitude of unsaleable production - which cannot be reduced at present - is estimated at around 10 to 12 million tonnes a year. On this relatively small scale, the problem of Community coal can be attenuated in the short term. As national aid measures chiefly benefit domestic power-station coal production and as there are limits to further increases in electricity sales in these countries, the only form of action which can be considered is in respect of sales in intra-Community trade and particularly in countries with little or no domestic production.

At the present time power-station coal can be obtained in the Community from the world market at prices of between 30 and 35 US dollars cif per tonne. By contrast, the average cost of producing coal in the Community is respectively US \$ 45 in the United Kingdom, US \$ 75 in Germany and France and around US \$ 100 in Belgium. An average of US \$ 10 freight costs has to be paid on top of this to bring the coal from the pits to the place of consumption in another country of the Community. The difference between the cif price of imported coal and the cost price of Community coal is therefore considerable.

The most suitable form for a Community measure is a subsidy for each tonne of power-station coal sold in intra-Community trade. This subsidy must not only be substantial so that coal producers will find it easier to make the correct price alignments, but must also be within the possibilities of the Community budget. The Commission considers a subsidy of 10 EUA per tonne (approximately US \$ 12.40) to be appropriate. The difference between production costs and market price would have to be made up by national aids and/or by the producers.

The Commission feels that this Community action is particularly justified because coal production capacity must be maintained in the interest of long-term security of energy supply; moreover, the coal-producing countries cannot be expected to do this unaided. They already subsidize their own coal-mining industries considerably and thus are already making big contributions towards safeguarding Community energy supplies.

4. The features of the Commission's proposal

Basically any aid system, particularly at Community level, must be as simple, straightforward and efficient, as possible. The market, and the commercial freedom of the beneficiaries should be disrupted as little as possible. The basic general considerations which the Commission recently outlined to the Council on the question of sectoral aid schemes (Doc. COM(78)221 final) also apply to a Community system of aid. More precisely, the Commission considers that Community aid schemes should be limited, not only quantitatively and financially but in time. If after a certain time the energy market situation and the economic position of the coal-mining industry have shown no appreciable change, the situation must be reviewed. In other words, the Community aid proposed by the Commission may be only one of several ways of riding out the situation on the energy market, which for the present is particularly unfavourable for the coal-mining industry.

In order to avoid discrimination, a Community aid system must include not only existing intra-Community trade in power-station coal (just under 4 million tonnes in 1977) but also the additional delivery channels opened up by this aid.

In order to prevent competition for aid, and on the assumption that the governments concerned will possibly need to make available additional aids, a quantity scheme is required for producer countries that guarantees proper distribution of the coal supplied in inter-Community trade but allows adaptation in line with actual developments.

Additional deliveries which work against the objectives of the regulation should also be avoided. This could occur if coal subsidized under this system were to compete for sales on the coal producers' national markets. The aid system must therefore include criteria as to which deliveries are entitled to aid.

As the quality, and particularly the calorific value, of power-station coal produced in the Community varies, qualities should be made comparable by converting to standard grades in order to avoid discrimination in the granting of aid.

In order to avoid rampant price competition with the help of Community (and sometimes national) aids, the established rules on price alignment should be used under the provisions of the ECSC Treaty and the rules of implemen-

tation laid down by the high authority/Commission in this connection, i.e. it must be proved inter alia that the specific competing quotation is valid.

In no case may the amount of aid granted exceed the figure corresponding to the losses actually incurred by Community producers. Neither should it lead to undercutting of the price quoted by supplies from non-member countries.

All further details, conditions of payment, etc are given in the following draft regulation and the financial record sheet attached.

Proposal for a Council Regulation on Community
financial measures by the Community for intra-Community trade
in power-station coal

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the establishment of a common energy policy is one of the objectives
which the Community has set itself and whereas it is the Commission's res-
ponsibility to propose the measures connected therewith;

Whereas it was concluded in the Council Resolution of 17 December 1974 that
the objective was to step up the use of secure sources of energy and also
to maintain coal production at 250 million tce providing the financial con-
ditions were satisfactory;

Whereas the Council decided on 13 February 1975 as a guide towards reaching
this objective that a policy on solid fuels should be worked out and imple-
mented to provide for stable and regular sales of these fuels produced in
the Community, under satisfactory financial conditions, taking the interests
of the consumer in the most important sectors of consumption (iron and steel

industry and thermal power stations) into consideration; whereas with regard to the coal imported from non-member countries the Council was in favour of extending free access to the world market to all Community coal consumers, to whom such access is not yet available, under satisfactory financial conditions in such a way that the realization of the objectives of Community production would not be adversely affected;

Whereas the importation of steam coal from non-member countries into the Community has increased markedly in previous years, as new centres of consumption have appeared, particularly near the coast and in countries with no domestic coal production; whereas, because import prices for steam coal were far lower than the cost of producing Community coal, Community producers could not themselves compete with imported steam coal even with great financial sacrifices; whereas the coal-mining industry has therefore not been able to supply large markets which were particularly significant as a measure for stabilizing sales; whereas the availability and functioning of a common market in power-station coal is one of the conditions for long-term security of supply in the Community;

Whereas, if this trend is not halted or at least checked, it will have deleterious and irreversible effects on production capacity and therefore on energy supplies; whereas this runs counter to the long-term interests of all energy consumers in the Community;

Whereas, because the Community coal-mining industry cannot at present supply the new markets because of its own competitive position and restricting free access to the world market for coal consumers would run counter to the Council's guidelines of 13 February 1975, the competitiveness of the Community's coal-mining industry should be temporarily strengthened by financial measures; whereas a system of Community aids in favour of intra-

Community trade in power-station coal is a specific measure to maintain this part of the common market in coal; whereas the aid system should be not only simple and efficient, but also quantitatively limited as to the amounts of coal and the level of finance involved, and restricted in duration;

Whereas this aid from the Community should be granted in accordance with the rules of competition in the Treaty;

Whereas under the ECSC Treaty and where necessary because of competition from steam coal imported from the third countries, coal-mining undertakings are authorized to grant rebates on their list-prices and whereas in this context the provisions of Article 60 of the ECSC Treaty, paragraph 2 b, last sub-paragraph regarding to price alignment, together with the corresponding implementation decisions, continue to apply;

Whereas the Treaty does not specify the necessary competences for the introduction of Community financial measures for the purposes of improving and safeguarding the supply situation,

HAS ADOPTED THIS REGULATION :

SECTION I

General objective

Article 1

Within the limits of the funds made available for this purpose in the budget of the Communities and in accordance with the conditions defined below, the Commission may grant aids to the undertakings referred to in the first paragraph of Article 3, in order to facilitate intra-Community trade in Community hard coal intended for use in thermal power stations (power-station coal), in order to cover part of the financial losses incurred by coal-mining undertaking as a result of such deliveries.

SECTION II

Criteria for granting aid

Article 2

Aid shall be granted when the criteria defined in Article 3 to 7 below are fulfilled.

Article 3

1. Aid shall be granted to undertakings which produce hard coal in the Community.
2. Aid shall only be granted on request.

Article 4

1. Aid for power-station coal shall be granted only if all the following three conditions are fulfilled.

The coal must:

- (i) have been produced in the Community;
- (ii) be intended for use in power stations in another Member State of the Community;

(iii) must comply with at least one of the delivery categories specified in Paragraph 2.

2. The following delivery conditions qualify for aid :

- (i) deliveries to power stations which have already obtained coal through intra-Community trade in 1978, and in fact up to the amount of 1978 deliveries;
- (ii) deliveries to power stations which in 1978 exclusively or in part consumed coal imported from non-member countries;
- (iii) deliveries to power stations which, during the time of validity of this regulation, started up operating for the first time in Denmark, Ireland, Italy, Luxembourg and the Netherlands.

3. If contracts between coal producers in one Member State and electricity producers in another coal-producing Member State contain conditions whereby electricity undertakings themselves see to the distribution of coal deliveries to their own power stations, the electricity undertakings are required to observe the delivery conditions specified under paragraph 2(i) and (ii) of this Article and not to substitute national coal. Exceptions are only granted to this provision if the electricity undertaking has urgent business reasons for its course of action.

4. Power-station coal qualifying for a subsidy must come either from normal production or from pithead stocks of coal produced by those coal-producing undertakings mentioned in paragraph 1 of Article 3.

No aid is granted in respect of coal recovered from waste-tips.

Article 5

1. The beneficiaries of aid in accordance with Paragraph 1 of Article 3 shall be obliged to supply the Commission with details of any contracts signed or the contracts themselves on request.
2. With regard to deliveries to public power stations in other Community countries, aid may be granted in respect of that quantity of power-station coal which has come from the coal-mining undertakings referred to in Paragraph 1 of Article 3.
3. With regard to deliveries in other Member States to other industrial undertakings for whom electricity production is not the main activity but who possess one or several power plants which cover partly or entirely their own needs aid may be granted on only that quantity of power-station coal which is actually used in the power stations and on the condition that at least 80% of the steam produced is fed into the turbo-alternator set. Any temporary drop below this percentage for technical or economic reasons is acceptable. The coal-mining undertakings mentioned in paragraph 1 of Article 3 are required to obtain the necessary proof every quarter from the industrial undertakings supplied by them.
4. For the purposes of calculating the aid payment the quantities determined in accordance with paragraphs 2 and 3 of this Article shall be taken together.

Article 6

1. Aid for intra-Community trade in power-station coal shall be granted for quantities estimated at no more than 10 million standard tonnes of coal a year for the whole Community.
2. An upper calorific value of 25.1 million k Joule (6.0 million Kcal or 23.8 million BTU) per standard tonne shall be taken as a basis for converting the actual tonnage delivered or consumed in accordance with paragraph 2 and 3 of Article 5 into standard tonnes. The conversion shall be carried out by the coal-mining undertakings referred to in Paragraph 1 of Article 3.

3(a) The overall yearly quantity of not more than 10 million standard tonnes eligible for aid as referred to in paragraph 1 of this Article, shall be divided among the five coal-producing Member States of the Community (Belgium, the Federal Republic of Germany, France, Ireland and the United Kingdom) in maximum quotas valid for a year at a time. The quota distribution will be based on the percentage of Community production and the percentage of overall intra-Community trade in power-station coal on a one-to-one basis. The period from 1 July to 30 June preceding the year in which aid is granted shall be taken as a basis for calculating the percentage of production or trade. The Commission shall calculate the quotas in the autumn of each year for aid in the following year and shall inform Member States of its results.

(b) In the middle of each year, the Commission together with the coal-producing Member States, shall investigate the extent to which their coal-mining industries have already used up or are expected to use up in the remaining months the quotas allocated to them in accordance with Paragraph 3(a) of this Article. Should this investigation show that some individual quotas will probably not be used up while other coal-producing Member States are expected to exceed their allocated quotas, the Commission may adjust the quotas initially allocated to individual Member States on the basis of Paragraph 3 (a) of this Article.

(c) Adjustment of quotas in accordance with Paragraph 3 (b) of this Article shall result in a corresponding adjustment of aid payments.

4. The quota allocated to each coal-producing Member State in accordance with Paragraphs 3(a) or (b) may be divided by Member States between the coal-mining undertakings in its country.

Article 7

1. Aid in accordance with Paragraph 2 of Article 6 shall be granted at a standard rate of 10 EUA per standard tonne of power-station coal (amount of aid per tonne).
2. In the case of the coal-mining undertakings referred to in Paragraph 1 of Article 3, the aid per tonne shall not exceed the actual losses to

the undertakings on their deliveries in accordance with Paragraphs 2 and 3 of Article 5. If this does happen, the aid per tonne shall be reduced accordingly.

3. The amounts of aid to be paid to the beneficiaries are set exclusively according to the amounts specified in Paragraph 4 of Article 5 for which shipping papers or proof of consumption are available.
4. Aid shall be paid quarterly and retroactively and only on presentation of all documents and information which the Commission feels to be necessary.

SECTION III

General and final provisions

Article 8

Should the overall total of national aids granted by Member States to the coal mining industry in accordance with Decision No 528/76/ECSC and of the amount of aid per tonne granted in accordance with this regulation give an amount per tonne which is higher than the actual losses which have occurred on sales of power-station coal in intra-Community trade, the amount of aid paid in accordance with this regulation shall be reduced accordingly.

Article 9

1. At the end of each calendar year the Council may, unanimously, on a proposal from the Commission and after hearing the opinion of the European Parliament, decide to adjust the amount of aid per tonne by a regulation.

In urgent cases the Council may however, on a proposal from the Commission make these adjustments at other times.

2. The Commission may withdraw aid which was granted incorrectly or, particularly, on the basis of misleading information supplied by the beneficiary.

Article 10

If the Commission discovers from a Member State or on its own initiative that:

1. the application of this regulation threatens to seriously disturb the common Market in coal or create difficulties which could result in the deterioration of the coal supply situation in general,
or

2. appreciable changes occur in the conditions of the coal market because the economic conditions which prompted this regulation have changed,

the Council may, on a proposal from the Commission and after hearing the opinion of the European Parliament, decide to partially or completely suspend the application of this regulation. The conditions of existing contracts would have to be taken into consideration in this case.

Article 11

The Commission shall regularly inform the European Parliament and the Council of the application of this regulation.

Article 12

After consulting the Council, the Commission shall issue provisions for implementing this regulation and shall take all the measures necessary to ensure the control and the orderly implementation thereof.

Article 13

This Regulation shall enter into force on 1 January 1979. It shall apply until 31 December 1981.

Financial record sheet
for the 1979 financial year

1. Number of relevant Budget heading : Chapter 32, Item 32 32

2. Title of Budget heading : Aid for intra-Community trade in power-station coal

3. Legal basis :

3.0.1. Council Resolution of 17 December 1974 concerning Community energy policy objectives for 1985 (OJ No C 153, of 9 July 1975).

3.0.2. Council Resolution of 13 February 1975 concerning measures to be implemented to achieve the Community energy policy objectives adopted by the Council of 17 December 1974 (OJ No C 153 of 9 July 1975).

3.0.3. Proposal for a Council Regulation, based on Article 235 of the EEC Treaty, concerning the introduction of a Community aid system for intra-Community trade in power-station coal (COM(78) 70 final).

3.2. Proposal for the Regulation submitted to the Council on

3.3. Opinion of the European Parliament

3.4. Opinion of the Economic and Social Committee

3.5. Article 235 of the EEC Treaty

4. Description, objectives and justification of the measure

4.0. Description of the measure and parties involved

4.0.0. Description : Non-repayable subsidies designed to stimulate intra-Community trade in power-station coal. Aid amounting to 10 EUA/t to be granted in respect of an annual quantity estimated at a maximum of 10 million t only, and covering only 30% of the estimated losses which Community coal-mining undertakings supplying steam coal to other Member States have to meet themselves, or which are offset by State-aid schemes in the coal-producing Member States. The

coal-mining undertakings, will receive the 10 EUA/to subsidy.

4.0.1. Parties involved

4.0.1.0. Category : Community undertakings.

4.0.1.1. Number : About 15 coal-mining undertakings.

4.0.1.2. Geographical position : Community territory

4.1. Aim of the measure

4.1.0. General aim : To achieve the aims of the Community energy policy; to improve the conditions of competition to which Community steam coal is subject in order to ensure Community energy supplies in the long term. Council Resolutions of 17 December 1974 and 13 February 1975.

4.1.1. Specific aim : The aim of the subsidy is to reduce the financial burden borne by undertakings in the coal-mining industry; the subsidy will cover about 30 % of that burden. In accordance with the Directives of long-term policy, this measure will contribute towards stabilizing production between now and 1985.

4.2. Justification of the measure

It would not be possible to stabilize hard-coal production between now and 1985 without financial help from the Community; if production is not stabilized this will have a negative effect on the security of the Community's energy supplies.

5.0. Financial implications

5.0.0. The required appropriations will be entered in the General Budget of the European Communities.

This involves an annual subsidy estimated at a maximum of 100 million EUA over a period of three years.

5.0.0.0. Annual maximum payments in EUA at current prices: million EUA

	Sum	Probable payments		
		1979	1980	1981
1979	100	100		
1980	100	-	100	
1981	100	-	-	100
Total	300	100	100	100

It is estimated that the maximum annual subsidy will be 100 million EUA. The sum actually paid may be less than the maximum, depending on the actual rate of deliveries of steam coal in intra-Community trade.

The subsidy will be paid quarterly - i.e. at the end of each quarter - to undertakings meeting the conditions subject to which subsidies will be paid. Outgoings per quarter will be approximately one quarter of the maximum annual payments - i.e. approximately 25 million EUA.

5.0.0.1. Method of calculation and uncertainty factor

5.0.0.1.0. Method of calculation :

Commitments to be paid for the financial years 1979, 1980 and 1981.

The subsidy is 10 EUA/t per year.

It is based on the amount of steam coal supplied to power stations by way of intra-Community trade. The aim of the subsidy is to increase the amount of steam coal traded within the Community to a level of 10 million t per year. The subsidy will be paid in respect of a maximum amount estimated at 10 million t only; the maximum annual payment is

estimated at 100 million EUA.

5.0.0.1.1. Uncertainty factor

In view of the complicated market conditions it is not possible to forecast exactly how much coal will actually be supplied, and hence the amount to be paid out in subsidies.

6. Type of monitoring to be applied :

6.0. The usual supervision will be carried out by the Commission in accordance with the current Financial Regulation.

6.1. The Commission has to report annually to the Council and the European Parliament on the application of the subsidy.

7. Overall financial implications of the measure for the whole of its expected duration

7.0. Total costs are estimated at a maximum amount of 300 million EUA. Period of application: three years, during which a maximum of 100 million EUA will be due each year.

7.0.1. The costs of the measure will be borne by the Community Budget. If the proposed measure is adopted by the Council in 1978, payments will begin at the end of the first quarter of 1979.

7.0.2. The coal-mining undertakings or the governments of coal-producing Member-

+ 7.0.3. States have to bear costs of approximately 200 million EUA per year. It is not possible to indicate what proportion of that 200 million EUA is borne by the undertakings and how much by the Member States.

8. Staffing :

8.1. The practical application of the intended measures by the Commission's departments requires the employment of two Grade B officials.

8.2. Staff costs

9. Financing of the measure

9.0. Through Chapter 32, Item 3232 of the 1979 Community Budget.

9.1. Probable commitments to be paid in subsequent financial years :
100 million EUA per year for 1980 and 1981.