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REPORT FROM THE COMMISSION

on the Application of the Community Rules for State Aid to the
Coal Industry in 1995

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1. Introduction

Article 10 of Commission Decision No 3632/93/ECSC of 28 December 1993¹ requires the Commission to report each year to the Council, the European Parliament and the ECSC Consultative Committee on the application of the Community rules for State aid to the coal industry.

This report examines the financial aid granted by France, Germany, Portugal, Spain and the United Kingdom to their coal industries in 1995.

All Member States intending to grant aid to coal undertakings in 1995 were obliged to present to the Commission by 30 September 1994 information on all the measures they intended to take to support the coal industry directly or indirectly in 1995.

Such measures may be considered compatible with the proper functioning of the common market provided they help to achieve at least one of the following objectives:

- to make, in the light of coal prices on international markets, further progress towards economic viability with the aim of achieving degression of aids;
- to solve the social and regional problems created by total or partial reductions in the activity of production units;
- to help the coal industry adjust to environmental protection standards.

¹ OJ L 329, 30.12.1993, p. 12.

In accordance with Article 8 of the Decision, the Member States had submitted to the Commission their plans to modernise, rationalise and restructure the coal industry.

Following notification of the plans the Commission had delivered opinions on their conformity with the general and specific objectives set by Articles 2, 3 and 4 of Decision No 3632/93/ECSC, and in particular the Decisions adopted on 13 December 1994² for Germany and Spain, 19 July 1995³ for France, 3 November 1994⁴ for Portugal and 1 June 1994⁵ for the United Kingdom.

In accordance with Article 9(1) of Decision No 3632/93/ECSC, the Member States also notified all the financial aid they intended to grant in respect of 1995, as for 1994, on the basis of these modernisation, rationalisation and restructuring plans. The Commission gave a ruling on these measures in Decisions adopted on 4 April 1995,⁶ and 30 April 1996⁷ for Germany, 30 April 1996⁸ for Spain, 26 July 1995⁹ for France, 29 May 1996¹⁰ for Portugal and 3 November 1994¹¹ and 7 February 1996¹² for the United Kingdom.

The amounts of financial aid referred to in this document are the final figures authorised by the Commission for 1995 under Decision No 3632/93/ECSC. This is the second report under Article 10 of this Decision following its entry into force on 1 January 1994.

2. Coal industry and market

2.1 Production

In 1995, coal production in the European Union totalled 136.1 million tonnes, up 3.7 million tonnes compared with 1994. This is a cyclical increase due to exceptional circumstances in the United Kingdom and Germany and does not affect the restructuring, rationalisation and modernisation policies implemented by the Member States. The downward trend in production resumed in 1996 and 1997.

² OJ L 385, 31.12.1994.

³ OJ L 267, 9.11.1995, p. 46.

⁴ OJ L 379, 31.12.1994, p. 3.

⁵ OJ L 220, 25.8.1994, p. 12.

⁶ OJ L 267, 9.11.1995, p. 42.

⁷ OJ L 244, 25.9.1996, p. 15.

⁸ OJ L 253, 5.10.1996, p. 20.

⁹ OJ L 379, 31.12.1994, p. 3.

¹⁰ OJ L 102, 25.4.1996, p. 42.

¹¹ OJ L 379, 31.12.1994, p. 6.

¹² OJ L 382, 31.12.1994, p. 1.

Table 1
Coal production (*1000 t)

| | 1986 | 1992 | 1993 | 1994 | 1995 | 1996 | % var. 1996/92 |
|---------------|---------------|---------------|---------------|---------------|---------------|---------------|-------------------|
| B | 5625 | 218 | 0 | 0 | 0 | 0 | -100 |
| D | 87126 | 72153 | 64175 | 57623 | 58858 | 53105 | -26 |
| E | 15895 | 18551 | 18402 | 18194 | 17627 | 17800 | -4 |
| F | 14394 | 9478 | 8576 | 7538 | 7014 | 7335 | -23 |
| P | 212 | 221 | 197 | 147 | 0 | 0 | -100 |
| UK | 104635 | 83987 | 67463 | 48971 | 52630 | 50160 | -40 |
| Others | 95 | 149 | 15 | 1 | 0 | 0 | -100 |
| EUR 15 | 227982 | 184757 | 158828 | 132474 | 136129 | 128400 | -31 |
| EUR 12 | 227970 | 184720 | 158824 | 132474 | 136129 | 128400 | -30 |

2.2. Employment

The continuation of the measures to rationalise and reduce activity in the coal industry in most coal-producing countries led to a further drop in employment figures. At the end of 1995 the industry employed 97 600 underground workers, i.e. 6 300 fewer than in 1994. The largest drop in absolute terms was in Germany (6 300), followed by Spain (2 100), while in the United Kingdom there was a slight increase.

Table 2
Underground staff employed at the end of the year (*1000)

| | 1986 | 1992 | 1993 | 1994 | 1995 | 1996 | % var. 1996/92 |
|---------------|--------------|--------------|--------------|--------------|-------------|-------------|-------------------|
| B | 13.3 | 0.8 | 0.3 | 0 | 0 | 0 | -100 |
| D | 107.1 | 78.3 | 71.8 | 64.7 | 58.4 | 55.3 | -29 |
| E | 37.4 | 30 | 25 | 23.7 | 21.6 | 21.3 | -29 |
| F | 18.5 | 7.5 | 7 | 6.4 | 6.1 | 5.3 | -29 |
| IRL | 0.3 | 0.3 | 0 | 0 | 0 | 0 | -100 |
| P | 0.8 | 0.5 | 0 | 0 | 0 | 0 | -100 |
| UK | 108.4 | 36 | 21 | 9.1 | 11.5 | 11.8 | -67 |
| EUR 15 | 285.8 | 153.4 | 125.1 | 103.9 | 97.6 | 93.7 | -39 |

2.3 Coal demand and trade

In 1995, total energy demand in the European Union increased by 1.7% compared with 1994. Nonetheless, demand saw solid fuels continue to fall and much more so for lignite (-6.3%) than for coal (-4%).

However, internal deliveries of coal within the European Union rose temporarily in 1995 compared with the previous year, whereas they had fallen significantly in 1994 and 1993. This increase is a short term phenomenon due to variation of stocks at power stations and to an increase in coke deliveries to steelworks of some 2.7 million tonnes compared with 1994. This is connected with the increase in crude steel production resulting from the very high level of activity in the main steel consuming industries.

Although deliveries of coke to steelworks and of steam coal to public sector power stations increased, total deliveries to other sectors continued to fall, including deliveries to the domestic sector which were down some 1.2 million tonnes (or -16.2%).

Table 3
Internal deliveries of coal (million tonnes)

| | | Power stations* | Coking plants | Industry | Domestic | Others |
|--|------|-----------------|---------------|----------|----------|--------|
| | 1990 | 203.259 | 67.823 | 34.292 | 11.484 | 2.644 |
| | 91 | 214.550 | 64.858 | 35.957 | 13.419 | 2.767 |
| | 92 | 205.673 | 60.196 | 34.935 | 11.175 | 2.797 |
| | 93 | 180.883 | 52.869 | 32.794 | 9.748 | 2.458 |
| | 94 | 163.332 | 50.571 | 31.554 | 9.488 | 2.185 |
| | 1995 | 194.543 | 52.402 | 31.961 | 6.856 | 2.677 |
| | 96 | 184.026 | 50.191 | 29.822 | 6.642 | 1.695 |

* Public sector power stations and coal mine power stations
Including the new German Länder from 1991 and EUR 15 from 1995.

In 1995, coal imports from third countries increased significantly compared with the previous year. Imports totalled 139.9 million tonnes, 9.5 million tonnes up on 1994.

This sharp increase is due to the fact that most Community steel producers were too uncompetitive to take full advantage of the increase in consumption in the steel industry and the electricity generating sector.

Table 4
Imports of coal from third countries (1000 t)

| | 1986 | 1992 | 1993 | 1994 | 1995 | 1996 | % var. 1996/1992 |
|--------|--------|--------|--------|--------|--------|--------|---------------------|
| B | 6792 | 13147 | 11404 | 12087 | 13671 | 10520 | -20 |
| DK | 11065 | 11789 | 10319 | 11544 | 12975 | 13600 | 15 |
| D | 9401 | 14248 | 12627 | 13896 | 13891 | 15300 | 7 |
| GR | 1756 | 2132 | 1337 | 1500 | 1409 | 1409 | -34 |
| E | 8688 | 13729 | 12293 | 11395 | 13595 | 11575 | -16 |
| F | 13877 | 21401 | 13900 | 11914 | 12790 | 14920 | -30 |
| IRL | 2025 | 2737 | 2690 | 2243 | 2243 | 2572 | -6 |
| I | 18990 | 17557 | 14287 | 15889 | 18481 | 17990 | 2 |
| L | 157 | 253 | 251 | 207 | 107 | 97 | -62 |
| NL | 11550 | 14661 | 14871 | 16746 | 17021 | 16500 | 13 |
| A | 3687 | 3796 | 3178 | 2580 | 2995 | 2995 | -21 |
| P | 1477 | 4445 | 4762 | 4990 | 5981 | 5150 | 16 |
| FIN | 0 | 4232 | 5932 | 7862 | 5711 | 6300 | 49 |
| S | 4352 | 3001 | 3189 | 3024 | 3459 | 3177 | 6 |
| UK | 9759 | 19817 | 18078 | 14570 | 15612 | 15700 | -21 |
| EUR 15 | 103576 | 146945 | 129118 | 130447 | 139941 | 137805 | -6 |
| EUR 12 | 95537 | 135916 | 116819 | 116981 | 127776 | 125333 | -8 |

Table 5
Intra-Community trade in coal (exports) (*1000 t)

| Year | Belgium | Germany | Spain | France | Netherlands | United Kingdom | Others | Total |
|------|---------|---------|-------|--------|-------------|----------------|--------|-------|
| 1990 | 668 | 4 906 | 2 | 460 | 2 335 | 1 559 | 37 | 9 967 |
| 1991 | 606 | 3 188 | 0 | 490 | 2 363 | 1 520 | 51 | 8 218 |
| 1992 | 622 | 1 510 | 0 | 444 | 2 029 | 840 | 54 | 5 499 |
| 1993 | 620 | 915 | 0 | 426 | 2 243 | 946 | 28 | 5 178 |
| 1994 | 924 | 1 121 | 0 | 397 | 2 612 | 961 | 27 | 6 042 |
| 1995 | 818 | 1 260 | 0 | 360 | 2 528 | 863 | 35 | 5 864 |
| 1996 | 1 076 | 666 | 0 | 220 | 2 361 | 898 | 161 | 5 382 |

Source: Eurostat and market report

Trade in coal within the European Union, including internal movements of coal of third country origin in free circulation, remained practically the same as in 1994.

It should be emphasised that since the completion of the internal market on 1 January 1993 and the elimination of customs checks, a number of Member States have had difficulties in determining the amount of coal involved in intra-Community trade.

Coal produced in the Community can in principle circulate freely between the Member States. However, certain national measures, consumer habits and price-fixing practices tend to hinder such free movement. Moreover, the prices paid to producers for their exports are generally comparable to those for deliveries from third countries. Given the production costs in the Community, this is not viable and is likely to create distortions of competition compared with non-subsidised Community production. This is an aspect of the use of State aids that the Commission will have to examine very closely.

2.4 Financial situation of European Union coal producers

For the European Union as a whole, the average cost of production went from ECU 119/tce in 1994 to ECU 110/tce in 1995, a fall of 7.5%. In fact the increases recorded in France, Germany and Spain were largely offset by the significant reduction in production cost observed in the United Kingdom.

Table 6
Financial situation of the coal industry

| | Production costs ¹³ ECU/tce | | | | | Returns ECU/tce | | | | | Difference ECU/tce | | | | |
|----------------|---|------|------|------|------|--------------------|------|------|------|------|-----------------------|------|------|------|------|
| | 1991 | 1992 | 1993 | 1994 | 1995 | 1991 | 1992 | 1993 | 1994 | 1995 | 1991 | 1992 | 1993 | 1994 | 1995 |
| Germany | 138 | 143 | 151 | 154 | 159 | 126 | 131 | 136 | 138 | 140 | -12 | -12 | -15 | -16 | -19 |
| Spain | 154 | 147 | 131 | 127 | 133 | 109 | 109 | 97 | 98 | 104 | -45 | -39 | -34 | -29 | -29 |
| France | 91 | 100 | 110 | 125 | 134 | 60 | 56 | 62 | 55 | 55 | -32 | -45 | -49 | -70 | -79 |
| Portugal | 103 | 121 | 112 | 107 | / | 72 | 78 | 72 | 69 | / | -31 | -43 | -40 | -38 | / |
| United Kingdom | 74 | 71 | 62 | 52 | 43 | 73 | 71 | 60 | 51 | 51 | -0 | -0 | -2 | -1 | +8 |
| EU average | 109 | 112 | 114 | 119 | 110 | 97 | 101 | 99 | 101 | 97 | -12 | -12 | -15 | -18 | -13 |

¹³ Overall costs, including capital and depreciation costs

Returns fell by almost 4% throughout the Union in 1995. Given the smaller decrease in average returns in relation to production costs, the situation of the coal industry improved in 1995. This, however, is solely due to the good performance of the UK industry.

Mention should be made of the considerable differences in returns between the different producer countries. To a great extent these are due to indirect consumption-aid mechanisms in certain countries. In accordance with Articles 2(9) and 9(7) of the Decision, these mechanisms must be abolished by 31 December 1996.

A considerable proportion of mines in the European Union showed (often appreciable) improvements in productivity, due largely to the restructuring and rationalisation of the industry. The least productive pits are the first to be closed, and when the decision to close a pit in the relatively near future is taken, underground preparation work is reduced to a strict minimum, releasing workers for production or reducing the number of underground workers. Productivity increases in both cases.

Table 7
Underground output per man/hour (kg)

| | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 |
|----------------|------|------|------|-------|-------|-------|
| Germany | 673 | 681 | 698 | 706 | 707 | 749 |
| Spain | 341 | 315 | 328 | 402 | 323 | 338 |
| France | 634 | 727 | 743 | 824 | 653 | 649 |
| United Kingdom | 704 | 801 | 919 | 1.416 | 1.857 | 1.923 |
| European Union | 628 | 665 | 703 | 743 | 731 | 794 |

2.5 Investments

In spite of the general prospect that in most cases mining will not be profitable, investments by coal producers, after falling sharply in 1994, returned to their 1992-93 levels. These investments, around half of which concern Germany alone, do not however lead to the creation of new production capacity and are mainly accounted for by maintenance and safety measures. Given the generally unfavourable geological conditions, investments have practically no effect on improving productivity and reducing production costs. It should be noted that investments are almost always financed by aids, the details of which will be given in the following chapter.

Table 8
Investments in the coal industry(ECU million)¹⁴

| | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996(est.) |
|----|--------|-------|-------|-------|-------|-------|------------|
| EU | 1030.6 | 892.4 | 686.3 | 621.8 | 529.7 | 633.7 | 636.9 |

3 Situation in European Union coal fields

3.1 Germany

In what is now the main coal producing country in the European Union, the coal industry is in effect concentrated in two fields, the Ruhr and the Saar. Production is centred on 19 pits, employing a total of 90 000 workers, including 55 000 underground. Compared with certain other countries in the Union, the rate of job losses has been relatively low in recent years and has scarcely exceeded 8% a year. Given the extremely diverse economic fabric of the regions concerned, a benefit of the voluntary retraining policy pursued for many years, job losses in the coal industry have so far had no significant effect on the unemployment rate.

3.2 Spain

In Spain, coal mining is spread over a number of fields: Asturias (Central and Western field), León (Bierzo-Villablino, Sabero and Nord), Palencia (Guardo and Barruelo), Cataluña (Pirenaica), Teruel (Teruel-Mequinenza), Sud (Puertallano and Peñarolla). Around a hundred undertakings, mostly private with the exception of the public undertakings HUNOSA, Minas de Figaredo, Endesa and Encasur, share production and employ a total of more than 21 000 persons. Only four undertakings produce more than one million tonnes annually and 13 more than 200 000 tonnes. 12.2 million tonnes come from underground workings and 5.4 million tonnes from open-cast mining. It should be noted that the Spanish coal fields are small geographically isolated areas which are highly dependent on coal mining. This has a direct effect on the possibility of redeployment and reindustrialisation and, consequently, on the employment level.

3.3 France

In France, coal mining is now concentrated on the Lorraine and Centre-Midi coal fields. The producer, Charbonnages de France, is a public sector undertaking. As part of the process of reducing production capacity which has been under way for many years and which is mainly due to unfavourable geological conditions, 20 000 jobs were lost between 1986 and 1996 with a major event being the complete closure of the

¹⁴ Cf. Investments in the coal and steel industries - ECSC Report 1996
 =SEC(97)1229 final.

Nord-Pas-de-Calais field in 1990. Under the National Coal Pact agreed between the two sides of industry in 1995, this process will have to continue over the next few years, leading to the complete cessation of coal mining in France by the year 2005.

3.4 United Kingdom

Since the privatisation of British Coal was completed on 31 December 1994, the coal industry in the United Kingdom has consisted solely of private undertakings which since the beginning of the 1995-96 financial year have no longer received aid under Decision No 3632/93/ECSC. Most of the British coal mines which were still open when the restructuring process was completed were taken over by RJB Mining (a total of 19 pits). The concessions for six other pits were purchased or leased by Coal Investments plc. Moreover, in the Scottish and Welsh coal fields, one pit was transferred to Mining Scotland while four pits, Monktonhall, Hatfield Coal, Betws Anthracite and Tower, were taken over by their workforces.

4. Financial aid scheduled for the coal industry

This report covers the measures set out in Article 1 of Decision No 3632/93/ECSC, viz:

- any direct or indirect measure or support by public authorities linked to production, marketing and external trade which, even if it is not a burden on public budgets, gives an economic advantage to coal undertakings by reducing the costs which they would normally have to bear;
- the allocation, for the direct or indirect benefit of the coal industry, of the charges rendered compulsory as a result of State intervention, without any distinction being drawn between aid granted by the State and aid granted by public or private bodies appointed by the State to administer such aid;
- aid elements contained in financing measures taken by Member States in respect of coal undertakings which are not regarded as risk capital provided to a company under standard market-economy practice.

A breakdown of the overall amount of aid granted by the Member States among these different categories of aid also gives a fairly clear idea of the coal policy being pursued at national level and of the progress being made in the modernisation, rationalisation and restructuring process.

Table 9
Aid authorised 1992-1995

| | 1992 | 1993 | 1994 | 1995 |
|---|-------------|-------------|-------------|--------------|
| Germany | | | | |
| - linked to current production* | 4497.7 | 4462.6 | ***4845.8 | 4784.2 |
| - not linked to current production** | 246.7 | 256.3 | 181.4 | 106.7 |
| Spain | | | | |
| - linked to current production* | 463.3 | 373.3 | 730.8 | 731.9 |
| - not linked to current production** | 108.9 | 0.0 | 145.3 | 135.0 |
| France | | | | |
| - linked to current production* | 186.9 | 190.2 | 298.0 | 56.9 |
| - not linked to current production** | 774.6 | 818.1 | 614.8 | 612.3 |
| Portugal | | | | |
| - linked to current production* | 5.8 | 6.4 | 1.8 | 0.0 |
| - not linked to current production** | 0.0 | 1.0 | 3.6 | 0.9 |
| United Kingdom | | | | |
| - linked to current production* | 0.0 | 1.9 | 20.1 | 0.0 |
| - not linked to current production** | 13.1 | 12.4 | 870.0 | 1622.8 |
| EU TOTAL | | | | |
| - linked to current production* | 5153.7 | 5034.4 | 5896.6 | 5572.9 |
| - not linked to current production** | 1145.0 | 1087.8 | 1815.0 | 2477.7 |
| Aid linked to current production in ECU/tonnes | 28.1 | 31.7 | 44.7 | 41.17 |

*: aid granted under Articles 3, 4, 5 and 6 of Decision No 2064/86/ECSC and under Articles 3 and 4 of Decision No 3632/93/ECSC

** : inherited liabilities under Decision No 2064/86/ECSC and aid granted under Articles 5, 6 and 7 of Decision No 3632/93/ECSC

***: no account taken of the activation of DM 5 350 million (ECU 2 779 million) from a credit line to cover compensation fund debts in the context of the German Law of 19 July 1994 guaranteeing coal supplies for power stations

Compared with 1994, there are signs of a levelling off of aid linked to current production, with the amount of aid per tonne falling from ECU 44.7 to ECU 41.17. There have been particularly significant falls in France and the United Kingdom. At the same time, there has been a sharp increase in aid not linked to current production in the latter country. The detailed situation in each Member State is as follows.

4.1 Germany

In 1994, the Commission authorised a total of DM 14 677 700 000 (ECU 7 624 800 000) of financial aid relating to current production. This total included activation of DM 5 350 million (ECU 2 779 million) out of a credit line to cover deficits in the compensation fund under the German Law of 19 July 1994 guaranteeing coal supplies for power stations. This credit line was intended to cover the deficit in the compensation fund existing at 31 December 1993. It thus represented a clearing of debts accumulated by the fund in previous years.

The situation is then that the amount of aid linked to current production has remained at an extremely high level since 1992, with no sign of any serious effort to reduce it. The slight drop seen in 1995 has very little significance in this connection, since it was followed by a sharp increase in 1996.

Out of the total of ECU 4 784 200 000 in operating aid (under Article 3 of Decision No 3632/93/ECSC) authorised in 1995 the two main items were:

- aid worth DM 5 900 million in connection with the Third electricity from coal law of 13 December 1974 in the form of revenue from the compensation fund (Ausgleichsfonds) for the year 1994 corresponding to a levy rate (Kohlepfennig) of 8.5%;
- aid amounting to DM 2 708.5 million covering coking coal for the Community steel industry, plus a financial measure worth DM 118.4 million for Saarbergwerke AG.

In its Decision 95/464/ECSC¹⁵ of 4 April 1995 on German aid to the coal industry for 1995, the Commission reiterates that the system of production aids must be brought into line with the provisions of Decision No 3632/93/ECSC and also takes note of the Decision of the Federal Constitutional Court of 11 October 1994 ruling that the provisions concerning the imposition of the "Kohlepfennig" levy are incompatible with the German Basic Law and must cease to be applied with effect from 1 January 1996.

¹⁵ OJ No L 267, 9.11.1995, p. 42

It should be pointed out that following the Court's ruling and in accordance with the provisions of Decision No 3632/93/ECSC, the German authorities adopted a new law on 12 December 1995¹⁶ including aid in the budget and abolishing the Kohlepfennig.

As regards aid covering coal and coke for the Community steel industry, the amount authorised for 1995 under Decision 96/560/ECSC¹⁷ of 30 April 1996 on German aid to the coal industry for 1995 and 1996 was down on the previous year: DM 2 826.9 million compared with DM 3 232 million for 1994. This reduction in aid is due to a fall in the production of coking coal due to the fundamental changes taking place in steelmaking technology, one aspect of which is the injection into blast furnaces of increasing quantities of cheap steam coal of mediocre quality and mainly to the fact that the production of coking coal in Germany shows no prospect of profitability and is therefore bound to undergo a steady decline.

The remaining operating aid authorised in 1995 was:

- aid totalling DM 95 million to maintain the underground workforce (Bergmannsprämie);
- aid totalling DM 92.8 million for compensation between coalfields;
- aid totalling DM 50.8 million for compensation for coal with a low volatile matter content.

In its evaluation of these specific aids, the Commission notes their gradual reduction which is around 10% a year for the last two measures.

For all aids linked to current production, the Commission has moreover taken account of the need to alleviate as far as possible the social and regional consequences of restructuring in accordance with Article 2(1) of Decision No 3632/93/ECSC.

By Decision 95/464/ECSC, the Commission also authorised aid totalling DM 200 million to Ruhrkohle AG, Saarbergwerke AG, Gewerkschaft Auguste Victoria, Sophia Jacoba GmbH and Preussag Anthrazit to cover exceptional costs. These exceptional costs include additional costs of pumping out pits closed down under restructuring measures which are next to pits still in production. The cessation or slowing down of the pumping out of water in closed down mines leads to infiltration of water which has nothing to do with existing production and gives rise to additional costs.

¹⁶ BGBl. I, p. 1638.

¹⁷ OJ No L 244, 25.9.1996, p. 15.

This type of aid is in fact provided for in the Annex to Decision No 3632/93/ECSC which contains the decision on costs referred to in Article 5(1) of the said Decision. The increase in this aid from DM 179.1 million in 1994 to DM 200 million in 1995 may be seen as a direct consequence of the implementation of the restructuring plan.

4.2 Spain

The operating aid (Article 3) and aid for the reduction of activity (Article 4) authorised by the Commission in respect of 1995 totalled ECU 731.9 million, thus remaining practically the same as 1994. It should however be pointed out that by letter of 22 July 1996 the Spanish authorities requested authorisation for additional aids in respect of 1995 for undertakings signing programme contracts with the State amounting to PTA 11 010 million for aid for the reduction of activity (Article 4) and PTA 4 697 million to cover exceptional costs occasioned by closures (Article 5), i.e. a total of PTA 15 707 million (ECU 96 million). So far, given the information provided by the Spanish authorities, these additional aids have not yet been authorised by the Commission.

In its Decision 96/591/ECSC¹⁸ of 30 April 1996 on financial measures by Spain in respect of the coal industry in 1995, the Commission, in accordance with Article 9(6) of Decision 3632/93/ECSC, assessed the conformity of these measures with the plans to modernise, rationalise, restructure and reduce the activity of the Spanish coal industry for the period from 1 January 1994 to 31 December 1997 which had been the subject of its Decision 94/1072/ECSC.¹⁹

After subdividing the total amount of aid for current production into operating aid and aid for the reduction of activity, the Commission finds that these aids do not yet conform to the provisions of Decision 3632/93/ECSC insofar as the aid for coal used in power stations is not entered in public budgets or in strictly equivalent mechanisms, but continues to be funded by means of a levy on electricity prices charged to consumers. The Commission notes, however, the undertaking by Spain to bring this aid mechanism into line before the expiry of the maximum transitional period provided for in Article 2(2) of Decision No 3632/93/ECSC.

The Commission also notes that Spain is proposing to adapt this system for fixing the selling price of coal to electricity producers, which at present is much higher in Spain than on the international market, with a gradual shift to a price aligned on that of imported coal, and notes Spain's undertaking to ensure that, by 31 December at the latest, the selling price of Spanish coal, in accordance with Article 3(1) of Decision 3632/93/ECSC, is freely agreed between the contracting parties in the light of the conditions prevailing on the world market.

¹⁸ OJ No L 259, 12.10.1996, p. 14.

¹⁹ OJ No L 385, 31.12.1994, p. 31.

In the same Decision, the Commission authorised aid to cover exceptional charges (Article 5), viz:

- aid of PTA 14 723 million in respect of 1995 to cover the allowances to be paid to those of the 7 300 workers in the Spanish coal industry who have to take early retirement or who have lost their jobs as a result of the implementation of the plan to modernise, rationalise, restructure and reduce the activity of the Spanish coal industry;
- aid of PTA 7 140 million for 1995 to partially cover the fall in value of the fixed assets of coal producers which have to effect total or partial closures under the modernisation, rationalisation and restructuring plan.

The Commission notes that these financial measures were made necessary by the process of modernising, rationalising and restructuring the Spanish coal industry and must therefore be considered to be related not to current production but to inherited liabilities.

In verifying the aid actually paid, notified in accordance with Article 9(2) of Decision No 3632/93/ECSC, the Commission found that although Spain paid its coal producers all the aid authorised to cover operating losses (Articles 3 and 4), only 28% of the amount authorised for aid to cover exceptional charges (Article 5) was paid. This means that Spain did not carry out the measures to restructure and/or reduce the activity of the coal industry provided for in the authorised plans. The Commission's departments therefore requested the Spanish authorities to account for this discrepancy with the plans originally submitted.

The Commission also authorised aid for research and development provided for in Article 6 of Decision No 3632/93/ECSC. This aid, which totalled PTA 50 million in respect of 1995 (less than 20% of the total R&D expenditure of the Spanish coal industry) is intended to solve specific problems arising from the peculiar nature of coal deposits in Spain and to improve environmentally-friendly techniques for using coal. Moreover, the Commission assured itself that the aid in question conforms to the rules laid down in the Community framework for State aid for research and development.²⁰

Finally, the Commission authorised aid of PTA 100 million for environmental protection in accordance with Article 7 of Decision 3632/93/ECSC. This aid is intended to facilitate the adjustment to new environmental protection standards of certain installations belonging to coal producers, provided that they have been in operation for at least two years before the entry into force of those standards, excluding the costs of improvements that those producers have to carry out as a

²⁰

OJ No C 45, 17.2.1996, p. 5.

normal consequence of their mining activity. In its assessment of the aid, the Commission also assured itself that the aid complied with the rules laid down in the Community framework for State aid for the environment.²¹

4.3 France

Whereas for 1994, the Commission had authorised aids to cover operating losses (aid relating to current production) amounting to FF 1 962 million (ECU 298 million), there was for 1995 a sharp fall in aid relating to current production (reduction of activity) which amounted to only FF 371 million (ECU 56.9 million). This may be interpreted as proof of the willingness of the French authorities to reduce aid relating to production, with a view to the total cessation of mining in 2005 as provided for in the Coal Pact.

However, it should be emphasised that the fall in aid relating to current production is not matched by a similar reduction in operating losses (on the contrary, these are on the increase), and that consequently Charbonnages de France is obliged to finance these operating losses increasingly through loans, which is building up a heavy burden for the future. Recourse to debenture loans increased sharply in 1995. This trend will have to be closely monitored to determine whether the problem is being shifted rather than solved.

In its Decision 95/519/ECSC²² of 26 July 1995 authorising France to grant aid to the coal industry for 1995, the Commission notes that the sum of FF 371 million that France is proposing to grant under Article 4 of Decision 3632/93/ECSC is part of the company's activity-reduction plan approved by the Commission which, given the exceptional social and regional consequences, provides for phased closures up to the year 2005, i.e. beyond the period of application of Decision 3632/93/ECSC. In other words, the deterioration of the economic and financial situation of the company and the lack of any prospect of coal production returning to profitability do not give rise to any particular objections on the part of the Commission, since the principle of definitive closure has already been established.

Apart from the aid for reduction of activity, the Commission also authorised in the same decision aid to cover exceptional costs, under Article 5 of Decision 3632/93/ECSC, amounting to FF 3 980 million and aid for research and development under Article 6 of that decision amounting to FF 15 million. The amount of this aid remained practically the same as in 1994.

²¹ OJ No C 72, 10.03.1994, p. 3.

²² OJ No L 299, 12.12.1995, p. 18.

The aid to cover exceptional costs (inherited liabilities) covers costs which are explicitly mentioned in the annex to Decision No 3632/93/ECEC, viz:

- FF 561 million towards the costs of paying social welfare benefits resulting from the pensioning off of the workers before they reach the statutory retirement age;
- FF 180 million as exceptional expenditure on workers who lose their jobs as a result of restructuring and rationalisation;
- FF 74 million as payment towards residual costs resulting from administrative, legal or tax provisions;
- FF 219 million towards additional work resulting from restructuring;
- FF 42 million towards mining damage caused by pits previously in service;
- FF 44 million towards exceptional intrinsic depreciation resulting from the restructuring of the industry;
- FF 2 860 million towards the increase in the contributions, outside the statutory system, to cover social security costs as a result of the drop, following restructuring, in the number of contributors.

The aid for research and development, which is less than 20% of total expenditure by the undertaking on research and development, mainly concerns, in the mining sector, the improvement of cutting and excavation performance, improvement of safety and working conditions, the extension of remote control and monitoring and transmission of information, the mining environment and, where the utilisation of coal is concerned, coal behaviour, the upgrading of ash, the analysis of gaseous pollutants and the development of fluidised bed combustion. The Commission assured itself that this aid conforms to the Community framework of State aid to research and development.

4.4 United Kingdom

During 1995, no aid linked to current production was granted to the United Kingdom. Over the same period, the amount of authorised aid not linked to current production reached an exceptionally high level. This high level is however due to a single specific measure connected with the privatisation of the British Coal Corporation which results from the singular financial structure of that undertaking. In Decision 94/995/ECSC²³ of 3 November 1994 ruling on financial measures by the United Kingdom in respect of the coal industry in the 1994/95 and 1995/96 financial year, the Commission authorised a financial measure in favour of British Coal Corporation reflecting the heavy burden of restructuring costs funded by loans and the fall in the value of that undertaking's

²³ OJ No L 379, 31.12.1994, p. 6.

assets in recent years. The amount of that measure was not to exceed the difference between the loans on the balance sheet at the end of the 1994/95 financial year and the proceeds of the sale of the regional coal companies and the mines under care and maintenance; the United Kingdom authorities subsequently put this figure at £793 million.

To understand this measure, it should first be remembered that the capital of the national British Coal Corporation was made up solely of debenture loans. Consequently, the costs of restructuring, mainly redundancy payments, borne by the undertaking since 1990 and not covered by aid were financed by loans. These costs and the fall in the earning power of the assets have added to the undertaking's debt burden to such an extent that, even without privatisation, further financial restructuring would have been essential in order to restore a balance between the undertaking's debts and its earnings potential.

The Commission therefore ruled that the extinguishment of the debts, partially compensated by the proceeds of the sale by auction of the mining activities of the company, represents an aid which corresponds to exceptional intrinsic depreciation of the assets of the company resulting from its restructuring which is explicitly covered by the annex to Decision No 3632/93/ECSC.

The other financial measures for 1995 authorised under Decision 94/995/ECSC totalled £441 million broken down as follows:

- aid not exceeding £130 million to the Coal Authority, a public sector body, to cover liabilities for environmental and physical damage caused by coal production activities before the privatisation of the British Coal Corporation,
- aid not exceeding £2 million to cover compensation for workers and former workers of the British Coal Corporation for hearing loss arising from that part of their employment in the corporation running from 26 March 1989 to the date of privatisation of the corporation and aid not exceeding £30 million to cover compensation for other industrial injury and damage to health suffered by workers and former workers of the British Coal Corporation during that part of their employment in the corporation falling between 1947 and the date of its privatisation,
- aid not exceeding £1 million for concessionary fuel entitlement to coal or smokeless fuel or, in certain cases, cash in lieu to British Coal Corporation workers who have retired or have been made redundant as a result of the modernisation, rationalisation and restructuring of the coal industry in the United Kingdom, and their dependants, for that part of their employment in the Corporation running from 31 March 1990 to the date of its privatisation,

- aid not exceeding £183 million for contributions to pension schemes for British Coal Corporation workers, including those granted early retirement as a result of the restructuring of the coal industry in the United Kingdom,
- aid not exceeding £25 million to the British Coal Corporation to cover exceptional social welfare payments to workers who have been made redundant or who have been transferred to other production units as a result of the restructuring of the coal industry in the United Kingdom,
- aid not exceeding £70 million to the British Coal Corporation to cover the costs arising from residual activities prior to dissolution of the Corporation following privatisation.

To these aids should be added the sum of £111 million authorised by the Commission Decision 96/274/ECSC²⁴ of 7 February 1996 concerning additional financial aid by the United Kingdom in respect of the coal industry in the 1995/96 financial year. This amount breaks down as follows:

- aid not exceeding £14 million to the British Coal Corporation to cover compensation for former workers for industrial injury and damage to health and aid not exceeding £2 million to cover the same compensation direct to former miners for claims arising from the period before privatisation,
- aid not exceeding £95 million for concessionary fuel entitlement to coal or smokeless fuel, or, in certain cases, cash-in-lieu to British Coal Corporation workers who have retired or have been made redundant as a result of the restructuring of the coal industry in the United Kingdom, and their dependants, for that part of their employment in the Corporation up to 31 March 1990.

5. Conclusions and prospects

The application of the Community system of aids to the coal industry is embarking on a series of derogations to Article 4c of the ECSC Treaty the main objective of which in policy terms is to minimise the social and regional consequences of restructuring and the reduction in activity in the European Union coal industry which, without these derogations, would be largely condemned to disappear rapidly. This being said, an analysis of the application of aid arrangements for 1995 gives rise to the following observations:

- The economic situation of coal producers in the European Union did not improve significantly in spite of a marked economic upturn with increased consumption in the steel industry and power stations.

²⁴ OJ No L 102, 25.04.1996, p: 42.

- Coal imports from third countries now exceed the amount produced by the Community coal industry.
- Apart from the United Kingdom, the trend in production costs appears to exclude, for most coal producers in the European Union, any hope of competing (again) in the long term with world market prices.
- The economic and social situation in the coal fields is influenced to varying degrees by the coal producers. Most fields have successfully embarked on economic diversification, so it may be said that, overall, the social and regional objectives of coal policy have been achieved.
- As regards authorised aids, there has been a slight decrease in aid linked to current production offset by an increase in aid not linked to current production (inherited liabilities).
- The aid structure, i.e. the breakdown under the various articles of Decision No 3632/93/ECSC varies greatly from one coal-producing country to another, reflecting the differences between national coal plans. As these plans were presented and approved in 1994, it would be premature to attempt to assess their effectiveness in the review of 1995.

DOCUMENTS

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