

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(76) 45 final.

Brussels, 11 February 1976

DRAFT COMMISSION DECISION (ECSC) REGARDING THE  
COMMUNITY SYSTEM OF MEASURES TAKEN BY MEMBER  
STATES TO ASSIST THE COAL-MINING INDUSTRY



SECTION IGENERAL AIMSArticle 1

The Commission is empowered, subject to the conditions set out below, to approve financial support by each Member State for the coal-mining industry of the Community, if, having regard to the objectives laid down by the Council in its Resolution of 17 December 1974 on Community coal production, this support facilitates the achievement of the following objectives :

1. Maintenance, extension or rationalization of the production capacity of pits or coalfields which, having regard to their location in relation to markets, to their reserves of qualities in demand or their potential for improved production, appear best able to supply the Community's long-term energy coal and coking coal requirement under satisfactory economic conditions.

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2. Further adaptation of the production of pits or coalfields having a low economic return to market conditions in such a way as to avoid causing serious economic and social disturbances in those regions where re-employment possibilities are still inadequate.

SECTION II

OBLIGATIONS OF MEMBER STATES

Article 2

- (1) If a Member State intends to take measures in accordance with Article 1, it must provide the Commission, not later than 1 November each year, and separately for each coalfield or undertaking, with the following information :
  - 1) All financial measures which the State in question proposes to take in the ensuing year in order to give direct or indirect support to the coal-mining industry.
  - 2) When the financial measures are in support of social security benefits in the coal-mining industry,
    - a) the legal and administrative provisions applicable in each case or changes in existing provisions that have already been notified;
    - b) the total amount of social security benefits, broken down by category, paid during the preceding year to workers and former workers in the coal-mining industry and to their dependents, the number of recipients of these benefits and the corresponding information for the general system;
    - c) the various resources drawn upon and the corresponding amounts allocated for the financing of the benefits referred to in (2) (b).

- 3) Where the financial measures are designed to cover the inherited liabilities of undertakings in the coal-mining industry,
  - a) the type of inherited liability to be covered;
  - b) the probable amount of the inherited liability for the year in which aid is granted;
  - c) information on the extent to which undertakings have integrated inherited liabilities into the cost of current production or have built up special financial reserves to cover such liabilities themselves.
- 4) The reasons for and the scope of the various intervention measures, all further information for their assessment in accordance with this Decision, and proof that the measures are not more extensive than is absolutely necessary to achieve the aims desired.
- 5) Forecasts of trends in production, imports and sales of coal and coke, presented in the form of balance sheets, showing :
  - a) for the fifth year ahead :
    - an overall forecast of the availability and sales of coal;
  - b) for the year ahead :
    - a forecast of the availability and sales of coal for each of the following sectors : coking plants, power stations, other industrial consumers and domestic use;
    - a forecast of production and sales of coke for each sector
- 6) Information over a five year period on the probable development of existing production capacity in the coalfields or undertakings and on plans and measures to create new pits.

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- 7) Information for the following year on proposed closures of pits or parts thereof, and forecasts of the restructuring of the regions concerned and re-employment of redundant workers in connection with regional development programmes.
- (2) For 1976, the information specified in paragraph 1 is to be provided not later than 30 June 1976.
- (3) If a Member State intends to take supplementary financial measures in addition to the measures already notified under paragraph 1 or to modify existing measures during the calendar year, it must inform the Commission thereof in time for it to assess the proposed measures and to pronounce upon them in accordance with the procedure laid down below.

SECTION : III

PROCEDURE FOR ASSESSMENT AND APPROVAL

Article 3

- (1) The Commission shall examine how far the measures proposed by the Member States to assist the coal industry are compatible with the proper functioning of the common market, on the basis of the following criteria :
  1. Consistency of the quantitative forecasts established for each coalfield or undertaking within the figure for the overall supply of the Community with coal and coke;
  2. Considerations of intra-Community trade and the state of competition between the Community's coal producers;
  3. Advisability of the financial measures envisaged by the Governments, in the light of the objectives of this Decision, the pricing of Community coal, in so far as prices are affected by the level of aid, with due respect for the principle that the aid must be no higher than absolutely necessary and must not constitute

indirect subsidization of industrial consumers;

4. Progress in the adaptation and development of production capacities and in the rationalization of those pits with the highest productivity, having regard to their situation in relation to the markets and to their reserves of qualities of coal in demand;
  5. Need to avoid serious economic and social disturbances caused by the closure of unprofitable pits in regions where re-employment possibilities are still inadequate.
- (2) When carrying out its examination in accordance with the criteria in paragraph 1, the Commission shall take into consideration not only those aids which can be granted under this Decision, but all other financial measures taken to assist the coal-mining industry of the Community. It shall ensure that these aids and financial measures do not contravene the principle of non-discrimination laid down in the Treaty.

#### Article 4

- (1) Contribution by Member States to the financing of social security benefits shall be considered compatible with the common market, provided that, for undertakings in the coal-mining industry, they bring the ratio between the burden per miner in employment and the benefits per person in receipt of benefit into line with the corresponding ratio in other sectors.
- (2) The Governments , of the Member States shall submit to the Commission the necessary basic data and details of how they calculated the ratios between the burdens and benefits referred to in the foregoing paragraph.

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Article 5

(1) Measures taken by Member States to assist undertakings to cover the costs arising from pit closures which are not related to current production and sale of coal shall be considered compatible with the common market provided that the amounts of such measures do not exceed the amount of such costs, i.e. of the inherited liabilities. Such aid may be used to cover :

1. The costs incurred by single undertakings which are making or have made closures, limited to the following :
  - a) costs of social security payments incurred through pensioning off workers before they reach the legal retiring age;
  - b) other exceptional expenditure for workers made redundant because of closures;
  - c) the payment of pensions and allowances outside the statutory insurance scheme to workers made redundant because of closures, and to those who were entitled to such payments before the closure;
  - d) the free delivery of coal to workers made redundant because of closures and to those who were entitled to such coal before the closure;
  - e) residual charges arising out of tax provisions;
  - f) additional safety work that has to be carried out underground as a result of closures;

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- g) subsidence or similar damage attributable to pits which were worked earlier;
- h) residual charges in respect of payments to bodies dealing with water supply and disposal of waste water;
- i) other residual charges in respect of water supply and disposal of waste water;
- j) residual costs in respect of sickness insurance scheme contributions on behalf of former mineworkers;
- k) exceptional material loss caused by the closure of pits where compensation for these losses is vital to the continuing existence of the undertaking;

2. The costs incurred by several undertakings :

- a) increases in the contributions needed to cover social security obligations outside the statutory insurance scheme where such increases result from a reduction, due to closures, in the number of those liable to pay contributions;
- b) expenditure caused by closures, in respect of water supply and disposal of waste water;
- c) increases in payments to bodies dealing with water supply and disposal of waste water where these increases are attributable to a reduction, following closure, in the production of coal on which the levy must be paid.

- (2) The measure may consist of a lump sum, which shall not exceed the actual amount of the inherited liabilities.

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- (3) The Governments of the Member States shall submit to the Commission the necessary basic data and details of their methods of calculation of the ratio between the actual overall inherited liabilities of undertakings and the proposed measure.

#### Article 6

- (1) The Commission may, after consultation with the Council, approve the aids provided for in Articles 7 to 12 below, provided that it is satisfied that the aids meet the requirements of Article 3.
- (2) The Commission shall give its opinion in accordance with the procedures and rules of the Treaties all other aids and financial measure, in particular those referred to Articles 4 and 5, as far as they are covered by the Treaties.
- (3) The Member States shall not grant the aids referred to in paragraph 1 above without the prior approval of the Commission.
- (4) Where the financial position of an undertaking requires the payment of advances on the financial measures proposed before the procedure for approving them has been completed, such advances shall be designated as such and shall only be paid on the express understanding that they may have to be repaid.

#### SECTION IV

#### AID FROM MEMBER STATES

#### Article 7

- (1) Approval may be given to aids from Member States which are intended to maintain or extend production capacities in mining areas where economic conditions are favourable.

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- (2) Approval may be given to aids from Member States which/intended, within the framework of further rationalization or adaptation of undertakings to the conditions obtaining on the coal market, to improve the economic returns from, or the safety of, existing mines.
- (3) The aid referred to in paragraphs 1 and 2 may be granted for individual investment projects, for investment programmes or for the testing of equipment involving new techniques subject to the following conditions :
  - 1) the investment projects or programmes must help to improve the economic returns from, or safety in, the mines; Governments must supply proof of this;
  - 2) investment projects or programmes designed to improve economic returns must primarily contribute to :
    - a) concentration of pits;
    - b) increased mechanization and automation of coal winning or of underground operations;
    - c) upgrading the coal produced.
  - 3) Investments intended for the testing of equipment involving new techniques must help to speed up and facilitate the practical application of new technology in the coal-mining industry.
- (4) Undertakings in the coal-mining industry shall be required to enter the investment aids received in a special account:
- (5) In the case of investment programmes, the Commission must be informed at least once a year, in respect of each individual project in the programme which it is decided to carry out, of the aim of the project and of the amounts of the investment expenditure assigned to it and the amount of the aids involved.

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- (6) Where the aids applied for concern investments which have already benefitted from measures taken under Articles 54 and 55 of the ECSC Treaty, the amount of such benefits must be shown separately for each project.

Article 8

Approval may be given to aids from Member States which are intended to help finance expenditure borne by undertakings in connection with such recruiting, training, adaptation and stabilization of the labour force as is absolutely necessary.

Article 9

- (1) Approval may be given to aids for the building up and holding of exceptional stocks intended to make the supply of Community coal more flexible and more readily adaptable to periodic fluctuations in demand.
- (2) Exceptional stocks shall qualify for aid only if they are stocks of marketable coal and coke belonging to the producers or financed or built up directly or indirectly by them and if in aggregate they exceed one-twelfth of the annual production of the coalfield or undertaking concerned. Where security stocks are held by virtue of Article 10, they shall not be taken into account when fixing these exceptional stocks.
- (3) The aid may not exceed the cost of storing the quantities referred to in paragraph 2, inclusive of depreciation but exclusive of any decrease in value.
- (4) The aid is to be calculated one year in advance, on the basis of a fixed amount per metric tonne, separately for coking coal, other kinds of coal and coke; the method of calculation thereof must be indicated.

Article 10

Approval may be given to aids for the building up and holding of long-term security stocks of coal and coke belonging to the producers or financed or built up directly or indirectly by them and stored at the pit head or stored by the consumers. Such stocks must be intended to increase the security of coal supplies against interruptions in the supply of energy and must be built up on the initiative of the Government of the Member State concerned. The aid granted may cover storage costs properly so-called, depreciation and decrease in value. Additionally the undertaking concerned may receive reimbursement from public funds of the capital tied up in the security stocks, provided that an undertaking is given that the sum will be repaid to public funds if the stocks are disposed of.

Article 11

- (1) Approval may be given to special aids from Member States which are intended to stabilize in the long-term the sale of Community steam coal for power stations.
- (2) The aids referred to in paragraph 1 must be such as to fit into the general pattern of other aids and must not adversely affect the way in which this Decision is applied.

Article 12

- (1) In addition to the aids provided for in Articles 7 to 11, approval may be given to aids where it can be shown that :
  - 1) in unprofitable coalfields the adjustment of the level of production to the level called for by market conditions would give rise to major social and economic disturbances in a region where the possibilities of re-employment are still inadequate; or

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- 2) in profitable coalfields or in coalfields whose production is necessary for the supply of specific markets, the production capacity necessary in the long term to ensure the Community's energy supply cannot be maintained without such aid.
- (2) Aid under paragraph 1 (1) shall be granted only
- 1) if pit closures and redundancies are likely;
  - 2) to the extent that it does not exceed, for each individual coalfield or undertaking, the difference between the foreseeable average costs of coal production and the average returns achievable in the next calendar year (coal production year);
  - 3) if, for each coalfield or undertaking, it is expressed as a uniform figure per metric tonne produced;
  - 4) if its amount is justified by the communication of details of the average production costs and receipts for the most recent period of time elapsed.
- (3) Aid under paragraph 1 (2) must be calculated in accordance with the requirements laid down in paragraph 2 (2), to (4) provided that the Commission may fix a maximum amount if it finds that the difference between the foreseeable average costs of coal production and the average returns achievable in the next calendar year (coal production year) is due to changes in the situation of undertakings in the coal-mining industry which are in keeping neither with satisfactory economic conditions nor with the requirements of the long-term security of the energy supply.

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- (4) The reductions in costs resulting from the grant of aids in accordance with Articles 4, 5 and 7 to 11 of this Decision must be allowed for in calculating the production costs or operating losses of pits.

Production costs may include normal depreciation and a normal rate of interest on the capital required for the operation.

- (5) In determining the level of aid payable, aids granted under Decision 73/287/ECSC on coking coal and coke must be taken into consideration and shown in the accounts.
- (6) In exceptional cases where the maintenance of a pit is indispensable due to the existence of the circumstances listed in paragraph 1, but is threatened by the financial imbalance of the undertaking, an aid may be granted which goes beyond that permitted under paragraphs 2 and 3, provided such aid is limited to covering a previously uncovered difference between the production cost of and the returns on the coal produced during a period not exceeding the two preceding years. In this case, documentary evidence covering the points referred to in the preceding paragraphs must be submitted for the period during which the losses were incurred. Information must also be supplied regarding the extent to which such losses have meanwhile been reduced as a result of other measures taken by Member States.

#### SECTION V

#### GENERAL AND FINAL PROVISIONS

#### Article 13

In deciding whether the financial measures proposed by Member States are compatible with the proper functioning of the common market, the Commission shall also give due consideration to any aids which may be granted under Decision 73/287/ECSC of 25 July 1973.

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Article 14

- (1) In order to ensure that any aid it approves is used exclusively for the purposes set out in Articles 7 to 12 of this Decision, the Commission may :
- 1) make its approval subject to any appropriate conditions;
  - 2) limit the use which undertakings in receipt of aid may make of their right to align their quotations in accordance with Article 60 of the ECSC Treaty and require them to maintain minimum prices. Any infringements shall be dealt with under Article 64 of the ECSC Treaty.
- (2) The Commission may carry out any appropriate checks on undertakings.
- (3) The Commission shall revoke its approval of aids or shall amend the terms of approval if it finds that the aids no longer fulfil the conditions imposed by Articles 7 to 12 of this Decision, or that the actual consequences of such aids of the use to which they are put are contrary to the conditions required for approving the grant thereof. The Member State concerned shall comply with the Decision to revoke approval or to modify its terms within the time-limits laid down by the Commission.

Article 15

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

- 1) the application of this Decision threatens to cause a major disturbance in the common market for coal, or difficulties which could bring about a deterioration in general energy supplies or in the economic situation of a region, or

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- 2) appreciable changes occur in the conditions or the scale of intra-Community trade on the coal market, thereby changing the economic circumstances which formed the basis for taking this Decision,

the Commission may wholly or in part suspend the application of this Decision after consulting those concerned. The Commission shall immediately inform the Council.

Independently of the provisions contained in the preceding subparagraphs, the Commission shall submit a report to the Council in 1980 on the experiences and the problems encountered in applying this Decision.

#### Article 16

The Commission shall report at regular intervals to the Council on the application of this Decision.

#### Article 17

The Commission shall take, after consultation with the Council, all requisite measures for the application of this Decision.

#### Article 18

- (1) This Decision shall enter into force on 1 January 1976. It shall cease to have effect on 31 December 1985.
- (2) Five years after its entry into force, this Decision may, in accordance with the procedure laid down in the first paragraph of Article 95 of the ECSC Treaty, be revoked or amended on the initiative of a Member State or the Commission, should any new developments render this necessary.

Done at Brussels,  
For the Commission  
The President

