

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 589final

Brussels, 26 November 1993

REPORT FROM THE COMMISSION

on the Application of the Community Rules for State Aid to the
Coal Industry in 1992

COMMISSION REPORT

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1. Introduction

Article 14 of Commission Decision No 2064/86/ECSC of 30 June 1986¹ 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 Belgium, France, Germany, Portugal and Spain to their coal industries in 1992 and by the United Kingdom during the financial year running from 1 April 1992 to 31 March 1993.

All Member States intending to grant aid to coal undertakings in 1992 were obliged to present to the Commission by 1 October 1991 (1 January 1992 for the United Kingdom) information on all the measures they intended to take to support the coal industry directly or indirectly in 1992.

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

- improved competitiveness in the coal industry, helping to ensure greater security of supply;
- creation of new capacities as long as they are economically viable;
- solution of social and regional problems related to changes in the coal industry.

In accordance with Article 9 of the Decision, the Commission was notified of the measures planned for 1992 by:

- the German Government in letters dated 1 January, 25 June and 25 July 1992, and 10 February 1993;

1 OJ No L 177, 1.7.1986, p. 1 et seq.

- the Belgian Government in a letter dated 25 September 1991;
- the Spanish Government in letters dated 16 November 1992;
- the French Government in a letter dated 9 July 1992;
- the Portuguese Government in a letter dated 13 October 1992.

The Commission gave a ruling on these measures in Decisions adopted on 30 September 1992², 25 November 1992³ and 24 March 1993⁴ for Germany, 11 December 1991 for Belgium,⁵ 30 September 1992 for France,⁶ 23 December 1992 for Spain,⁷⁻⁸ and 23 December 1992 for Portugal.⁹

The financial aid referred to in this document is the aid for 1992 authorized by the Commission by 30 June 1993. The final figures for 1992 will be included in the 1993 Report.

2. Coal Industry and Market

2.1. Production

In 1992 coal production in the Community amounted to 184.6 million tonnes, i.e. a reduction of 4.5% compared with 1991. This drop is due to reductions in the United Kingdom (7.5 million tonnes or 8.2%), France (0.7 million tonnes or 6.4%), Germany (0.6 million tonnes or 0.8%). The last pit closed in Belgium at the end of September 1992. However, production increased slightly in Spain (by 0.4 million tonnes or 2.0%), despite the closure of several pits.

The trend will probably be similar in 1993 (although more marked), during which year it is expected that total Community production will fall by 25.4 million tonnes (approximately 13.8%) compared with 1992, giving a total of 159.2 million tonnes.

The largest reductions are likely to be in the United Kingdom (15.9 million tonnes or 18.9%), followed by Germany (8.7 million tonnes or 12.1%) and France (0.5 million tonnes or 5.4%). The forecasts for Spain do not suggest any significant changes in production.

2 OJ No L 310, 27.10.1992.

3 OJ No L 21, 29.1.1993.

4 OJ No L 120, 15.5.1993.

5 OJ No L 22, 31.1.1992.

6 OJ No L 310, 27.10.1992.

7-8 OJ No L 57, 10.3.1993.

9 OJ No L 55, 6.3.1993.

Table 1

	(1000 t)					Variation
	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993⁽²⁾</u>	<u>1993/1992</u> %
Germany	77 451	76 551	72 749	72 160	63 460	- 12.1
France	11 470	10 488	10 128	9 478	8 970	- 5.4
Belgium	1 893	1 037	636	218	-	- 100.0
United Kingdom	98 286	89 291	91 340	83 855	68 000	- 18.9
Ireland	43	45	6	6	21/..
Spain ⁽¹⁾	19 176	19 616	18 276	18 635	18 500	- 0.7
Portugal	258	266	232	220	220	-
Italy	74	58	21	30	-	- 100
Community	208 651	197 352	193 388	184 602	159 171	- 13.8

(1) Including "black lignite"

(2) Estimate

2.2 Employment

The continuation of the measures to rationalize and reduce activity in the coal industry in most coal-producing countries led to a further drop in employment figures. At the end of 1992, 143 900 underground workers, i.e. 22 100 fewer than in 1991, were employed in the coal industry. The largest drop in absolute terms was in the United Kingdom (12 000), followed by Germany (5 100), Spain (3 000), Belgium (1 000) and France (600).

Table 2

	<u>Underground Staff Employed at the End of the Year</u>				('000)
	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992⁽¹⁾</u>	<u>Variation</u> <u>1992/91(%)</u>
Germany	92.1	85.5	80.7	75.6	- 6.3
France	10.7	8.9	7.8	7.2	- 7.7
Belgium	3.4	1.9	1.6	0.6	- 62.5
United Kingdom	56.0	50.0	42.0	30.0	- 28.6
Spain	35.0	35.0	33.0	30.0	- 9.1
Portugal	0.6	0.6	0.6	0.5	- 16.7
Community	198.1	182.2	166.0	143.9	- 13.3

(1) Provisional

2.3 Coal Demand and Trade

Internal deliveries of coal fell considerably (by 17 million tonnes or 5.2%) in 1992 compared with 1991.

Table 3

(Million tonnes)

	<u>1990</u>	<u>1991</u>	<u>1992¹⁾</u>	<u>1993²⁾</u>	<u>1993/92 %</u>
Belgium	14.9	13.9	14.2	13.8	- 2.7
Denmark	10.1	13.0	11.1	9.8	- 12.3
Germany ³	80.3	82.6	80.5	77.3	- 4.1
Greece	1.4	1.5	1.9	2.2	+ 14.8
Spain	30.2	31.3	33.6	32.5	- 3.1
France	30.4	32.3	28.0	26.0	- 7.0
Ireland	3.2	3.1	3.0	3.0	+ 1.4
Italy	21.1	19.5	17.3	17.4	+ 0.4
Luxembourg	0.2	0.2	0.3	0.2	- 29.5
Netherlands	14.9	13.3	13.2	13.1	- 1.2
Portugal	5.0	4.5	4.7	5.1	+ 7.4
United Kingdom	107.9	111.2	101.7	82.2	- 19.2
Community	319.5	326.6	309.6	282.5	- 8.8

(1) Provisional

(2) Forecast

(3) Excluding the new German Länder

Deliveries fell in all sectors. The main reductions concerned deliveries to public-sector, industrial and mine power stations (reduction of 11.1 million tonnes or 5%), followed by deliveries to coking plants (reduction of 4.1 million tonnes or 6.5%) as a result of the considerable deterioration in market conditions, and deliveries to "other industries" (reduction of 0.5 million tonnes or 2.6%).

In 1993 the volume of internal coal deliveries is expected to fall considerably (by 27.1 million tonnes or 8.8%) compared with 1992. The main sector involved will be the electricity-generating sector, since the data available indicate a 23.6 million tonne (11.3%) reduction in deliveries.

As in the past, deliveries to coking plants are likely to fall (reduction of 3.3 million tonnes or 5.7%). Deliveries to other coal-consuming sectors are also following the same downward trend. The demand for coal will logically be affected by the depressed economic situation which is causing a reduction in industrial activity and in overall energy demand.

Unlike Community coal production, coal imports from third countries increased (by 3.3 million tonnes) in 1992 compared with 1991 to reach a new record level (133.2 million tonnes). This increase is mainly attributable to demand from power stations. However, in 1993 for the first time since 1986 coal imports could fall compared with the previous year. The forecast reduction is 12.6 million tonnes, giving a total of 120.7 million tonnes.

Imports of coal from third countries
(million tonnes)

	<u>1990</u>	<u>1991</u>	<u>1992(1)</u>	<u>1993(2)</u>	<u>1993/92(%)</u>
Belgium	13,2	13,3	13,1	12,7	- 3,3
Denmark	9,7	12,4	11,0	9,8	- 11,2
Germany(3)	8,6	11,7	11,8	11,3	- 4,3
Greece	1,3	1,5	2,1	2,2	+ 3,2
Spain	9,8	11,9	13,7	12,7	- 7,5
France	17,2	20,2	21,4	16,2	- 24,5
Ireland	2,6	2,7	2,7	2,7	- 0,1
Italy	19,5	19,6	18,0	17,4	- 3,2
Luxembourg	0,2	0,2	0,3	0,2	- 29,0
Netherlands	16,6	15,2	14,7	14,7	+ 0,3
Portugal	4,5	3,7	4,4	4,8	+ 7,8
UK	12,7	17,6	20,1	16,1	- 19,7
Community	116,0	129,9	133,2	120,7	- 9,4

(1) Provisional

(2) Forecast

(3) Excluding the new Länder

Intra-Community Trade in Coal (exports)
('000 t)

<u>Year</u>	<u>Germany</u>	<u>Belgium</u>	<u>France</u>	<u>UK</u>	<u>Spain</u>	<u>Netherlands</u>	<u>Other</u>	<u>Total</u>
1990	4 906	668	460	1 559	2	2 335	37	9 967
1991	3 188	606	490	1 520	-	2 363	51	8 218
1992 ¹⁾	1 510	627	444	840	-	2 036	54	5 511
1993 ²⁾	615	890	554	700	-	1 920	20	4 699

1) Provisional

2) Forecast

Intra-Community trade in coal, including internal movements of coal of third-country origin in free circulation fell by 2.7 million tonnes in 1992; a further reduction of around 0.8 million tonnes is expected in 1993. This trend is attributable to a reduction in production in the main coal-exporting Member States, and the considerable competition from third-country coal and other substitutable energy resources.

2.4. Financial situation of Community Coal Producers

Any detailed analysis of costs and revenues encounters several obstacles, and more particularly the fact that the national averages conceal wide disparities between producers.

For the Community as a whole, average production costs of ECU 108/tce in 1991 increased to ECU 109/tce in 1992, or in other words an increase of 1% which is mainly due to the rises recorded in France and Portugal. Production costs seem largely to have remained unchanged in Germany, although they fell in the United Kingdom by 3.2%, largely because of the depreciation of sterling on the exchange markets.

Table 4
Financial situation of the coal industry

	Production costs ¹⁾				Returns				Difference		
	Ecu/tce				Ecu/tce				Ecu/tce		
	1990	1991	1992	92/91(%)	1990	1991	1992	92/91(%)	1990	1991	1992
Germany	134	138	138 ⁴⁾	0,5	123	126	127 ⁴⁾	0,6	-12	-12	-12
Belgium	198	228	5)		55	47	5)		-142	-181	
Spain	149	150 ³⁾	150 ³⁾	0,0	107 ²⁾	108 ³⁾	107 ³⁾	-0,9	-42	-42	-43
France	97	91	100	8,9	61	60	58	-1,7	-36	-32	-41
Portugal	95	101 ⁴⁾	120 ⁴⁾	18,3	65	71 ⁴⁾	78 ⁴⁾	10,0	-30	-30	-42
UK	75	74	72 ³⁾	-3,2	69 ²⁾	74	71	-2,9	-6	0	0
TOTAL	108	108	109	1,0	94	97	98		-14	-11	-11

- 1) Overall costs, including capital and depreciation costs
- 2) Including aid for coking coal
- 3) Estimate
- 4) Provisional figure
- 5) Last pit closed at the end of September 1992

Returns increased by 1% throughout the Community in 1992. That increase is mainly due to price rises noted in Portugal and Germany. In addition the decreases noted in the United Kingdom and Spain are due to depreciation of the respective national currencies as compared with the ECU.

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.

There were (often marked) improvements in productivity in all coal-producing Member States, largely due to the restructuring and rationalization 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. The considerable increases recorded in France and the United Kingdom should once again be stressed.

Table 5

Underground Output per Manhour
(kg)

	<u>1990</u>	<u>1991</u>	<u>1992</u> ⁽¹⁾	<u>1993</u> ⁽²⁾	<u>1993-1992</u> (%)
Germany	673	681	700	705	0,7
France	634	727	743	760	2,3
Belgium	361	383	268	-	-
UK	704	801	919	950	1,0
Spain	341	315	328	340	3,7
Community	628	665	702	710	1,1

(1) Provisional

(2) Forecast

3. Financial aid scheduled for the Coal Industry in 1992

Any economic and financial assessment of aid to the coal industry must take account of the specific features of the industry.

Short-term changes on the international coal market are not necessarily representative of long-term trends. It should be pointed out that the world price of coal in terms of Member States' currencies was influenced very considerably by the volatility of the American dollar and the slump in oil prices in 1991 after the Gulf War ended. It should be noted that the current world market prices are causing financial difficulty in certain coal-exporting third countries. A study carried out in 1991 for the Commission suggests that the price of imported coal in 2010 (based on constant prices) could be between \$57 and \$76 per tce for steam coal and \$68 for coking coal.

The present situation is aggravating the difficulties of the European coal industry where, as a result of the inflexibility of the production system (attributable to technical, geological and geographical factors), it is impossible to respond to short-term market fluctuations in terms of quantities or costs.

The financial flow of aid thus contains an element that is difficult to quantify, covering the difference between the short-term cost of imported coal - often serving as a reference price to determine the purchase price of community coal - and the long-term marginal cost of new production capacity in coal-exporting third countries offering guarantees of security of supply.

It is against this long-term backdrop that coal producers and large consumers are legitimately concerned with minimizing the risks of a volatile market through long-term contracts, although the terms of these contracts must reflect economic realities and not hamper efforts to deploy the instruments provided for in the Treaties to make balanced and determined progress towards greater integration and optimization of energy markets.

This document is concerned with the measures set out in Article 1 of the abovementioned Decision, namely all aid granted by central, regional or local authorities (which, even if it is not always a direct burden on public budgets, is nevertheless financed by charges rendered compulsory by the fact of State intervention) and any aid elements contained in the financing measures taken by Member States in respect of the coal undertakings which they directly or indirectly control and which cannot be regarded as the provision of risk capital according to standard company practice in a market economy.

This Report makes various distinctions. It distinguishes between aid related to current production and aid not related to current production, which, in certain cases such as inherited liabilities, cannot be interrupted even if coalmining were to stop. Research, development and demonstration activities are also regarded as not related to current production provided they are not for the exclusive benefit of the company undertaking the research. Where such measures help to promote innovations in the undertaking itself they are considered to be related to current production.

Where current production is concerned, it is also essential to distinguish between direct aid and indirect aid. Under Decision No 2064/86/ECSC any financial aid granted directly to coal undertakings is regarded as direct aid. Indirect aid is any aid which, although often granted to an economic operator not producing coal, is of indirect benefit to coal undertakings.¹⁰

3.1. Financial Aid related to Current Production

In 1992 aid to current production authorized by the Commission amounted to ECU 5 194.6 million, compared with ECU 5 401.1 million in 1991.

¹⁰ This definition differs from the economic approach, where supply-side aid is regarded as direct aid and demand-side aid is regarded as indirect aid, since the party receiving the aid is not necessarily the same as the party benefiting from the economic effect.

As emerges from Annex 1, this reduction is mainly due to a significant reduction in the level of aid in Spain and Belgium as a result of the implementation of restructuring or rationalization plans, and, to a lesser extent in Germany, owing to short-term market factors. Conversely there is a slight increase in the level of aid in France and Portugal, while in the United Kingdom no aid to current production was granted for 1992.

Table 6
Financial Aid related to Current Production

	<u>ECU million</u>		<u>ECU/tonne</u>		
	<u>1992</u>	<u>1991</u>	<u>1992</u>	<u>1991</u>	
<u>Directes</u>					
Art. 3	Deficit grant aid	782,8	822,8	4,24	4,26
Art. 4	Sales aid	1 787,7	1 656,7	9,68	8,57
Art. 5	Investment aid	-	11,3	-	0,06
Art. 6	Aid for underground staff	65,6	66,8	0,36	0,35
Other		67,1	217,6	0,36	1,13
<u>Sub-total</u>		<u>2 703,2</u>	<u>2 775,2</u>	<u>14,64</u>	<u>14,37</u>
<u>Indirect</u>		<u>2 491,4</u>	<u>2 625,9</u>	<u>13,50</u>	<u>13,58</u>
<u>Total</u>		<u>5 194,6</u>	<u>5 401,1</u>	<u>28,14</u>	<u>27,95</u>

3.1.1. Direct Aid

Direct aid for current production under Decision No 2064/86/ECSC¹¹ includes deficit grant aid (Article 3), investment aid (Article 5), aid for underground staff (Article 6), and sales aid for coking coal and coke (Article 4). Although the latter aid is, in fact, sales aid, it is considered to be direct aid since it is granted to the producer and not the consumer.

3.1.1.1. Germany

In 1992 direct aid authorized by the Commission amounted to DM 4 116.8 million (ECU 2 031.0 million), i.e. DM 57.06 (ECU 28.15) per tonne.

¹¹ For more details, the reader is referred to the text of the Decision: OJ No L 177, 1.7.1986, pp. 1-9.

	<u>DM million</u>	<u>DM million</u>
Art. 3 Aid to cover operating losses	360,2	177,7
Art. 4 Aid for the sales of coal and coke to the Community steel industry	3 623,6	1 787,7
Art. 6 Miners' bonuses per underground shift worked ("Bergmannsprämie")	133,0	65,6
Total	4 116,8	2 031,0

The aid to cover operating losses (DM 360.2 million) is granted to undertakings in certain mining areas in order to cover part of a revenue shortfall resulting from certain sales of coal by the undertakings in question to thermal power stations. The aid is granted in the form of financial compensation based on the differences in production costs between mining areas (Revlerausgleich) and on the use of coal with a low volatile matter content (Ausgleich für niederflüchtige Kohle).

Since the measure is to be gradually phased out and is part of a restructuring and rationalization plan, the aid in question meets the objectives and criteria set out in Article 2 of the Decision.

Pursuant to Article 12 of Decision No 2064/86/ECSC, coal undertakings are authorized, where necessary, to grant rebates on their list prices or production costs for deliveries of coal and coke to Community steel-industry blast furnaces under long-term contracts. These rebates must not cause prices to work out lower than those which would be charged for coal from third countries and coke made from third-country coking coal.

According to the notification from the German Government, this sales aid is to be granted in line with the principles underlying a new system of aid for the delivery of coal and coke to the Community steel industry. The system is designed to place a ceiling on aid during the period 1992-94. For this purpose the German Government has set a ceiling to the amount of aid for this period and has introduced a financial charge on the coal industry. The aid to be granted for 1992, including the correction made at the end of the year under that system (DM 3 623.6 million) covers the difference between the world market price and the production costs for a maximum production level of 20.7 million tonnes. The aid is therefore compatible with Articles 4 and 12 of the Decision. It thus helps to provide a temporary solution to the social and regional problems by spreading out the closure of loss-making pits in time, and also the restructuring of the coal industry in accordance with Article 2 of the Decision.

The DM 133 million of aid intended to finance miner premiums "Bergmannsprämie" (DM 10 per job performed underground) enables the coal industry to retain its qualified staff. The aid is a specific measure that has been applied for several years (tax abatement on miners' incomes) and which must be notified separately from the aid referred to in Articles 3-5 of the Decision. The aid is thus compatible with Article 6 of the Decision. It helps to improve the competitiveness of the coal industry in accordance with the first indent of Article 2(1) of the Decision.

3.1.1.2. Belgium

In 1992 direct aid authorized by the Commission amounted to BF 1 387.0 million (ECU 33.5 million), i.e. BF 6 362 (ECU 153.67) per tonne.

	BF million	ECU million
Art. 3 Aid to cover operating losses	1 387.0	33.5
<hr/>		
Total	1 387.0	33.5
<hr/>		

Aid to cover operating losses amounting to BF 1 387.0 million was granted to the Campine coalfield, in order to make up, for each tonne produced, some of the difference between foreseeable average costs and returns. This mainly involves coal delivered to thermal power stations, the sales price of which is closely linked to the price of imported coal. The aid covers 79% of the foreseeable operating losses and thus meets the conditions of Article 3(1) of the Decision.

The aid to cover operating losses helps to facilitate the final phase of the restructuring of the coal industry, which led to the closure of the last remaining pit by the end of September 1992. It thus helps to solve the social and regional problems connected with the decline in coal production, in line with the third indent of Article 2(1) of the Decision.

3.1.1.3. France

In 1992 the amount of direct aid authorized by the Commission totalled FF 1 284 million (ECU 186.9 million), i.e. FF 135.47 (ECU 19.72) per tonne.

	<u>FF million</u>	<u>ECU million</u>
Art. 3 Aid to cover operating losses	1 284	186.9
<hr/>		
Total	1 284	186.9
<hr/>		

The aid to cover operating losses makes up only 75% of the difference, for each tonne produced and for each region, between foreseeable average costs and returns and thus complies with Article 3(1) of the Decision. As in the case of Belgium, these average returns are closely linked with developments in the price of imported coal.

Since this forms part of a restructuring and rationalization plan that is intended to improve the competitiveness of the industry, the aid meets the aims and criteria set out in Article 2 of the Decision.

3.1.1.4. Spain

The direct aid authorized by the Commission for 1992 amounted to PTA 58 768 million (ECU 446.0 million), i.e. PTA 3 154 (ECU 23.94) per tonne.

		<u>PTA million</u>	<u>ECU million</u>
Article 3	Aid to cover operating losses	50 034.0	379.7
Other measures	Aid to defray part of the specific depreciation costs and other exceptional costs arising from restructuring measures	8 734.0	66.3
Total		58 768.0	446.0

The aid to cover operating losses (PTA 50 034 million) is granted to the undertakings Hunosa, Figaredo and Minero Siderurgica Ponferrada (for the operation by the latter of Mina de la Camocha). It is intended to offset part of the difference between average foreseeable costs and average foreseeable revenue for each tonne produced. The aid does not exceed the foreseeable operating losses and therefore meets the conditions of the Article 3(1) of the Decision.

The aid to cover operating losses facilitates the process of restructuring the undertakings receiving the aid, in particular by staggering the closure of certain pits with no prospects of economic viability, in the context of regional industrial redevelopment policy. The aid thus helps to resolve the social and regional problems related to developments in the coal industry, in accordance with the third indent of Article 2(1) of Decision No 2064/86/ECSC.

In order to facilitate the implementation of the plan for the restructuring, rationalization and modernization of the coal industry, the Spanish Government has set up a fund totalling PTA 8 734 million to defray part of the specific depreciation costs and other exceptional costs arising from the strategic plans of undertakings covered by programme contracts. This measure facilitates the coal-industry restructuring process and also helps to improve the competitiveness of the Community coal industry by closing down production capacity having no long-term prospect of economic viability, in accordance with the criteria and aims of Article 2 of Decision 2064/86/ECSC. As a fund has been set up, the Spanish Government is to notify the Commission each year of the amounts of aid actually paid, the mines intended to receive the payments and the capacity reductions involved.

3.1.1.5. Portugal

In 1992 the Commission authorized the granting of aid totalling ESC 1 159.2 million (ECU 5.8 million) to cover operating losses, i.e. ESC 5 269 (ECU 26.36) per tonne.

		<u>Esc million</u>	<u>ECU million</u>
Art. 3	Aid to cover operating losses	1 015.2	5.0
Other	Aid to cover compensation for mining damage due to restructuring measures	50.0	0.3
	Aid to cover a coal-industry debt to the Portuguese Department of Social Security	94.0	0.5
TOTAL		1 159.2	5.8

This aid is to cover the difference between the foreseeable average costs and returns for a total of 0.2 million tonnes. The aid does not exceed foreseeable operating losses and hence meets with the conditions laid down in Article 3(1) of Decision 2064/86/ECSC.

This measure is designed to help implement the strategic plan of the undertaking in question between 1990 and 1994 when its total closure is planned. It is intended to help resolve the social and regional problems related to developments in the coal industry, in accordance with the third indent of Article 2(1) of Decision 2064/86/ECSC.

In order to smooth the way for implementation of this restructuring plan, the Portuguese Government has set up a ESC 50 million fund to cover compensation for any coal-mining damage identified after the company concerned has ceased to mine coal. By reducing production costs the intended aid helps to solve the social and regional problems deriving from cutbacks in coal production in accordance with Article 2(1), third indent of the Decision by enabling a mine to be closed more gradually.

Before the date of extraction-capacity closure the ESC 94 million of aid is intended to cover some of the debts to the Portuguese Department of Social Security entered into up to early November 1990. By enabling the mine to be closed down more quickly this aid helps to solve the social problems arising from implementation of the restructuring plan in accordance with Article 2(1), third indent of Decision 2064/86/ECSC.

The Commission has to be kept informed annually by the Portuguese Government of the levels and distribution of the aid payments referred to above.

3.1.1.6. United Kingdom

According to information received from the United Kingdom Government, no aid to current production will be granted in respect of 1992. This is in line with UK policy which restricts the granting of aid to current production to what is strictly necessary in order to enable the industry to adapt to both short and medium-term market forces.

3.1.2. Indirect aid

In this report, financial measures which, although generally granted to an economic activity other than coal production, are of benefit to coal undertakings, are regarded as indirect aid. Such measures are included in the definition set out in Annex 2 to Decision 2064/86/ECSC, namely, "any other measures linked to the production or marketing of, and external trade in, coal even if they do not directly impose a burden on public budgets, which give an economic advantage to coal undertakings".

In this context, the Commission takes the view that several financial mechanisms and types of aid must be regarded as indirect aid for current production.

This is the case with the aid to finance systems of social welfare contributions specific to the coal industry in force in some Member States where the aid makes the effective social security burden of the coal undertaking lower than the costs that the undertakings would normally have to bear in comparison with other industries.

Research, development and demonstration activities are also regarded as indirect aid where they help to promote innovations in the undertaking receiving the aid.

In most coal-producing Member States, coal producers and electricity producers have concluded coal-supply agreements or contracts. Some agreements or contracts in force in 1992 include pricing methods which do not necessarily reflect market realities. The Commission has undertaken as complete a study as possible of these agreements and contracts, to highlight any financial-aid element detected. The actual agreements and contracts covering coal sales are currently being examined in detail by the Commission's departments, to assess their compatibility with the rules of the Treaties.

Where it has a direct influence on the level of domestic prices, a quantitative import restriction can also be regarded as indirect aid. In the absence of accurate information on the impact of such measures, however, they are not listed here.

3.1.2.1. Indirect aid to production

3.1.2.1.1 Belgium

The Commission authorized aid amounting to BF 10 million to cover expenditure on the additional leave scheme for underground miners. The effect of this measure is to reduce slightly the cost price per tonne (by less than 1%); in view of the accelerated decline in the level of production, this does not confer a competitive advantage. In view of the low level and temporary nature of this aid and the fact that it forms part of a restructuring plan, it fulfils the objectives and conditions set out in Article 2 of the Decision.

The notification sent to the Commission regarding the financing of social benefits in the coal industry, detailed at 3.2.1.3 below, shows that the aid which the Belgian Government planned to grant in this connection made the ratio between the charges per active miner and the benefits per recipient lower than the corresponding ratio in other industries. The difference amounts to BF 299.2 million.

The limits laid down in Article 7 of the Decision are accordingly exceeded by this amount, which must be considered as indirect aid for current production. The resulting reduction in production costs (some 10%) does not constitute a significant competitive advantage for the coal industry compared with other Community coal producers, given the abnormally high level of charges in the Belgian coal industry as a result of the major cutback in production. The link between this measure and the restructuring programme contributes to the solution of social and regional problems related to changes in the coal industry in accordance with the third indent of Article 2(1) of the Decision.

3.1.2.2. Indirect Aid to Consumption

This section describes the pricing methods in contracts and agreements between coal producers and electricity producers. Where appropriate, the extent of the financial aid is also highlighted where it can be quantified.

3.1.2.2.1. Germany

In Germany, the financial compensation and price mechanism for sales of both German and Community coal to the electricity industry, including sales provided for in the "Jahrhundertvertrag", are governed by the third Electricity-from-coal Law.¹²

In 1992 the German Government provided the Commission with information suggesting that by 1997 production of coal for thermal power stations will be reduced by 5.9 million tonnes of coal equivalent; the reduction in production will be achieved by closing down the production units making the biggest losses.

After examining this information, the Commission adopted a Decision authorizing compensatory payments totalling DM 5 000 million on 25 November 1992 to cover current expenditure in respect of the compensation fund under the third German Electricity-from-coal Law for 1992.

When the authorization was issued account was taken of the social and regional context typifying the coal sector in Germany, and the programmed moves towards restructuring which should ultimately lead to a reduction in the said intervention.

In its decision, the Commission made it clear that the authorizations would cease to have legal effect beyond the date on which Decision No 2064/86/ECSC expires.

In its decision of 22 December 1992¹³, the Commission acted, under Article 85 of the EC Treaty and Article 65 of the ECSC Treaty on the multiannual contract on the supply of German coal ("Jahrhundertvertrag") signed by the coal industry and the German electricity-generating industry. Authorization was given for the period up to 31 December 1995, provided that the quantities to be extracted annually and listed in the legally operative part of the said decision apply.

3.1.2.2.2. France

In France, EDF's purchases of coal and electricity from Charbonnages de France are governed by a protocol dating back to the end of 1987 covering the period 1989-93.

12 COM(88) 541, 20.10.1988, point 4.1.2.2.1.

13 OJ L 50, 2.3.1993.

The quantities of national coal and electricity covered by the protocol are on a declining scale, as follows:

<u>Coal</u>	<u>Electricity</u>
1989 = 2.30 million tonnes	7.92 TWh
1990 = 2.19 million tonnes	7.24 TWh
1991 = 2.09 million tonnes	6.68 TWh
1992 = 1.81 million tonnes	6.13 TWh
1993 = 1.81 million tonnes	5.97 TWh

The minimum ex-mine price is set some 10% higher than the cost of imported coal.

The quantities of electricity covered by the contract equate to 3 500 hours of utilization of EdF coal-fired power stations a year. The electricity supplied on these terms is subject to the same tariffs as EDF applies to private generation. The price charged for any additional quantities purchased corresponds to the accounting cost of nuclear power stations in operation.

The guaranteed supply provided for by the contract and the fact that collieries stockpile coal in order to be able to meet EdF demand at very short notice are quid pro quos for the 10% surcharge. It does not appear, therefore, from the information at the Commission's disposal, that this mechanism contains direct or indirect financial aid to the coal industry.

3.1.2.2.3. United Kingdom

Since the 1990/91 financial year, deliveries of national coal are covered by a new three-year agreement signed at the end of 1989. The contracting parties are the British Coal Corporation, National Power and Power Gen.

Deliveries of coal to the electricity-generating industry covered by the contract amounted to 64 million tonnes in 1992/93; the average pit-head price of those supplies was UK£44.40/tonne:

A similar agreement has been concluded between Scottish Power and the British Coal Corporation, the deliveries being made from the Scottish coalfield. This agreement covers the period from 1990 to March 1995. Deliveries of coal to the Longannet power complex amounted to 3 million tonnes for the 1992/93 financial year, and will vary between a minimum of 2 million tonnes and a maximum of 2.5 million tonnes in 1993/94 and 1994/95. These deliveries thus correspond to about 60% of the needs of the power stations in question. For the 1992/93 financial year, the average price paid by electricity generators was UK£40.10/tonne, compared with UK£43.36/tonne for 1991/92.

3.1.2.2.4. Spain

A system of awarding contracts for the supply of coal to thermal power stations (NSCCT) was concluded in 1986 between CARBUNION, the association of coal producers, and UNESA, the electricity producers' association. This agreement stipulates that all producers or groups of producers with underground production in excess of 50 000 tonnes a year may conclude long-term contracts with the electricity producers at a reference price.

Mining companies with production costs in excess of the reference price may charge the electricity producers a supplement covering the difference between their production costs (excluding depreciation) and the reference price. The surcharge paid by the electricity producers is reimbursed through the OFICO compensation fund set up by the electricity producers. This price supplement only covers coal produced in underground mines.

As requested by the Commission in Decision 90/198/ECSC,¹⁴ in 1991 the Spanish Government submitted a plan to reduce the compensatory payments made under the OFICO scheme and an outline plan for the restructuring, rationalization and modernization of undertakings in the part of the Spanish coal industry covered by the OFICO scheme.

The outline plan provides for a reduction in production capacity of around 1.9 million tonnes by 1993.

After examining the plans, the Commission authorized a compensatory payment to electricity producers through the OFICO compensation fund totalling PTA 2 286 million for 1992. In its decision the Commission has taken account of the gradually-reducing nature of the measure and of the restructuring, rationalization and modernization required by the closure or gradual reduction in capacity of the most loss-making pits. Authorization does not prejudice the compatibility of the new system of awarding contracts for the supply of coal to thermal power stations with the provisions of the EEC and the ECSC Treaties; the system is at present being examined in detail by the Commission departments in the light of the completion of the internal energy market.

3.2. Financial Aid not related to Current Production

Under Decision No 2064/86/ECSC, aid granted on the basis of Articles 7 and 8 is regarded as aid not related to current production. Research, development and demonstration activities are also included in this category, provided they do not affect the production costs of the industry in the country in question.

14 OJ L 105, 25.4.1990.

3.2.1. Financial Aid for Social Benefits

Under Article 7 of the Decision, State aid to finance social benefit schemes specific to the coal industry may be considered compatible with the common market provided that, for coal undertakings, it brings the ratio between the burden per mineworker in employment and benefits per person in receipt of benefit into line with the corresponding ratio in other industries. The excess levels noted in Belgium were considered to be indirect aid for current production in sections 3.1.2.1.1.

3.2.1.1. Germany

In 1992 DM 11 200 million was allocated to cover the deficit of the disability and old-age pension schemes in the mining industry as a whole. Some 80% of this amount, i.e. DM 8 960 million, went to the coal industry. The Commission's examination showed that the limits laid down in Article 7(1) of the Decision were not exceeded.

3.2.1.2. France

According to the French Government's notification, social benefit payments to the French coal industry under specific and general social insurance schemes amounted to FF 16 193.0 million in 1992. Details of this aid are given below.

<u>Origin</u>	<u>Amount of Aid</u> <u>(in FF million)</u>	<u>Purpose</u>
State	4 690.0	Disability and old-age pension insurance Regular contribution amounting to 22% of the total wage-bill plus additional State adjustment
General system	5 520.0	Disability and old-age pension insurance Regular statutory contribution to cover part of the "exceptional expenditure" (contribution laid down by decree)
General system	2 254.0	Insurance against industrial accidents and occupational diseases Coverage of inherited liabilities
General system	3 429.0	Sickness insurance Treatment benefits

Specific social security scheme	3 958.0	Disability and old-age pension insurance "Exceptional expenditure" in the coal industry within the meaning of Article 7 of Decision No 2064/86/ECSC
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Total	16 193.0
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The abovementioned aid complies with the provisions of Article 7(1) of the Decision.

3.2.1.3. Belgium

As can be seen from the table below, the financial aid granted to the Belgian coal industry for social benefits amounts to BF 29 122.4 million.

<u>Origin</u>	<u>Amount of Aid</u> (In BF million)	<u>Purpose</u>
State	24 473.4	Old-age pension and survivor's pension insurance Regular statutory contribution
State	4 649.0	Disability insurance Disability pension
Total	29 122.4	

As mentioned in section 3.1.2.1.1., examination by the Commission showed that the limits laid down in Article 7 of the Decision had been exceeded by BF 299.2 million. This is explained by the constant fall in the ratio between active workers and benefit recipients as a result of the measures to cut the workforce connected with implementation of the restructuring plan.

3.2.1.4. United Kingdom

In the United Kingdom nearly all branches of industry have their own insurance system (in addition to the general social insurance scheme, which also applies to the coal industry) from which pensions are paid to retired workers. A supplementary system of this kind also exists for the coal industry in the form of a retirement fund. The British Government notified the Commission that the system whereby the State topped up the miners' retirement fund had been discontinued from the 1990/91 financial year.

3.2.1.5. Spain

Notified public financial aid to the Spanish coal industry under general social benefit payment schemes amounted to PTS 113 695 million in 1992.

This figure is broken down as follows:

<u>Origin</u>	<u>Amount of Aid (In PTAS million)</u>	<u>Purpose</u>
State	98 768	Old-age pension
State	4 813	Temporary disability
State	1 353	Temporary invalidity and rehabilitation insurance
State	6 918	Health service
State	1 299	Miscellaneous (family benefits, social services, social welfare, one-off payments, prostheses, wheelchairs)
State	544	Administrative costs
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Total	113 695	
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The above financial aid complies with Article 7(1) of the Decision.

3.2.2. Financial Aid to cover Inherited Liabilities

In accordance with Article 8 of the Decision, State aid to undertakings to cover the costs arising from restructuring which are not related to current production may be considered compatible with the common market provided that it does not exceed such costs. The categories of costs regarded as inherited liabilities are set out in Annex 1 to Decision No 2064/86/ECSC.

3.2.2.1. Germany

For 1992 Germany notified the following measures:

- Aid to cover mine drainage	DM 225.0 million
- Aid in the form of allocations covering the costs of early retirement and exceptional intrinsic depreciation resulting from restructuring	DM 275.1 million
Total	<hr/> DM 500.1 million (=ECU 246.7 million)

All the above costs constitute inherited liabilities since they are the result of production capacity closures in previous years and are thus not related to current production.

The aid for mine-drainage control costs, amounting to DM 225 million, is paid to coal undertakings to enable them to cover the inherited liabilities arising from closures since 31 December 1966. As a result of pit closures, the undertakings were forced to pay constantly increasing amounts to the water-management associations. The aid does not exceed the real extra costs borne by the undertakings.

The above measures therefore comply with Article 8(1) of the Decision.

3.2.2.2. Belgium

The Belgian Government notified the Commission of aid totalling BF 68.9 million (ECU 1.7 million) to cover mining damage arising from the closure of the workings of the Kempense Steenkolenmijnen (Campine coalfield). The aid does not exceed actual costs and therefore meets the criteria of Article 8(1) of the Decision.

3.2.2.3. France

In 1991 the French Government granted aid totalling FF 5 321 million (ECU 774.6 million) to cover the inherited liabilities of Charbonnages de France. This sum is intended to allow the following costs to be covered:

- extra cost of early retirement	FF	779.0 million
- conversion costs	FF	457.0 million
- costs of pit closures or dismantling - of installations	FF	304.0 million
- residual charges/depreciation and servicing of loans transferred to the Central Office	FF	843.0 million
- charges due to demographic overload caused by restructuring	FF	2 923.0 million
- general research	FF	15.0 million
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Total		FF 5 321.0 million

The actual costs to Charbonnages de France tally with the amount of aid and are thus consistent with Article 8(1) of Decision No 2064/86/ECSC.

3.2.2.4. Spain

Spain notified the Commission of the following measure for 1992:

- provision of PTAS 11 687 million to cover exceptional social expenditure in the form of payments to workers to be made redundant before 31 December 1993 following measures to restructure, rationalize and modernize the industry.

- a PTAS 2 661 million fund to cover the cost of maintaining pumping stations to drain extinct mine workings.

The Commission concluded that the fund should be regarded as an inherited liability, in accordance with Article 8 of Decision No 2064/86/ECSC. As for the setting-up of a fund is concerned, the Spanish Government is to inform the Commission each year of the allowances actually paid, and the volume of aid involved, in order to ensure that the conditions of Article 8 are met.

3.2.2.5. United Kingdom

The United Kingdom notified the following measure for 1992:

- aid for miners losing their jobs as a result of restructuring	UK£9.6 million
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This is a social measure arising out of pit closures. The aid does not exceed the actual costs and therefore meets the criteria of Article 8(1) of the Decision.

4. Conclusions

Examination of the financial assistance to the coal industry notified by the Member States under Decision No 2064/86/ECSC again highlights the significant differences between the assistance techniques adopted by the Member States in order to enable the coal industry to solve its structural and financial problems, and also the wide range of approaches to the problem of restructuring and rationalization.

Furthermore there are problems of aid transparency and presentation which often makes it difficult to compare data. Nevertheless, the results obtained in certain Member States and the decisions recently taken, particularly in Spain and Germany, seem to constitute a major, apparently decisive, step forward towards a healthy restructuring of the Community coal industry.

A feature of 1992 was the further pursuit of restructuring and optimization, particularly in terms of cost, leading to the closure of certain mines which no longer offered any prospect of medium or long-term economic viability, gradual staff cutbacks and a reduction, at a Community level, of the aid linked with current production.

Although Decision No 2064/86/ECSC on a Community scheme for financial assistance to the coal industry by the Member States has, to various degrees, enabled the process of restructuring, rationalization and modernization of the coal industry to be continued, it has been confirmed that this process will not have been completed by its deadline, or in other words 31 December 1993.

As it is convinced of the need to bring into being a new Community scheme, and in the light of the solid experience gained in implementing Decision 2064/86/ECSC, the Commission adopted, on 25 November 1992, a draft decision establishing a new aid scheme for the Community coal industry. While adopting a highly flexible, gradual approach to the social and regional aspects of this body of problems the Commission has taken care to maintain strict discipline with regard to the main aims and principles of the ECSC Treaty. This new system will need to receive the unanimous assent of the Council before entering into force.

It is appropriate again to point out that the Commission's activities in support of the Community coal industry are a departure from the basic principle set out in Article 4 of the ECSC Treaty whereby aid is considered to be incompatible with the common market in coal. The draft Commission decision was prompted by two principles: the need to ensure that the essential restructuring of this sector should not be too brutal in social and regional terms, and the need to provide incentives to this sector to continue and intensify its restructuring in order to boost its economic viability.

With this backdrop in view one cannot insist too much on the pressing need to accompany that restructuring process by a policy on the diversification of the industrial fabric. The Commission's activities under the RECHAR programme and the ECSC budget confirm that, if necessary, there would have to be incentives to revitalize declining mining areas.

Financial aid linked to current production in the coal industry

Country: Belgium

	ECU million		ECU/tonne	
	1992	1991	1992	1991
<u>Direct</u>				
Article 3 : Deficit grant aid	33.5	53.4	153.67	84.36
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	-	-	-	-
Subtotal	33.5	53.4	153.67	84.36
<u>Indirect</u>	7.4	7.8	33.94	12.32
TOTAL	40.9	61.2	187.61	96.68

Financial aid linked to current production in the coal industry

Country: Germany

	ECU million		ECU/tonne	
	1992	1991	1992	1991
<u>Direct</u>				
Article 3 : Deficit grant aid	177.7	209.6	2.46	2.88
Article 4 : Sales aid	1 787.7	1 656.7	24.78	22.76
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	65.6	66.8	0.91	0.92
Other	-	-	-	-
Subtotal	2 031.0	1 933.1	28.15	26.55
<u>Indirect</u>	2 466.7	2 569.6	34.19	35.30
TOTAL	4 497.7	4 502.7	62.34	61.85

Financial aid linked to current production in the coal industry

Country: Spain

	ECU million		ECU/tonne	
	1992	1991	1992	1991
<u>Direct</u>				
Article 3 : Deficit grant aid	379.7	390.0	20.38	21.43
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	11.3	-	0.62
Article 6 : Aid for underground staff	-	-	-	-
Other	66.3	217.6	3.56	11.95
Subtotal	446.0	618.9	23.94	34.00
<u>Indirect</u>	17.3	48.5	0.93	2.66
TOTAL	463.3	667.4	24.87	36.66

Financial aid linked to current production in the coal industry

Country: France

	ECU million		ECU/tonne	
	1992	1991	1992	1991
<u>Direct</u>				
Article 3 : Deficit grant aid	186.9	165.3	19.72	16.36
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	-	-	-	-
Subtotal	186.9	165.3	19.72	16.36
<u>Indirect</u>	-	-	-	-
TOTAL	186.9	165.3	19.72	16.36

Financial aid linked to current production in the coal industry

Country: United Kingdom

	BCU million		BCU/tonne	
	1992	1991	1992	1991
	<u>Direct</u>			
Article 3 : Deficit grant aid	-	-	-	-
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	-	-	-	-
Subtotal	-	-	-	-
<u>Indirect</u>	-	-	-	-
TOTAL	-	-	-	-

Financial aid linked to current production in the coal industry

Country: Portugal

	ECU million		ECU/tonne	
	1992	1991	1992	1991
<u>Direct</u>				
Article 3 : Deficit grant aid	5.0	4.5	22.72	19.40
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	0.8	-	3.64	-
Subtotal	5.8	4.5	26.36	19.40
<u>Indirect</u>	-	-	-	-
TOTAL	5.8	4.5	26.36	19.40

Financial aid linked to current production in the coal industry

Community

	ECU million		ECU/tonne	
	1992	1991	1992	1991
<u>Direct</u>				
Article 3 : Deficit grant aid	782.8	822.8	4.24	4.26
Article 4 : Sales aid	1 787.7	1 656.7	9.68	8.57
Article 5 : Investment aid	-	11.3	-	0.06
Article 6 : Aid for underground staff	65.6	66.8	0.36	0.35
Other	67.1	217.6	0.36	1.13
Subtotal	2 703.2	2 775.2	14.64	14.37
<u>Indirect</u>	2 491.4	2 625.9	13.50	13.58
TOTAL	5 194.6	5 401.1	28.14	27.95

Financial aid not linked to current production

(ECU million)

	Financing of social benefits in the coal industry				Inherited liabilities			
	Total		Excess aid		Total		Excess aid	
	1992	1991	1992	1991	1992	1991	1992	1991
Belgium	703.4	698.7	7.2	6.9	1.7	1.2	-	-
Germany	4 420.3	4 344.1	-	131.8	246.7	247.5	-	-
Spain	862.8	821.0	-	-	108.9	267.0	-	-
France	2 357.4	1 946.6	-	-	774.6	783.2	-	-
Portugal	-	-	-	-	-	-	-	-
United Kingdom ¹⁾	-	-	-	-	13.1	13.7	-	-
Community	8 343.9	7 810.4	7.2	138.7	1 145.0	1 312.6	-	-

1) The United Kingdom has an integrated social security system. The figures shown above cover only the special miner's pension fund, which exists alongside the general social security system.