

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 December 1993

approving the grant of aid by Portugal to the coal industry in 1993

(Only the Portuguese text is authentic)

(94/42/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2064/86/ECSC of 30 June 1986 establishing Community rules for State aid to the coal industry⁽¹⁾,

Whereas :

I

By letter of 15 September 1993 the Portuguese Government informed the Commission, in accordance with Article 9 (2) of Decision No 2064/86/ECSC, of the financial measure it intends to take to support the coal industry in 1993.

The Commission is taking action under Decision No 2064/86/ECSC on the following financial measures :

- aid to the Carbonífera do Douro company to cover operating losses totalling Esc 1 094 340 000 during 1993 ;
- aid totalling Esc 1 200 million to cover compensation to workers who lose their jobs as a result of the progressive closure of the mining operations of the Carbonífera do Douro company ;
- aid to cancel, for 1993, a debt of Esc 108 494 million owed to the Portuguese social security authorities.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

The support measures for the coal industry proposed by Portugal meet the requirements of Article 1 (1) of Decision No 2064/86/ECSC. The Commission must therefore either take a decision or give its opinion on those measures pursuant to Article 10 of that Decision as regards their conformity with the aims and criteria set out in the said Decision and their compatibility with the proper functioning of the common market.

II

By Decisions 91/2/ECSC⁽²⁾, 91/548/ECSC⁽³⁾, 92/54/ECSC⁽⁴⁾ and 93/135/ECSC⁽⁵⁾, the Commission authorized aid to cover operating losses of the Carbonífera do Douro company during 1989, 1990, 1991 and 1992 in view of the fact that it would help to facilitate the process of restructuring the coal industry, notably by progressively closing down the Germunde mine, which is not economically viable, as part of a regional industrial redeployment policy. The aid therefore contributes to solving 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.

For 1993 the Carbonífera do Douro company has provided for an operating loss of Esc 1 094 340 000 for that part of its activities involved in the production of 183 000 tonnes of coal.

⁽²⁾ OJ No L 5, 8. 1. 1991, p. 25.

⁽³⁾ OJ No L 298, 29. 10. 1991, p. 4.

⁽⁴⁾ OJ No L 22, 31. 1. 1992, p. 59.

⁽⁵⁾ OJ No L 55, 6. 3. 1993, p. 64.

The aid intended to cover operating losses must be viewed in the light of the objectives of Decision No 2064/86/ECSC, and in particular those of Article 2 (1) thereof, as part of the implementation of the business strategy of the Carbonífera do Douro company, which was notified to the Commission by the Portuguese Government in its letter of 16 April 1991 following the decision of the Portuguese Council of Ministers of 4 October 1990.

The aim of the business strategy of Carbonífera do Douro is progressively to reduce the output and workforce of the Germunde mine only between 1990 and 1994, when final closure is planned.

The trend recorded in 1993 is consistent with a fall in output of 13,7 % by comparison with 1992, to a level which is 8,5 % below that planned in the business strategy notified to the Commission. This fall in output has not been sufficient to reverse the trend towards increased operating losses.

The matching of the level of aid to falling coal output, its transient nature and the implementation of a clearly-defined restructuring programme are in line with the implementation conditions set out in Decision No 2064/86/ECSC. The aid to cover operating losses will help to facilitate the business strategy of Carbonífera do Douro.

The aid proposed will not exceed, for each tonne produced, the difference between projected average costs and projected average revenue during the 1993 budget year. It will not exceed expected operating losses and hence complies with the conditions laid down in Article 3 (1) of the Decision.

The information notified by the Portuguese Government makes it possible to verify that the conditions laid down in Article 3 (2), (3) and (4) of Decision No 2064/86/ECSC have also been complied with.

On 4 October 1990, the business strategy of Carbonífera do Douro was discussed by the Portuguese Council of Ministers, which at the same time approved a plan of action to create new activities which will help to improve the employment situation in the Castelo de Paiva region and thereby offset the loss of jobs resulting from the closure of the mine.

The progressive closure of the mine over a period of four years (1991-1994) will enable this programme to be set up.

In its assessment of the measures and programmes relating to the closure of the Germunde mine, the Commission takes account of the special situation of the Castelo

de Paiva coalmining area, as provided for in Article 10 (4) of Decision No 2064/86/ECSC.

This aid will contribute to solving the social and regional problems related to developments in the coal industry in accordance with the third indent of Article 2 (1) of the Decision.

In view of the foregoing, and of the information supplied by the Portuguese authorities, the aid to be granted to the current production of the Portuguese coal industry in 1993 is compatible with the objectives of Decision No 2064/86/ECSC and with the proper functioning of the common market.

III

Aid to cover exceptional social costs, amounting to Esc 1 200 million, is intended to provide partial cover for the compensation to be paid to some 620 workers at the Carbonífera do Douro company who will lose their jobs before 31 December 1994 as a result of implementation of the plan for the closure of the mining operations of the company scheduled for June 1994.

This aid is not connected to ongoing production and must be considered as charges inherited from the past. This measure must be considered as 'other exceptional expenditure for workers made redundant because of restructuring', as referred to in point I (b) of Annex I to Decision No 2064/86/ECSC (containing the costs referred to in Article 8 (2)). In accordance with Article 8 (1) of the said Decision, it can only be considered as compatible with the common market if the amount does not exceed the level of costs.

Decision No 2064/86/ECSC expires on 31 December 1993 and, under Article 10 (2) of that Decision, the Commission is able to give an opinion on aid intended to cover exceptional social costs only with regard to workers losing their jobs in 1993, or an amount of Esc 180 million corresponding to some 95 workers.

IV

Aid amounting to Esc 108 494 000 is proposed in order to cover a proportion, equivalent to 15 monthly transactions, of the debt owed by the Carbonífera do Douro company to the Portuguese social security authorities.

This measure, which will be implemented by cancellation of debts owed to the Portuguese social security authorities, must be considered to be 'other aid' within the meaning of Decision No 2064/86/ECSC on which the Commission is required to give its opinion pursuant to Article 10 (2) of that Decision.

The Commission notes that the aid in question is linked to a reduction in production capacity which will lead to a total and final stoppage of production in June 1994.

The aid forms part of the business strategy of Carbonífera do Douro and, with the progressive closure of the mine over a period of four years, will enable the plan of action to be set up to create new activities which will help to improve the employment situation in the Castelo de Paiva region and thereby offset the loss of jobs resulting from the closure of the mine.

This aid will contribute to solving 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.

V

In view of the foregoing, the aid to be granted by the Portuguese Government to the coal industry in 1993 is compatible with the proper functioning of the common market.

Pursuant to Article 11 (2) of Decision No 2064/86/ECSC, the Commission must ensure that the direct aid to current production which it authorizes is used exclusively for the purposes set out in Articles 3 and 6 thereof. It must therefore be informed of the amounts of the payments and the manner in which they are apportioned,

HAS ADOPTED THIS DECISION :

Article 1

Portugal is hereby authorized to grant aid totalling Esc 1 382 834 000 to its coal industry for the 1993 calendar year.

This amount shall be broken down as follows :

- aid to the Carbonífera do Douro company, amounting to Esc 1 094 340 000 to cover operating losses ;
- aid, amounting to Esc 180 million, to provide funds to compensate workers who lose their jobs as a result of the progressive closure of the mining operations of the Carbonífera do Douro company ;
- aid to cover a debt of Esc 108 494 000 owed to the Portuguese social security authorities.

Article 2

The Portuguese Government shall inform the Commission by 30 June 1994, at the latest, of the actual amount of aid paid in 1993.

Article 3

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 7 December 1993.

For the Commission

Abel MATUTES

Member of the Commission