

COMMISSION DECISION

of 17 October 2001

authorising the United Kingdom to grant aid to two coal production units for 2000 and 2001

(notified under document number C(2001) 3081)

(Only the English text is authentic)

(Text with EEA relevance)

(2002/82/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 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry (⁽¹⁾), and in particular Article 9(4) thereof,

Whereas:

Article 9(4) of that Decision. The Commission's approval is subject to the general objectives and criteria laid down in Article 2 and the specific criteria set out in Article 3 of Decision No 3632/93/ECSC and, more generally, to the aid being compatible with the proper functioning of the common market. In addition, in its assessment the Commission is required to check, in accordance with Article 9(6) of that Decision, whether the measures notified are in conformity with the plan for modernisation, rationalisation and restructuring of the United Kingdom coal industry approved by the Commission by Decision 2001/114/ECSC (⁽²⁾), and Decision 2001/597/ECSC (⁽³⁾) (hereinafter referred to as 'the restructuring plan').

II

I

- (1) By letter of 8 August 2001, the United Kingdom notified the Commission, in accordance with Article 9(1) of Decision No 3632/93/ECSC, of financial aid which it intends to grant to the 'Longannet Mine' production unit of Mining (Scotland) Ltd for the period from 17 April 2000 to 31 December 2000 and for 2001.
- (2) Moreover, by letter of 3 September 2001, the United Kingdom notified the Commission, in accordance with Article 9(1) of Decision No 3632/93/ECSC, of the financial aid which it intends to grant to the 'Aberpergwm Colliery' production unit of Anthracite Mining Ltd for the year 2001.
- (3) In the light of the information submitted by the United Kingdom, the Commission is required to take a decision on operating aid amounting to GBP 5 397 000 to cover special operating losses of Longannet Mine, namely GBP 2 190 000 for the period from 17 April 2000 to 31 December 2000 and GBP 3 207 000 for 2001. The Commission is also required to take a decision on operating aid amounting to GBP 1 031 066 to cover operating losses of the Aberpergwm Colliery for 2001.
- (4) The financial measures are covered by Article 1 of Decision No 3632/93/ECSC. The Commission must therefore take a decision on these measures pursuant to

(5) The sum of GBP 5 397 000 which the United Kingdom is proposing to grant to the Longannet Mine under Article 3 of Decision No 3632/93/ECSC is intended to cover part of the difference between the production cost and the selling price of coal freely agreed between the contracting parties in the light of the conditions prevailing on the world market for coal of similar quality from third countries.

(6) By Decisions 2001/217/ECSC (⁽⁴⁾) and 2001/683/ECSC (⁽⁵⁾), the Commission has already authorised the United Kingdom to grant operating aid to the Longannet Mine pursuant to Article 3 of Decision No 3632/93/ECSC amounting to GBP 17 462 000 for the period from 17 April 2000 to 31 December 2000 and GBP 18 318 000 for 2001. In accordance with Article 3(2) of Decision No 3632/93/ECSC, the Commission was of the opinion that the aid which the United Kingdom proposed to grant was intended to improve the economic viability of the production unit concerned by reducing its production costs. In accordance with the restructuring plan, the aid should help to make Longannet Mine viable, enabling it to continue its activities beyond 2002 without the need for public subsidy.

(7) However, the aid which the Commission authorised for Longannet Mine covered only a part of the operating losses relating to the abovementioned periods. Direct depreciation as provided for in point 2(c) of Form A in Annex I to Decision No 341/94/ECSC (⁽⁶⁾) is not covered by State aid. By excluding this eligible expenditure, the

(¹) OJ L 43, 14.2.2001, p. 27.

(²) OJ L 210, 3.8.2001, p. 32.

(³) OJ L 81, 21.3.2001, p. 31.

(⁴) OJ L 241, 11.9.2001, p. 10.

(⁵) OJ L 49, 19.2.1994, p. 1.

(⁶) OJ L 329, 30.12.1993, p. 12.

aim of the United Kingdom was to minimise the level of aid provided to the Longannet Mine. Appropriate financial support by the shareholders should make it possible to attain a balance commensurate with the Longannet Mine's operating results.

(8) Unforeseeable geological problems, together with major flooding, have recently caused significant production losses. These temporary losses due to exceptional circumstances have led to serious financial difficulties. In order to ensure Longannet Mine's survival, it is therefore a matter of urgency to inject additional resources to prevent it from having to close down because of insolvency.

(9) According to the notification of 8 August 2001, Longannet Mine's financial difficulties are due to exceptional circumstances and should therefore remain temporary. Accordingly, they do not jeopardise prospects for economic viability by reducing the mine's production costs. In accordance with Decisions 2001/217/ECSC and 2001/683/ECSC, Longannet Mine therefore remains able to continue its activities beyond 2002 without any public subsidy. An independent expert has examined the underground seismic studies and an audit carried out at the production site, and has confirmed that Longannet Mine has sufficient mineral reserves to enable it to continue operating until the end of 2002 under favourable economic conditions.

(10) In accordance with the first indent of Article 3(1) of Decision No 3632/93/ECSC, the aid per tonne as notified does not exceed the difference between production costs and foreseeable revenue for the period from 17 April 2000 to 31 December 2000, or for 2001.

(11) In view of the above and on the basis of the information provided by the United Kingdom, the additional aid of GBP 5 397 000 which the United Kingdom intends to grant to the Longannet Mine for the period from 17 April 2000 to 31 December 2000 and for 2001 is compatible with Decision No 3632/93/ECSC, and in particular with Articles 2 and 3 thereof.

III

(12) The sum of GBP 1 031 066 which the United Kingdom is proposing to grant to the Aberpergwm Colliery under Article 3 of Decision No 3632/93/ECSC is intended to cover the difference between the production cost and the selling price of coal freely agreed between the contracting parties in the light of the conditions

prevailing on the world market for coal of similar quality from third countries.

(13) After a complete closure in 1986, substantial investment was made in order to foster new activities for this mine. Following preparatory work in 1996, it resumed operation in July 2000. However, Aberpergwm Colliery's mining activities will become more substantial only from 2001, with an estimated production of 66 800 tce⁽¹⁾.

(14) The measures to modernise the coalmining conditions that still have to be taken will steadily optimise the economic operating conditions. As a result, the production costs, which in 2000 amounted to [...] (*) GBP/GJ⁽²⁾, should diminish significantly and should in 2002 — at 1999 prices — not exceed the economic viability threshold of 1,15 GBP/GJ laid down in the United Kingdom coal industry restructuring plan. In addition, according to forecasts up to 2004, continuous production cost reduction should be conducive to steadily improving the mine's economic viability beyond 2002.

(15) At the request of the United Kingdom authorities, an independent expert has compiled a technical report examining the potential of modernisation, rationalisation and restructuring measures implemented by Aberpergwm Colliery to improve its economic viability. In drawing up his report, the expert took account of the geological and technical operating conditions and the quality of the coal produced by this production unit. The report concludes that the various measures envisaged were consistent and realistic in terms of attaining the estimated costs calculated by the production unit.

(16) In accordance with Article 3(2) of Decision No 3632/93/ECSC, the aid which the United Kingdom proposes to grant is therefore intended to improve the economic viability of Aberpergwm Colliery by significantly reducing its production costs. In view of the prospects for reducing production costs and increasing revenue, this aid will help to make the production unit competitive in order to ensure that it will be able to continue its activities beyond 2002 without public subsidy.

(17) The plan proposed by the company, and more specifically the temporary nature of the financial aid necessary for restructuring, will allow the aid to be degressive, in accordance with the first indent of Article 2(1) of Decision No 3632/93/ECSC.

(18) In accordance with the first indent of Article 3(1) of Decision No 3632/93/ECSC, the aid per tonne as notified does not exceed the difference between production costs and foreseeable revenue calculated on the basis of the financial data relating to the period covered by this aid.

(19) The Commission notes that an auditor has certified that the financial data notified by the United Kingdom are an accurate reflection of the accounts of Anthracite Mining Ltd. The auditor has also stated that the forecasts were drawn up using the same accounting standards as were in use before the period covered by the aid.

⁽¹⁾ tce = tonnes coal equivalent.

⁽²⁾ (*) Confidential information.

⁽²⁾ ⁽²⁾ 1 tonne coal equivalent (tce) = 29 302 Gigajoules (GJ).

(20) In the light of the above and on the basis of the information provided by the United Kingdom, the aid proposed for 2001 to be granted to the Aberpergwm Colliery production unit is compatible with Decision No 3632/93/ECSC, and in particular with Articles 2 and 3 thereof.

IV

(21) The United Kingdom is required to ensure that the aid does not cause any distortion of competition and does not discriminate between coal producers, buyers or consumers in the Community.

(22) In accordance with the third indent of Article 3(1) of Decision No 3632/93/ECSC and with the provisions of Decision 2001/114/ECSC, the United Kingdom will take all measures necessary to ensure that the amount of the aid granted to each production unit does not cause delivered prices for Community coal to be lower than those for coal of a similar quality from third countries.

(23) Moreover, in accordance with Article 2(2) of Decision No 3632/93/ECSC, the aid must be entered in United Kingdom's national, regional and local public budgets or comply with strictly equivalent mechanisms.

(24) In accordance with the second indent of Article 3(1) and with Article 9(2) and (3) of Decision No 3632/93/ECSC, the Commission has to check that the aid authorised is used only for the purposes stipulated in Article 3 of that Decision. At the latest by 30 September of each year, the United Kingdom shall notify the amount of aid actually paid for the previous year and declare any changes made to the amounts originally notified. Any information required to ascertain that the criteria laid down in Article 3 of the Decision have been complied with shall be provided together with this annual statement.

(25) The United Kingdom is required to justify any departures from the restructuring plan and from the economic and financial forecasts notified to the Commission on 8 August 2001 and 3 September 2001. In particular, should it turn out that the conditions laid down in Article 3(2) of Decision No 3632/93/ECSC cannot be

met, the United Kingdom will propose to the Commission which corrective measures ought to be taken,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom is authorised, subject to the conditions set out in Article 3 of Decision No 3632/93/ECSC, to grant operating aid of GBP 5 397 000 to the Longannet Mine production unit for the period from 17 April 2000 to 31 December 2000 and for 2001.

The United Kingdom is further authorised, subject to the conditions set out in Article 3 of Decision No 3632/93/ECSC, to grant operating aid of GBP 1 031 066 to the Aberpergwm Colliery production unit for 2001.

Article 2

The United Kingdom shall ensure that the authorised aid is used only for the purposes declared in its notifications of 8 August 2001 and 3 September 2001, and that any expenditure on items covered by this Decision which is cancelled, overestimated or misused is reimbursed.

Article 3

Without prejudice to the obligations laid down in Article 9(1), (2) and (3) of Decision No 3632/93/ECSC, the United Kingdom shall, by 30 September 2002 at the latest, communicate the amount of aid actually paid for the period from 17 April 2000 to 31 December 2000 and for 2001.

Article 4

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 17 October 2001.

For the Commission

Loyola DE PALACIO

Vice-President