

COMMISSION DECISION

of 20 December 1989

ruling on a financial measure taken by Spain in respect of the coal industry during 1989 and a supplementary financial measure in respect of the coal industry in 1988 and 1987

(Only the Spanish text is authentic)

(90/198/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⁾, and in particular Article 10 thereof,

Whereas :

I

By letters of 22 September and 13 October 1988, the Spanish Government informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of the financial measures it intended to take during 1989 in order to give direct or indirect support to the coal industries.

The measures included compensatory payments to electricity producers using Spanish coal produced by undertakings that have negotiated contracts with the said electricity producers under the NSCCT (new system of public contracts for coal used in power stations), a system to be financed by a compensation fund managed by Ofico (Electricity Compensation Office).

By letters of 23 May, 26 September and 9 November 1989, at the Commission's request, the Spanish Government also communicated further information concerning 1989.

In those letters, pursuant to the provisions of Article 9 (3) of Decision No 2064/86/ECSC, the Spanish Government also notified the Commission of an increase in the compensatory amounts that were to be paid to electricity producers in respect of 1987 and 1988 under the new public contracts system, and provided further data on this measure.

The amounts in question, financed by the compensation fund, amount to :

- Pta 12 625 million in 1989,
- Pta 2 782 million in addition to the sum already authorized in respect of 1988,

- Pta 3 370 million in addition to the sum already authorized in respect of 1987.

II

The aim of the Ofico financial measure is to refund to the electricity generating companies any sums over and above the reference price which those companies have to pay the coal mining undertakings to cover almost the full amount of the latter's operating losses. The system applies to those mining undertakings that have concluded coal supply contracts with the electricity producers under the NSCCT system.

The measure covers some 3 million tce (tonnes of coal equivalent) of Spanish coal a year.

This is a measure linked to coal sales which, even if not borne directly by public authority budgets, is nevertheless financed from levies imposed through a measure introduced by the State.

It also gives coal industry undertakings an economic advantage and therefore represents an indirect aid to this industry within the meaning of Article 1 (1) of Decision No 2064/86/ECSC.

It must therefore be submitted for a Commission opinion pursuant to the provisions of Article 10 (2) of that Decision.

III

In Decisions 87/454/ECSC⁽²⁾ and 88/505/ECSC⁽³⁾, the Commission authorized Ofico financial measures amounting to Pta 8 400 million in 1987 and Pta 8 400 million for 1988. The Commission authorized this aid in view of the fact that the new system was intended to make the industry more competitive and that the precipitate closure of uneconomic installations was likely to cause major social and regional problems. To this extent the measure was also calculated to attenuate the social and regional problems encountered in this industry.

⁽²⁾ OJ No L 241, 25. 8. 1987, p. 16.

⁽³⁾ OJ No L 274, 6. 10. 1988, p. 41.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

The increases now notified for 1987 and 1988 mean that the total sums set aside for these two years are Pta 11 770 and 11 182 million respectively.

IV

The trend during the first few years in which the system has been in operation has to be evaluated in the light of the aims of Decision No 2064/86/ECSC, particularly those set out in Article 2 (1).

In this connection it should be emphasized that the intended aim of this instrument is to bring about some improvement in the competitiveness of the coal industry through the financial reorganization of the undertakings, a lowering of production costs and the shutting down of those production capacities which have no prospect of becoming economically viable in the long term.

However, the provisions introduced under the system do not indicate that there is any likelihood of a reduction in overall levels of aid. In fact, the sum notified for 1989, i. e. Pta 12 625 million, represents an increase of some 13 % over 1988.

V

In view of the transitional nature of Decision No 2064/86/ECSC which expires on 31 December 1993, and the need to ensure the economic viability of the Community's coal industry in the long term, it is necessary to ensure that Community aid is sufficiently degressive and goes hand in hand with the kind of restructuring, rationalization and modernization plans listed among the conditions subject to which the provisions of Decision No 2064/86/ECSC may be applied.

To enable the Commission to check whether these conditions are respected, the Spanish authorities should be requested to submit, by 30 June 1990, a plan for reducing, by 31 December 1993, the compensatory payments made under the said system or under any other measure having equivalent effect.

This Decision does not call into question the compatibility of the NSCCT with the provisions of the EEC and ECSC Treaties,

HAS ADOPTED THIS DECISION :

Article 1

The compensatory payments to be made to electricity producers under the Ofico financial measure, notified in the letters dated 22 September and 13 October 1988 and 23 May, 26 September and 9 November 1989 shall be regarded as Community aid to the coal industry under Article 2 (1) of Decision No 2064/86/ECSC, and therefore compatible with the smooth functioning of the common market, because :

- putting an immediate stop to this aid would aggravate the social and regional problems linked with changes in this industry, and
- if the industry is to be made more competitive, the aid should be reduced gradually and this reduction should go hand in hand with the restructuring, modernization and rationalization of the Spanish coal industry.

Article 2

The Government of Spain shall submit to the Commission by 30 June 1990 a plan for reducing between now and 31 December 1993 at the latest the compensatory payments made under this system or any other measures having equivalent effect.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 20 December 1989.

For the Commission

António CARDOSO E CUNHA

Member of the Commission