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REPORT FROM THE COMMISSION

on the Application of the Community Rules for State Aid to the
Coal Industry in 1993

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, Spain and the United Kingdom to their coal industries in 1993.

All Member States intending to grant aid to coal undertakings in 1993 were obliged to present to the Commission by 1 October 1992 (1 January 1993 for the United Kingdom) information on all the measures they intended to take to support the coal industry directly or indirectly in 1993.

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.

¹ OJ No L 177, 1.7.1986, p. 1 et seq.

In accordance with Article 9 of the Decision, the Commission was notified of the measures planned for 1993 by:

- the German Government in letters dated 9 December 1992 and 15 February 1994;
- the Belgian Government in letters dated 9 October and 13 November 1993;
- the Spanish Government in letters dated 10 and 25 February and 16 November 1993;
- the French Government in a letter dated 12 February 1993;
- the Portuguese Government in a letter dated 15 September 1993;
- the United Kingdom Government in a letter of 17 February 1994.

The Commission gave a ruling on these measures in Decisions adopted on 23 December 1992^{2, 3} and 29 March 1994⁴ for Germany, 24 February 1993 for Belgium,⁵ 18 May 1993 for France,⁶ 23 December 1992 for Spain,^{7, 8} 7 December 1993 for Portugal,⁹ and 29 March 1994 for the United Kingdom.¹⁰

The amounts of financial aid referred to in this document are the final figures authorized by the Commission for 1993 under Decision 2064/86/ECSC. This is the final report under Article 14 of this Decision as a result of its expiry on 31.12.1993.

² OJ No L 58, 11.3.1993.

³ OJ No L 59, 12.3.1993.

⁴ OJ No L 147, 14.6.1994.

⁵ OJ No L 85, 6.4.1993.

⁶ OJ No L 198, 7.8.1993.

⁷ OJ No L 57, 10.3.1993, p. 26.

⁸ OJ No L 57, 10.3.1993, p. 29.

⁹ OJ No L 23, 28.1.1994.

¹⁰ OJ No L 147, 14.6.1994.

2. Coal Industry and Market

2.1 Production

In 1993 coal production in the Community amounted to 158.6 million tonnes, a drop of 26.3 million tonnes from the 1992 figure as a result of the restructuring, rationalization and modernization policies implemented by the Member States. Production dropped in all the production countries in 1993 from 1992, the largest falls, in absolute terms, being registered in the United Kingdom (-16.8 million tonnes) and Germany (-8.0 million tonnes).

The estimate available for 1994 indicate that the trend will probably be similar to 1993, production falling by 26.6 million tonnes to some 132.0 million tonnes.

Once again, the largest reductions are likely to be in the United Kingdom (18.9 million tonnes), followed by Germany (6.6 million).

Table 1
Coal production (*1000 t)

	1990	1991	1992	1993	(2)1994	variation 1993/92 (%)	variation 1994/93 (%)
Germany	76553	72744	72153	64174	57530	-11.1	-10.4
France	10487	10127	9478	8576	7458	-9.5	-13.0
Belgium	1036	634	218	--	--	-100.0	--
United Kingdom	89301	92712	84235	67463	48600	-19.9	-28.0
Ireland	46	6	1	1	1	--	--
Spain (1)	19440	17922	18620	18183	18250	-2.3	+0.4
Portugal	281	270	221	197	150	-10.9	-23.9
Italy	58	21	30	20	-	-33.3	-100.0
Community	197202	194436	184956	158614	131989	-14.2	-16.8

(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 1993, 107 400 underground workers, i.e. 28 100 fewer than in 1992, were employed in the coal industry. The largest drop in absolute terms was in the United Kingdom (17 500), followed by Germany (6 500) and Spain (3 000).

Table 2

Underground Staff Employed at the End of the Year (*1000)

	1990	1991	1992	1993	variation 1993/92 (%)
Germany	77.9	73.2	68.5	62.0	-9.5
France	10.1	8.9	8.3	7.9	-5.7
Belgium	1.9	1.7	0.7	0.1	-80.0
United Kingdom	50.7	42.3	30.5	13.0	-57.3
Spain	30.6	29.8	27.0	24.0	-11.2
Portugal	0.6	0.5	0.5	0.4	-19.5
Community	171.8	156.5	135.5	107.4	-20.7

2.3. Coal Demand and Trade

In 1993, total energy demand in the European Union fell by 0.7% over 1992 as a result of the negative economic growth, which had a considerable effect on energy demand. However, the fall in demand tended to affect solid fuels in the main, and in particular coal.

Overall, internal deliveries of coal within the European Union fell by 40.9 million tonnes or 13.0% in 1993 compared with 1992. This figure is even more striking when it is considered that deliveries had already fallen significantly in 1992 compared with 1991.

This reduction was mainly due to a levelling-off of demand from all sectors. The main reductions concerned deliveries to the power-generating sector (29.9 million tonnes) and deliveries to coking plants (7.6 million tonnes). The Member States registering the largest drops were the United Kingdom (19.5 million tonnes), France (8.8 million tonnes), Germany (7.0 million tonnes), Italy (2.5 million tonnes) and Spain (2.4 million tonnes). Deliveries increased in three countries only, the total figure being limited to 1.5 million tonnes.

In 1994, internal deliveries are likely to have fallen still further, by 14.2 million tonnes, to 259.7 million tonnes. This is the lowest tonnage ever recorded in the European Union.

Deliveries are falling in all sectors. The main reductions concern deliveries to public-sector power stations (reduction of 10.9 million tonnes), and coking plants (reduction of 2.1 million tonnes). The largest fall is likely in the United Kingdom (16.1 million tonnes).

Table 3
Internal deliveries of coal (Million tonnes)

	1990	1991	1992	(1)1993	(2)1994	variation 1993/92 (%)	variation 1994/93 (%)
Belgium	14.9	14.0	13.2	11.9	13.6	-10.3	14.3
Denmark	10.1	12.8	11.4	12.0	12.7	4.8	5.8
Germany	(3)80.3	87.0	82.8	75.8	75.4	-8.4	-0.5
Greece	1.4	2.0	1.9	1.5	1.5	-24.2	0.6
Spain	30.2	31.2	32.9	30.5	30.8	-7.4	0.9
France	30.4	31.9	31.5	22.7	19.7	-27.9	-13.0
Ireland	3.2	3.1	3.4	3.1	2.8	-8.8	-9.0
Italy	2.1	19.3	17.5	15.0	16.1	-14.1	7.0
Luxembourg	0.2	0.2	0.3	0.3	0.3	-3.9	25.7
Netherlands	14.9	13.3	12.7	13.1	14.3	3.2	9.1
Portugal	5.0	4.4	4.5	5.0	5.5	10.2	10.2
United Kingdom	107.9	112.4	102.7	83.2	67.1	-19.0	-19.3
Community	300.5	331.6	314.8	273.9	259.7	-13.0	-5.2

(1) Provisional

(2) Forecast

(3) Excluding the new German Länder

Coal imports from third countries fell by 20.2 million tonnes in 1993 to reach a level of 115.9 million tonnes. This reduction is the logical result of the low demand for coal and the stocks held, even though the drop in coal production over the year is one of the largest ever recorded. The fall in imports is mainly in steam coal as a result of the drop in demand from power stations.

Table 4
Imports of coal from third countries (Million tonnes)

	1990	1991	1992 (1)	1993 (2)	1994	variation 1993/92 (%)	variation 1994/93 (%)
Belgium	13.2	13.3	13.1	11.2	13.0	-14.6	15.9
Denmark	9.7	12.6	11.8	10.3	11.8	-12.5	14.8
Germany	(3)8.6	13.7	14.2	12.6	13.1	-11.4	3.7
Greece	1.4	1.4	2.1	1.3	1.4	-37.3	1.0
Spain	9.8	12.0	13.7	12.2	12.2	-11.4	0.4
France	17.3	20.2	21.4	13.9	13.0	-35.0	-6.5
Ireland	2.6	2.7	2.7	2.3	2.5	-16.1	9.6
Italy	19.5	19.2	17.6	14.3	15.4	-18.6	8.0
Luxembourg	0.2	0.2	0.3	0.2	0.2	-3.2	0.4
Netherlands	16.5	15.2	14.7	14.9	16.0	1.5	7.2
Portugal	4.5	4.1	4.4	4.8	5.3	7.1	11.7
UK	12.7	19.1	20.1	17.9	16.0	-10.7	-10.6
Community	115.9	133.6	136.2	115.9	120.0	-14.8	3.5

(1) Provisional

(2) Forecast

(3) Excluding the new German Länder

For 1994 it is estimated 4.0 million tonnes (3.5%) more will be imported to reach a level of 120.0 million tonnes. Lower production and a run on stocks, in conjunction with steady demand, have combined to maintain imports at a figure not too far from the 1993 level.

Table 5
Intra-Community Trade in Coal (exports) (*1000 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	4906	668	460	1559	2	2335	37	9967
1991	3188	606	490	1520	-	2363	51	8218
1992	1510	622	444	840	-	2029	54	5499
1993 (1)	915	620	426	946	-	2243	28	5178
1994 (2)	1100	680	347	900	-	2100	13	5140

(1) Provisional

(2) Forecast

Trade in coal within the European Union, including internal movements of coal of third-country origin in free circulation fell by 0.3 million tonnes in 1993; a further very slight reduction is expected in 1994. This trend is attributable to a reduction in production in the main coal-producing Member States, and the considerable competition from third-country coal and other substitutable energy resources.

2.4. Financial situation of Community Coal Producers

For the European Union as a whole, average production costs, increased from ECU 112/tce in 1992 to ECU 114/tce in 1993, an increase of 2%, which is mainly due to the rises recorded in France and Germany which were not fully compensated for by the cost reductions in the other producer countries.

Table 6
Financial situation of the coal industry

	Production costs(1) ECU/tec				Returns ECU/tec				Difference ECU/tec		
	1991	1992	1993	1993/92 (%)	1991	1992	1993	1993/92 (%)	1991	1992	1993
Germany	138	143	151	5	126	131	136	3	-12	-12	-15
Belgium(4)	228	--	--	--	47	--	--	--	-181	--	--
Spain(2)	154	147	131	-11	109	109	97	-11	-45	-39	-34
France	91	100	110	10	60	56	62	11	-32	-45	-49
Portugal	103	(3)121	(3)112	-7	72	(3)78	(3)72	-7	-31	-43	-40
UK	74	71	62	-12	73	71	60	-16	-0	-0	2
Total	109	112	114	2	97	101	99	-1	-12	-12	-15

(1) Overall costs, including capital and depreciation costs

(2) Estimate

(3) Provisional figure

(4) Last pit closed at the end of September 1992

Returns increased by 1% throughout the Community in 1993.

Given that production costs rose and the average returns fell, it can be stated that the situation of the coal industry deteriorated in 1993.

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, except France, 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.

Table 7
Underground Output per Man/hour(kg)

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1993/92(%)</u>
Germany	673	681	698	707	1.3
France	634	727	743	711	-4.3
Belgium	361	383	268	-	-
UK	704	801	919	1239	34.8
Spain	341	315	328	396	20.7
Community	628	665	703	762	84

3. Financial aid scheduled for the coal industry

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. It also covers 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.

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.

3.1 Financial aid related to current production

In 1993 aid to current production authorized by the Commission amounted to ECU 5 034.4 million, compared with ECU 5 194.6 million in 1992. 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 implementation of restructuring or rationalization plans in the former and the closing down of the last remaining mines in the latter, and in Germany.

Table 8
Financial aid related to current production

	ECU million		ECU/tonne	
<u>Directs</u>	1993	1992	1993	1992
Art. 3 Deficit grant aid	671.4	782.8	4.23	4.23
Art. 4 Sales aid	1677.8	1787.7	10.57	9.68
Art. 5 Investment aid	23.5	-	0.15	-
Art. 6 Aid for underground staff	62.0	65.6	0.39	0.35
Other	2.5	67.1	0.02	0.36
Sub-total	2437.2	2703.2	15.36	14.62
Indirect	2597.2	2491.4	16.37	13.47
Total	5034.4	5194.6	31.73	28.09

Although the downward trend in aid for current production which started in 1991 was confirmed in 1993, in the period 1986-1993 it has actually risen by 9%. Figures for the amount of aid per tonne produced show the increase to be more marked here, exceeding 56% for the same period.

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 1993 direct aid authorized by the Commission amounted to DM 3 639.7 million (ECU 1 880.0 million), i.e. DM 56.72 (ECU 29.29) per tonne.

	<u>DM million</u>	<u>ECU million</u>
Art. 3 Aid to cover operating losses	271.5	140.2
Art. 4 Aid for the sales of coal and coke to the Community steel industry	3 248.2	1 677.8
Art. 6 Miners' bonuses per underground shift worked ("Bergmannsprämie")	120.0	62.0
Total	3 639.7	1 880.0

The aid to cover operating losses (DM 271.5 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 (Revierausgleich) 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, the aid in question meets the objectives and criteria set out in Article 2 of the Decision.

¹¹ For more details, the reader is referred to the text of the Decision:

OJ No L 177, 1.7.1986, pp. 1-9.

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 European Union 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 European Union 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 1993, including the correction made at the end of the year under that system (DM 3 248.2 million) covers the difference between the world market price and the production costs for a maximum production level of 18.5 million tonnes. The aid is therefore compatible with Articles 4 and 12 of the Decision. It 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 120 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) 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)(1) of the Decision.

3.1.1.2. Belgium

The closure of the last working pit at the end of September 1992 marked the end of the Belgian mining industry's restructuring plan aimed at ceasing coal production as from this date. No direct aid was, therefore, granted in 1993.

3.1.1.3. France

In 1993 the amount of direct aid authorized by the Commission totalled FF 1 262 million (ECU 190.2 million), i.e. FF 147.15 (ECU 22.18) per tonne.

	<u>FF million</u>	<u>ECU million</u>
Art. 3 Aid to cover operating losses	1 262	190.2
Total	1 262	190.2

The aid to cover operating losses makes up only 57% 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. These average returns are closely linked with developments in the price of imported coal.

Since this forms part of a restructuring and rationalizing 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 1993 amounted to PTA 53 478 million (ECU 358.7 million), i.e. PTA 2 951 (ECU 19.79) per tonne.

	<u>PTA million</u>	<u>ECU million</u>
Art. 3 Aid to cover operating losses	49 978.0	335.2
Art. 5 Aid to investment	3 500.0	23.5
Total	53 478.0	358.7

The aid to cover operating losses (PTA 49 978 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 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 Article 2 of Decision No 2064/86/ECSC.

The investment aid of PTA 3 500 million is intended for mining industry investment projects. It is meant to facilitate the implementation of the plan for the restructuring, rationalization and modernization of the coal industry in Spain. This measure will help to improve the competitiveness of the production companies, which will be required to show that their financial situation is in balance when the plan comes to an end. The aid therefore meets the aims and criteria set out in Articles 2 and 5 of Decision N° 2064/86/ECSC.

3.1.1.5. Portugal

In 1993 the Commission authorized the granting of aid totalling ESC 1 202.8 million (ECU 6.4 million) to cover operating losses, i.e. ESC 6 106 (ECU 32.49) per tonne.

		<u>ESC million</u>	<u>ECU million</u>
Art. 3	Aid to cover operating losses	1094.3	5.8
Other			
	Aid to cover a coal-industry debt to the Portuguese Department of Social Security	108.5	0.6
Total		1 202.8	6.4

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 between 1991 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 of the Decision.

Before the date of extraction-capacity closure the ESC 108.5 million of aid is intended to cover some of the debts to the Portuguese Department of Social Security entered into in 1993. 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.

3.1.1.6. United Kingdom

In 1993, direct aid authorized by the Commission amounted to GBP 1.5 million (ECU 1.9 million), i.e. GBP 0.03 (ECU 0.03) per tonne.

	<u>GBP million</u>	<u>ECU million</u>
Other measures Aid to cover operating losses in underground workings	1.5	1.9
Total	1.5	1.9

The aid to cover operating losses in underground workings is intended in the short term to allow these mines to find outlets for their production in the power station sector.

It is understood from the UK Government that, for any quality contracted, the amount of aid will not exceed the difference between the expected average cost and the average returns per tonne, thereby meeting the conditions laid down in Article 3(1) of Decision 2064/86/ECSC.

Its inclusion in a clearly defined restructuring plan aimed at closing down production units which have no economically viable prospects and the fact that it is of a temporary nature mean that this aid meets the requirements for the application of the Decision.

The aid will help to improve the competitiveness of the European Union coal mining industry and to resolve social and regional problems in accordance with the first and third indents of Article 2(1) of the Decision.

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 1993 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 Spain

The Commission authorized aid amounting to PTA 120 million for the environment in mining areas in Spain. This aid related to work carried out on tips and water treatment.

The aid will help to improve the environment of the areas involved and to resolve social and regional problems connected with the development of the mining industry in accordance with the third indent of Article 2(1) of the Decision.

Authorization has been made in view of the connection of this measure with the Spanish coal mining industry's restructuring, rationalization and modernization initiatives.

3.1.2.2. Indirect aid to consumption

This section described 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 mechanisms 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 on a coal mining industry restructuring plan (1992-2000) 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.

In the light of these developments, the Commission adopted a Decision authorizing compensatory payments totalling DM 5 000 million on 23 December 1992 to cover current expenditure in respect of the compensation fund under the third German Electricity-from-Coal Law for 1993.

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.

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

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.

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

Deliveries of national coal are covered by a new five-year agreement signed at the beginning of 1993. The contracting parties are the British Coal Corporation, National Power and PowerGen.

Deliveries of coal to the electricity-generating industry covered by the contract will amount to 40 million tonnes in 1993/94, and 30 million tonnes for the four following years. Deliveries under the contract will be made at a price of GBP 36.24 for 1993/94, reducing progressively to GBP 31.92 in 1997/98.

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 3.0 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 1993/94 financial year, the average price paid by electricity generators was GBP 36.70 per tonne, compared with GBP 40.10 per tonne for 1992/93.

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,¹³ 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 2 059 million for 1993. 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.

¹³ OJ L 105, 25.4.1990.

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.

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.

3.2.1.1. Germany

In 1993 DM 11 821 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 9 457 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 10 528 million in 1993. Details of this aid are given below.

<u>Origin</u>	<u>Amount of Aid</u> (in FF million)	<u>Purpose</u>
State	3 226.0	Disability and old-age pension insurance Regular contribution amounting to 22% of the total wage-bill plus additional State adjustment
General system	3 513.0	Disability and old-age pension insurance Regular statutory contribution to cover part of the "exceptional expenditure" (contribution laid down by decree)
General	1 593.0	Insurance against industrial accidents and occupational diseases Coverage of inherited liabilities
General system	2 196.0	Sickness insurance Treatment benefits
Total	10 528.0	

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 28 719.8 million.

<u>Origin</u>	<u>Amount of Aid</u> (in BF million)	<u>Purpose</u>
State insurance	24 473.4	Old-age pension and survivor's pension Regular statutory contribution
State	4 246.4	Disability insurance Disability pension
Total	28 719.8	

The abovementioned aid complies with the provisions of Article 7(1) of the Decision.

3.2.1.4. United Kingdom

In the United Kingdom nearly all branches of industry have their own insurance scheme (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 PTA 129 857 million in 1993.

This figure is broken down as follows:

<u>Origin</u>	<u>Amount of Aid</u> (in PTA million)	<u>Purpose</u>
State	108 390	Old-age pension
State	3 506	Temporary disability
State	1 353	Temporary invalidity and rehabilitation insurance
State	14 317	Health service
State	1 330	Miscellaneous (family benefits, social services, social welfare, one-off payments, prostheses, wheelchairs)
State	961	Administrative costs
Total	129 857	

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 1993 Germany notified the following measures:

- | | |
|---|------------------|
| - Aid to cover mine drainage | DM 221.0 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	DM 496.1 million (= ECU 256.3 million)
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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 221 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 369.4 million (ECU 9.1 million) to cover inherited liabilities of the Kempense Steenkolenmijnen (Campine coalfield). This amount is intended to cover the following costs:

- | | |
|---|------------------|
| - aid mining damage arising from the closure of workings | FB 141.3 million |
| - aid for social costs of closing the mines, especially underground safety work and the protection of the environment | FB 228.1 million |

Total	FB 369.4 million
-------	------------------

The above measures do not exceed the real costs incurred and therefore comply with Article 8(1) of the Decision.

3.2.2.3. France

In 1993 the French Government granted aid totalling FF 5 427 million (ECU 818.1 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 728.0 million
-	conversion costs	FF 445.0 million
-	costs of pit closures or dismantling of installations	FF 185.0 million
-	residual charges/depreciation and servicing of loans transferred to the Central Office	FF 1 124.0 million
-	charges due to demographic overload caused by restructuring	FF 2 930.0 million
-	general research	FF 15.0 million

Total	FF 5 427.0 million
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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. Portugal

Portugal notified the Commission of the following measure for 1993:

- aid of ESC 1 200 million to cover payments to workers to be made redundant before 31 December 1994 following measures to implement its plan to close down the coal industry in Portugal.

Given that it is not linked to current production, the Commission concluded that the fund should be regarded as an inherited liability, in accordance with Article 8 of Decision No 2064/86/ECSC and in particular point 1 b) of Annex 1.

Since Decision No 2064/86/ECSC expired on 31.12.1993, the Commission authorized only that amount of aid (ESC 180 million) relating to the social costs of workers made redundant in 1993.

3.2.2.5. United Kingdom

The United Kingdom notified the following measure for 1993:

- aid for miners losing their jobs
as a result of restructuring UK£9.6 million

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

Between 1986 and 1994 coal production in the European Union fell by some 100 million tonnes, a drop of 42%. Despite major rationalization and restructuring in the coal industry the average pit-head price for Community coal is still ECU 114 per tce as against only just over ECU 40 per tce for imported coal.

Although production costs expressed in fixed 1986 terms have fallen by 22% in this period, the price of imported coal expressed in ECU has dropped by an even greater amount (40%) in the same period.

To a certain extent, therefore, this shift in the price of coal on the international market has cancelled out the efforts made to restructure the industry in the European Union. Productivity has increased by 52%, but the production costs to imported coal cif price ratio has deteriorated, increasing from 2.2 in 1986 to 3.0 in 1993. It should also be pointed out that outside factors play a part, for example in 1993 the price of imported coal in real terms fell to its lowest level since the end of the seventies as a result of the surplus on the international market and the appearance of new exporters on the scene and the ECU has continued to rise against the dollar throughout almost the whole of the period under consideration.

These conflicting factors have resulted in aid per tonne, expressed in real terms, being increased between 1986 and 1993 by some 32%.

The significant increase in aid, despite the restructuring carried out in all the Member States, can be explained in part by an accelerated mine closure programme in the United Kingdom, where production costs were in any case often lower than in mines which are still operating in the other Member States. In other words, certain Community mines receiving relatively low subsidies have been closed for lack of a market, while other high-cost mines remain operational.

It can, therefore, be stated that the nature of the restructuring process has differed considerably from one country to another, depending on the acceptability of the rate at which social and regional adaptation schemes are introduced by the national authorities.

Although Decision No 2064/86/ECSC has of course enable the coal sector to be thoroughly restructured, it has to be recognized that the survival of a major part of the coal industry in Europe will depend on large amounts of aid.

Financial aid linked to current production in the coal industry

Country: Belgium

	ECU million		ECU/tonne	
	1993	1992	1993	1992
<u>Directs</u>				
Article 3 : Deficit grant aid	-	33.5	-	153.67
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	-	-	-	-
Subtotal	-	33.5	-	153.67
<u>Indirect</u>	-	7.4	-	33.94
TOTAL	-	40.9	-	187.61

Financial aid linked to current production in the coal industry

Country: Germany

	ECU million		ECU/tonne	
	1993	1992	1993	1992
<u>Directs</u>				
Article 3 : Deficit grant aid	140.2	177.7	2.18	2.46
Article 4 : Sales aid	1 677.8	1 787.7	26.14	24.78
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	62.0	65.6	0.97	0.91
Other	-	-	-	-
Subtotal	1 880.0	2 031.0	29.29	28.15
<u>Indirect</u>	2 582.6	2 466.7	40.24	34.19
TOTAL	4 462.6	4 497.7	69.53	62.34

Financial aid linked to current production in the coal industry

Country: Spain

	ECU million		ECU/tonne	
	1993	1992	1993	1992
<u>Directs</u>				
Article 3 : Deficit grant aid	335.2	379.7	18.49	20.38
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	23.5	-	1.30	-
Article 6 : Aid for underground staff	-	-	-	-
Other	-	66.3	-	3.56
Subtotal	358.7	446.0	19.79	23.94
<u>Indirect</u>	14.7	17.3	0.81	0.93
TOTAL	373.3	463.3	20.60	24.87

Financial aid linked to current production in the coal industry

Country: France

	ECU million		ECU/tonne	
	1993	1992	1993	1992
<u>Direct</u>				
Article 3 : Deficit grant aid	190.2	186.9	22.18	19.72
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	-	-	-	-
Subtotal	190.2	186.9	22.18	19.72
<u>Indirect</u>	-	-	-	-
TOTAL	190.2	186.9	22.18	19.72

Financial aid linked to current production in the coal industry

Country: United Kingdom

	ECU million		ECU/tonne	
	1993	1992	1993	1992
<u>Directs</u>				
Article 3 : Deficit grant aid	-	-	-	-
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	1.9	-	-	-
Subtotal	1.9	-	0.03	-
<u>Indirect</u>	-	-	-	-
TOTAL	1.9	-	0.03	-

Financial aid linked to current production in the coal industry

Country: Portugal

	ECU million		ECU/tonne	
	1993	1992	1993	1992
<u>Directs</u>				
Article 3 : Deficit grant aid	5.8	5.0	29.44	22.72
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	0.6	0.8	3.05	3.64
Subtotal	6.4	5.8	32.49	26.36
<u>Indirect</u>	-	-	-	-
TOTAL	6.4	5.8	32.49	26.36

Financial aid linked to current production in the coal industry

Country: **Community**

	ECU million		ECU/tonne	
	1993	1992	1993	1992
<u>Directs</u>				
Article 3 : Deficit grant aid	671.4	782.8	4.23	4.24
Article 4 : Sales aid	1 677.8	1 787.7	10.57	9.68
Article 5 : Investment aid	23.5	-	0.15	-
Article 6 : Aid for underground staff	62.0	65.6	0.39	0.36
Other	2.5	67.1	0.02	0.36
Subtotal	2 437.2	2 703.2	15.36	14.64
<u>Indirect</u>	2 597.2	2 491.4	16.37	13.50
TOTAL	5 034.4	5 194.6	31.73	28.14

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	
	1993	1992	1993	1992	1993	1992	1993	1992
Belgium	709.7	703.4	-	7.2	9.1	1.7	-	-
Germany	4 884.7	4 420.3	-	-	256.3	246.7	-	-
Spain	870.8	862.8	-	-	-	108.9	-	-
France	1 587.0	2 357.4	-	-	818.1	774.6	-	-
Portugal	-	-	-	-	1.0	-	-	-
United Kingdom ¹	-	-	-	-	-	13.1	-	-
Community	8 052.2	8 343.9	-	7.2	1 084.5	1 145.0	-	-

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.

Total amount of aid authorized for the years 1986-1993

in ECU million at current prices		Aid linked to production			ecu/tonne	Aid not linked to production			TOTAL	Production 1000 T
		direct	indirect	Total		social	inherited liability	Total		
Belgium	1986	297.3	0.0	297.3	53.2	1 003.9	0.0	1 003.9	1 301.2	5 589.0
	1987	362.5	0.0	362.5	83.2	791.9	0.0	791.9	1 154.4	4 357.0
	1988	202.6	0.0	202.6	81.5	883.7	0.0	883.7	1 086.3	2 487.0
	1989	159.4	0.0	159.4	84.2	905.4	0.0	905.4	1 064.8	1 893.0
	1990	70.3	10.3	80.6	77.8	968.3	0.0	968.3	1 048.9	1 036.0
	1991	53.4	7.8	61.2	96.5	698.7	1.2	699.9	761.1	634.0
	1992	33.5	7.4	40.9	187.6	703.4	1.7	705.1	746.0	218.0
	1993	0.0	0.0	0.0	0.0	709.7	9.1	718.8	718.8	0.0
Germany	1986	1 446.0	1 631.6	3 077.6	35.3	3 034.2	63.4	3 097.6	6 175.2	87 126.0
	1987	1 899.6	1 964.7	3 864.3	46.9	3 268.4	110.9	3 379.3	7 243.6	82 380.0
	1988	1 975.3	2 530.0	4 505.3	56.8	3 334.9	106.3	3 441.2	7 946.5	79 319.0
	1989	1 945.5	2 616.4	4 561.9	58.9	3 814.5	185.8	4 000.3	8 562.2	77 451.0
	1990	2 037.0	2 539.5	4 576.5	59.8	4 084.0	200.6	4 284.6	8 861.1	76 553.0
	1991	1 933.1	2 569.6	4 502.7	61.9	4 344.1	247.5	4 591.6	9 094.3	72 744.0
	1992	2 031.0	2 466.7	4 497.7	62.3	4 420.3	246.7	4 667.0	9 164.7	72 153.0
	1993	1 880.0	2 582.6	4 462.6	69.5	4 884.7	256.3	5 141.0	9 603.6	64 175.0
Spain	1986	259.7	2.5	262.2	16.5	490.0	0.0	490.9	753.1	15 895.0
	1987	374.8	86.6	461.4	23.9	527.1	0.0	527.1	988.5	19 326.0
	1988	369.6	79.9	449.5	23.6	574.1	0.0	574.1	1 023.6	19 011.0
	1989	406.2	102.5	508.7	26.5	660.2	0.0	660.2	1 168.9	19 176.0
	1990	397.4	101.8	499.2	25.7	758.2	0.0	758.2	1 257.4	19 440.0
	1991	618.9	48.5	667.4	37.2	821.0	267.0	1 088.0	1 755.4	17 922.0
	1992	446.0	17.3	463.3	24.9	862.0	108.9	970.9	1 434.2	18 620.0
	1993	358.7	14.6	373.3	20.6	870.8	0.0	870.8	1 244.1	18 124.0
France	1986	523.1	0.0	523.1	36.3	1 478.9	474.4	1 953.3	2 476.4	14 394.0
	1987	428.8	0.0	428.8	31.3	1 415.6	547.2	1 962.8	2 391.6	13 690.0
	1988	249.8	0.0	249.8	20.6	1 500.6	719.5	2 220.1	2 469.9	12 142.0
	1989	174.6	0.0	174.6	15.2	1 781.0	774.2	2 555.2	2 729.8	11 470.0
	1990	166.2	0.0	166.2	15.8	1 986.8	792.2	2 779.0	2 945.2	10 487.0
	1991	165.3	0.0	165.3	16.3	1 946.6	783.2	2 729.8	2 895.1	10 127.0
	1992	186.9	0.0	186.9	19.7	2 357.4	774.6	3 132.0	3 318.9	9 478.0
	1993	190.2	0.0	190.2	22.2	1 587.0	818.1	2 405.1	2 595.3	8 576.0
Portugal	1986	4.5	0.0	4.5	21.2	0.0	0.0	0.0	4.5	212.0
	1987	1.8	0.0	1.8	6.9	0.0	0.7	0.7	2.5	261.0
	1988	1.7	0.0	1.7	7.4	0.0	0.0	0.0	1.7	230.0
	1989	4.6	0.0	4.6	17.8	0.0	0.0	0.0	4.6	258.0
	1990	4.6	0.0	4.6	16.4	0.0	0.0	0.0	4.6	281.0
	1991	4.5	0.0	4.5	16.7	0.0	0.0	0.0	4.5	270.0
	1992	5.8	0.0	5.8	26.2	0.0	0.0	0.0	5.8	221.0
	1993	6.4	0.0	6.4	32.5	0.0	1.0	1.0	7.4	197.0
United Kingdom	1986	460.0	0.0	460.0	4.4	100.4	922.4	1 022.8	1 482.8	104 635.0
	1987	842.7	0.0	842.7	8.3	59.3	386.6	445.9	1 288.6	101 644.0
	1989	315.2	0.0	315.2	3.1	60.1	221.9	282.0	597.2	101 380.0
	1989 (1)	6 627.5	0.0	6 627.5	(15.6)(2) 67.4	61.9	2 940.9	3 002.8	9 630.3	98 286.0
	1990	0.0	0.0	0.0	0.0	0.0	103.5	103.5	103.5	89 301.0
	1991	0.0	0.0	0.0	0.0	0.0	13.7	13.7	13.7	92 712.0
	1992	0.0	0.0	0.0	0.0	0.0	13.1	13.1	13.1	84 235.0
	1993	1.9	0.0	1.9	0.0	0.0	0.0	0.0	1.9	67 606.0
Community	1986	2 990.6	1 634.1	4 624.7	20.3	6 108.3	1 460.2	7 568.5	12 193.2	227 851.0
	1987	3 910.2	2 051.3	5 961.5	26.9	6 062.3	1 045.4	7 107.7	13 069.2	221 658.0
	1988	3 114.2	2 609.9	5 724.1	26.7	6 353.4	1 047.7	7 401.1	13 125.2	214 569.0
	1989 (1)	9 317.8	2 718.9	12 036.7	(33.3)(2) 57.7	7 223.0	3 900.9	11 123.9	23 160.6	208 534.0
	1990	2 675.5	2 651.6	5 327.1	27.0	7 797.3	1 096.3	8 893.6	14 220.7	197 098.0
	1991	2 775.2	2 625.9	5 401.1	27.8	7 810.4	1 312.6	9 123.0	14 524.1	194 409.0
	1992	2 703.2	2 491.4	5 194.6	28.1	8 343.1	1 145.0	9 488.1	14 682.1	184 925.0
	1993	2 437.2	2 597.2	5 034.4	31.7	8 052.2	1 084.5	9 136.7	14 171.1	158 678.0
Total		29 923.9	19 380.3	49 304.2	(27.5)(2) 30.7	57 750.0	12 092.6	69 842.6	119 146.8	1 607 722.0

(1) Including ECU 5 089.5 million to reflect the capital loss of fixed assets by British Coal, aid for compensation for loss of hearing and supplies of coal to workers.

(2) Aid per tonne for the expenditure in (1) not included.

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