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(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 31 July 1987

approving aid from the Federal Republic of Germany to the coal industry during 1987

(Only the German text is authentic)

(87/451/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

In its communications of 3 November 1986, 3 March 1987 and 13 April 1987, the Government of the Federal Republic of Germany informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of the financial measures it intends to take during 1987 in order to give direct or indirect support to the coal industry. The following aid is submitted for the approval of the Commission under the above Decision :

(million DM)

— aid to sales of coal and coke to the iron and steel industry of the Community	3 450
— investment aid	130
— mine-worker's bonuses for each shift worked underground ('Bergmannsprämie')	185

— aid to special depreciation in the framework of rationalization measures	30
— aid to cover the difference between effective and normal social charges	274
— aid in the framework to the second and third electricity-from-coal laws	3 109

In accordance with Article 12 of the Decision, coal undertakings shall be authorized, where necessary, to grant rebates on their list prices or production costs, for deliveries of coking coal, blast-furnace coke and coal for injection into blast furnaces for the iron and steel industry of the Community under long-term contract; these rebates must not cause the delivered prices of Community coal and coke to work out lower than those which would be charged for coal from non-member countries and coke made from non-member country coking coal.

According to the Government of the Federal Republic of Germany, the aid to sales of coking coal, blast furnace coke and coal for injection into blast furnaces for the iron and steel industry of the Community, totalling DM 3 450 million will make up the difference between world market prices and production costs for 25 million tonnes. The aid therefore conforms to Article 4 of the Decision.

The sales aid for supplies of coal, blast furnace coke and coal for injection into blast furnaces for the iron and steel industry of the Community is intended to prevent premature pit closures. In accordance with the third indent of Article 2 (1) of the Decision, this contributes to solving the social and regional problems related to developments in the coal industry.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

The investment aid of DM 130 million is intended for investment projects in pits, coking plants, briquetting plants and mines' power stations. The aid will cover 3,6 % of the total investment of DM 3 600 million; it complies with the provisions of Article 5 (1) and (2) of the Decision for every coal-field.

In terms of the Community's coal policy guidelines, the investment aid for 1987 must be regarded as positive since it will help to improve the competitiveness of the coal industry in line with the first indent of Article 2 (1) of the Decision.

Under Article 5 (3) of the Decision the Government of the Federal Republic of Germany must inform the Commission, at least once a year in respect of each programme, of the aims pursued, the amount of capital expenditure assigned to it and the amounts of aid involved.

The aid of DM 185 million to finance the mine-worker's bonuses 'Bergmannsprämie' (DM 10 per shift worked underground) helps the coal industry to maintain a skilled underground workforce. The aid is a specific measure which has been in existence for years (reduction of tax on miners' incomes) and which has to be notified separately from aid under Articles 3 to 5 of the Decision. The aid therefore complies with Article 6 of the Decision.

The object of the mine-worker's bonuses 'Bergmannsprämie' is to maintain a qualified workforce for the purpose of rationalization measures in order to improve the coal industry's competitiveness in accordance with the first indent of Article 2 (1) of the Decision.

The Government of the Federal Republic of Germany is providing in 1987 for special depreciation for extension and rationalization measures in underground mining. This special depreciation allowance, which has existed for many years and has been approved by the Commission as a general measure in accordance with Article 67 of the ECSC, totals DM 30 million.

The measure is based on § 51 of the Income Tax Law and on § 81 of the Income Tax Regulations and will not give any particular competitive advantage to the German coal mining industry *vis-à-vis* other Community coal producers.

The measure will help to intensify rationalization and improve competitiveness in accordance with the first indent of Article 2 (1) of the Decision.

The notifications submitted to the Commission by the Government of the Federal Republic of Germany on measures to finance social benefits in the coal-mining industry show that State contributions to the social secu-

urity systems of the mining industry as a whole make the effective social charges of coal undertakings lower than the standard charges the undertakings would have to bear in accordance with Article 7 of the Decision. The difference for the mining industry as a whole amounts to DM 343 million, of which about 80 % (= DM 274 million) is for coal-mining.

Accordingly, the limits drawn in Article 7 of the Decision are exceeded by this amount, which must be therefore regarded as indirect aid to current production. The production costs of undertakings are reduced through low social charges (DM 3 per tonne = 1,3 % of total production costs).

The State contributions to the social security systems of the mining industry as a whole apply to all forms of mining (coal, ore, salts, etc.) and hence constitute a general measure under Article 67 of the ECSC Treaty. Compared with the other coal producers in the Community, reducing the production costs by 1,3 % does not represent any particular competitive advantage for the German coal-mining industry since returns do not cover production costs. Exceeding the limits set in Article 7 of the Decision by DM 274 million can therefore be approved as a general measure under Article 67 of the ECSC Treaty. The measure also helps to ease the social problems referred to in the third indent of Article 2 (1).

On account of the second and third electricity-from-coal laws, the Government of the Federal Republic of Germany provides to pass on the extra cost of burning national coal for 1987 by raising electricity tariffs ('Kohlepfennig'). The amount of this aid, which has been in existence for many years and was approved by the Commission as a general measure pursuant to the EEC Treaty, is DM 3 109 million; the granting conditions of this aid remain unchanged. The measure also helps to ease the social problems referred to in the third indent of Article 2 (1).

II

The following observations should be made on the compatibility of the proposed aid to current production with the proper functioning of the common market:

- there are unlikely to be supply difficulties in 1987 in view of pithead stocks of coal and coke,
- deliveries of German coal to other Community countries will fall in 1987 compared with 1986,
- price alignment agreements with respect to Community producers will be probably only very limited in 1987,
- German coal prices should not, in principle, lead to indirect aid to industrial coal users in 1987;

Therefore the aid to be granted to the current production of the German coal industry in 1987 is compatible with the proper functioning of the common market.

III

Pursuant to Article 11 (2) of the Decision, the Commission must ensure that the direct aid to current production which it approves is used exclusively for the purposes set out in Articles 3 to 6 thereof. The Commission must therefore be informed in particular of the amounts of payments and the manner in which they are apportioned,

HAS ADOPTED THIS DECISION:

Article 1

The Federal Republic of Germany is hereby authorized to grant aid totalling DM 7 178 million to the German coal industry with effect from 1 January 1987, for the 1987 calendar year.

The total amount shall be made up of the following aids:

1. an amount not exceeding DM 3 450 million in aid to sales of coal and coke to the iron and steel industry of the Community;
2. an amount not exceeding DM 130 million in investment aid;
3. an amount not exceeding DM 185 million in aid to the mine-worker's bonuses for each shift worked underground ('Bergmannsprämie');

4. an amount not exceeding DM 30 million in aid to special depreciation for rationalization measures;
5. an amount not exceeding DM 274 million to cover the difference between effective and normal social charges;
6. an amount not exceeding DM 3 109 million in the framework of the second and third electricity-from-coal laws.

Article 2

The Government of the Federal Republic of Germany shall inform the Commission:

- by 30 September 1987, of the extent to which the amounts of aid specified in this Decision are likely to change in the light of the pattern of aid payments during the first nine months of 1987,
- by 30 June 1988 of the actual amounts of aid paid in 1987.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 31 July 1987.

For the Commission

Nicolas MOSAR

Member of the Commission