

Official Journal

of the European Communities

ISSN 0378-6978

L 147

Volume 37

14 June 1994

English edition

Legislation

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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1349/94**of 13 June 1994****closing an invitation to tender for the supply of cereals as food aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, as last amended by Regulation (EEC) No 1930/90 ⁽²⁾, and in particular Article 6 (1) (c) thereof,Whereas, by Regulation (EC) No 1159/94 ⁽³⁾, the Commission issued an invitation to tender for the supply of 22 496 tonnes of cereals as food aid; whereas the conditions of the supply, as regards lot C, should be reviewed and the invitation to tender for that lot should consequently be closed,

HAS ADOPTED THIS REGULATION:

Article 1

For lot C of Annex to Regulation (EC) No 1159/94 the invitation to tender is closed.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 June 1994.

For the Commission

René STEICHEN

Member of the Commission⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.⁽³⁾ OJ No L 129, 21. 5. 1994, p. 12.

COMMISSION REGULATION (EC) No 1350/94
of 13 June 1994
amending Regulation (EC) No 1082/94 on a special intervention measure for
barley in Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as amended by Regulation (EEC) No 2193/93 ⁽²⁾,

Having regard to Commission Regulation (EEC) No 1533/93 of 22 June 1993, laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as amended by Regulation (EC) No 120/94 ⁽⁴⁾,

Whereas Commission Regulation (EC) No 1082/94 ⁽⁵⁾, as amended by Regulation (EC) No 1319/94 ⁽⁶⁾, opens an invitation to tender for the refund for the export of barley produced in Spain to all third countries;

Whereas, in the present situation, it is appropriate to increase the quantity put up for tender;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 (1) of Regulation (EC) No 1082/94 is hereby amended as follows:

'1. A special intervention measure in the form of an export refund shall be applied in respect of 600 000 tonnes of barley produced in Spain.'

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.

⁽³⁾ OJ No L 151, 23. 6. 1993, p. 15.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

⁽⁵⁾ OJ No L 120, 11. 5. 1994, p. 24.

⁽⁶⁾ OJ No L 143, 8. 6. 1994, p. 6.

COMMISSION REGULATION (EC) No 1351/94

of 13 June 1994

opening invitations to tender for the fixing of aid for the private storage of carcasses and half-carcasses of lamb

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EC) No 1096/94⁽²⁾, and in particular Article 7 (3) thereof,Whereas Commission Regulation (EEC) No 3446/90 of 27 November 1990 laying down detailed rules for granting private storage aid for sheepmeat and goatmeat⁽³⁾, as last amended by Regulation (EC) No 3533/93⁽⁴⁾, provides in particular for detailed rules on the invitation to tender;Whereas Commission Regulation (EEC) No 3447/90 of 28 November 1990 on special conditions for the granting of private storage aid for sheepmeat and goatmeat⁽⁵⁾, as last amended by Regulation (EEC) No 1258/91⁽⁶⁾, provides in particular the minimum quantities in respect of which a tender may be submitted;

Whereas the application of Article 7 (3) of Regulation (EEC) No 3013/89 results in the opening of invitations to tender for private storage aid;

Whereas that Article provides for the application of these measures on the basis of the situation of each quotation

zone; whereas it is appropriate consequently to open tenders separately for each of the zones where the conditions are fulfilled,

HAS ADOPTED THIS REGULATION:

Article 1

Invitations to tender are opened in Denmark, Ireland, Northern Ireland, Italy and Spain for aid to private storage for carcasses and half-carcasses of lamb.

Subject to the provisions of Regulation (EEC) No 3447/90 tenders may be submitted to the intervention agencies of the Member States concerned.

Article 2

Tenders must be submitted not later than 2 p.m. on 17 June 1994 to the relevant intervention agency.

Article 3

This Regulation shall enter into force on 14 June 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 June 1994.

For the Commission

René STEICHEN

Member of the Commission⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.⁽²⁾ OJ No L 121, 12. 5. 1994, p. 9.⁽³⁾ OJ No L 333, 30. 11. 1990, p. 39.⁽⁴⁾ OJ No L 321, 23. 12. 1993, p. 9.⁽⁵⁾ OJ No L 333, 30. 11. 1990, p. 46.⁽⁶⁾ OJ No L 120, 15. 5. 1991, p. 15.

COMMISSION REGULATION (EC) No 1352/94

of 13 June 1994

laying down definitive measures on the issuing of STM licences for beef and veal
in trade with Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 85 (3) thereof,

Whereas Commission Regulation (EEC) No 1112/93 of 6 May 1993 laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted on 31 December 1985 and Spain and Portugal and repealing Regulations (EEC) No 3810/91 and (EEC) No 3829/92 ⁽¹⁾, as last amended Regulation (EC) No 936/94 ⁽²⁾, set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued every two months;

Whereas STM licences issued in response to applications lodged on 3 May 1994 in Spain have exhausted that fraction of the indicative ceiling set aside for the third two months of 1994 for live animals;

Whereas the Commission accordingly adopted, by an emergency procedure, appropriate interim protective measures by Regulation (EC) No 1040/94 ⁽³⁾; whereas definitive measures must be adopted; whereas, in view of the situation of the market, an increase in the indicative ceiling cannot be contemplated;

Whereas, as a definitive measure as referred to in Article 85 (3) of the Act of Accession, in order to avoid a prolonged interruption of trade with Spain, authorization should be given for the lodging of STM licence applications from 15 June 1994 and for the quantities for which STM licences are actually issued to be counted against the indicative ceiling set aside for the fourth two months of 1994;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

Further applications for STM licences may be lodged from 15 June 1994.

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 113, 7. 5. 1993, p. 10.

⁽²⁾ OJ No L 107, 28. 4. 1994, p. 27.

⁽³⁾ OJ No L 113, 4. 5. 1994, p. 10.

COMMISSION REGULATION (EC) No 1353/94

of 13 June 1994

reducing the quantities of table wine covered by approved contracts and declarations for distillation as provided for in Regulation (EC) No 344/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EEC) No 1566/93 ⁽²⁾, and in particular Article 41 (10) thereof,

Whereas Article 3 (1) of Commission Regulation (EEC) No 2721/88 of 31 August 1988 laying down detailed rules for voluntary distillation as provided for in Articles 38, 41 and 42 of Regulation (EEC) No 822/87 ⁽³⁾, as last amended by Regulation (EEC) No 2181/91 ⁽⁴⁾, provides for a mechanism enabling the total quantity of table wine which may be sent for distillation to be kept within a given limit;

Whereas information forwarded to the Commission by the Member States shows that, on expiry of the time limit laid down for the submission of delivery contracts and declarations to intervention agencies, the quantity of table wine covered by contracts and declarations exceeds that laid down in Article 1 of Commission Regulation (EC) No 344/94 of 15 February 1994 opening, for the 1993/94 wine year, distillation of table wine as provided for in Article 41 of Regulation (EEC) No 822/87 ⁽⁵⁾, which was considered sufficient to withdraw from the market approximately 4,549 million hectolitres and 1,945 million hectolitres respectively in production regions 4 and 6 as referred to in Article 1 of Regulation (EC) No 344/94; whereas, under these circumstances, the provision enabling distillation to be limited to the quantity provided;

Whereas Article 6 (5) of Regulation (EEC) No 2721/88 provides that producers may not deliver less than 10 hectolitres of wine; whereas provision should conse-

quently be made, in cases where the reduction applicable would lead to the delivery of a quantity of less than that minimum, for the quantity which may be delivered to be 10 hectolitres;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

For each producer, the total quantity of table wine which may be delivered for distillation as provided for in Regulation (EC) No 344/94 shall be equal to a percentage of the quantities in the contracts or declarations concluded by the said producer and submitted for approval.

That percentage shall be as follows for each of the regions referred to in Article 4 (2) of Commission Regulation (EEC) No 441/88 ⁽⁶⁾:

- Region 3: 100 %,
- Region 4: 28,3 %,
- Region 5: 100 %,
- Region 6: 17,1 %.

However, if the quantity resulting from the application of that percentage is less than 10 hectolitres, the quantity which may be delivered shall be 10 hectolitres.

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 154, 25. 6. 1993, p. 39.

⁽³⁾ OJ No L 241, 1. 9. 1988, p. 88.

⁽⁴⁾ OJ No L 202, 25. 7. 1991, p. 16.

⁽⁵⁾ OJ No L 44, 17. 2. 1994, p. 12.

⁽⁶⁾ OJ No L 45, 18. 2. 1988, p. 15.

COMMISSION DIRECTIVE 94/23/EC

of 8 June 1994

amending, with the view to fixing the minimum standards for testing vehicle braking systems, Council Directive 77/143/EEC on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/143/EEC of 29 December 1976 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers ⁽¹⁾, as last amended by Directive 92/55/EEC ⁽²⁾, and in particular Article 5a (2) thereof,

Having regard to Council Directive 71/320/EEC of 26 July 1971 on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and of their trailers ⁽³⁾, as last amended by Directive 91/422/EEC ⁽⁴⁾,

Whereas Directive 77/143/EEC provides for the regular roadworthiness testing of all categories of vehicles listed in Annex I thereto;

Whereas that Directive provides for the adoption by the Council of separate directives necessary to define the minimum standards and methods for testing the items listed in Annex II thereto and the establishment of a committee to advise the Commission before it adopts the amendments which are necessary to adopt the standards and methods defined in the separate directives to technical progress;

Whereas Directive 77/143/EEC, as amended in particular by Council Directive 92/54/EEC ⁽⁵⁾, defines the minimum standards for testing vehicle braking systems;

Whereas it is necessary to adapt these standards to technical progress to include minimum braking efficiency values so as to ensure, as far as practicable, that vehicles in service are safe as far as braking efficiency is concerned;

Whereas, until such time there are harmonized test procedures and practices, Member States may use their judgement as to the test procedure they use to establish

whether the vehicle in question meets the braking requirements;

Whereas it is recognized by all concerned with vehicle testing that the method of testing and, in particular whether the vehicle is tested in a laden, part laden or unladen condition, influences the degree of confidence testers have as to the roadworthiness of the braking system;

Whereas the prescription of brake force reference values for various laden conditions for each vehicle model would help restore that confidence, whereas this Directive enables testing under this regime as an alternative to testing against minimum performance values for each vehicle category;

Whereas it is the intention to further amend this Directive so as to include a harmonious and improved test methodology;

Whereas the scope of this Directive relates in the main to vehicles which have been type-approved to the provisions of Directive 71/320/EEC although it is recognized that certain types of vehicle have been approved to national standards which may differ from the requirements of this Directive; whereas Member States may establish their own testing standards regarding brake efficiency for vehicles that are considered to be of historic interest;

Whereas, in recognizing the right of Member States to establish their own standards for historic vehicles, those standards should not be more severe than those which the vehicle was originally designed to meet;

Whereas, in view of the effects of such adaptations on the sector in question, in Community measures provided for by this Directive are necessary to attain the objectives sought, namely harmonization at Community level of the rules on roadworthiness tests and to improve road safety; whereas this cannot adequately be achieved by the Member States individually;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee for the Adaptation to Technical Progress of the Directive on Motor Vehicle Roadworthiness Testing, establishing pursuant to Article 5b of Directive 77/143/EEC,

⁽¹⁾ OJ No L 47, 18. 2. 1977, p. 47.

⁽²⁾ OJ No L 225, 10. 8. 1992, p. 68.

⁽³⁾ OJ No L 202, 6. 9. 1971, p. 37.

⁽⁴⁾ OJ No L 233, 22. 8. 1991, p. 21.

⁽⁵⁾ OJ No L 225, 10. 8. 1992, p. 63.

HAS ADOPTED THIS DIRECTIVE :

Article 1

Annex II to Directive 77/143/EEC is hereby amended as follows :

'Items to be checked/tested	Reason for failure
1.2.1. Performance (progressively increased to maximum effort)	— Inadequate braking effort on one or more wheels — Braking effort from any wheel is less than 70 % of the highest recorded effort from another wheel on the same axle. In the case of brake testing on the road then the vehicle's deviation from a straight line is excessive — No gradual variation of brake effort (grabbing) — Abnormal time lag in brake operation at any wheel — Excessive fluctuation of brake effort due to distort discs or oval drums
1.2.2. Efficiency	— A braking ratio which relates to the maximum authorized mass or, in the case of semi-trailers, to the sum of the authorized axle loads where practicable, less than the following : Minimum braking efficiency Category 1 : 50 % ⁽¹⁾ Category 2 : 43 % ⁽²⁾ Category 3 : 40 % ⁽³⁾ Category 4 : 50 % Category 5 : 45 % ⁽⁴⁾ Category 6 : 50 % — or a braking effort less than the reference values if specified by the vehicle manufacturer for the vehicle axle ⁽⁵⁾
1.3.2. Efficiency	— For all vehicle categories, a braking ratio less than 50 % ⁽⁶⁾ of the service brake performance defined in 1.2.2 in relation to the maximum authorized mass or, in the case of semi-trailers, to the sum of the authorized axle loads

⁽¹⁾ 48 % for Category 1 vehicles not fitted with ABS, or type approved before 1 October 1991 (date of prohibition of first putting into circulation without European component type-approval) (Directive 88/194/EEC (OJ No L 92, 9. 4. 1988, p. 47)).

⁽²⁾ 45 % for the vehicles registered after 1988 or from the date of adoption of the type-approval Directive 71/320/EEC, as amended by Directive 85/647/EC (OJ No L 380, 31. 12. 1985, p. 1), within the Member States' national legislation, whichever is the later.

⁽³⁾ 43 % for semi-trailers and draw bar trailers registered after 1988 or from the date of adoption of the type approval Directive 71/320/EEC, as amended by Directive 85/647/EEC, within the Member States' national legislation, whichever is the later.

⁽⁴⁾ 50 % for Category 5 vehicles registered after 1988 or from the date of adoption of the type approval Directive 71/320/EEC, as amended by Directive 85/647/EEC, within the Member States' national legislation, whichever is the later.

⁽⁵⁾ The reference value for the vehicle axle is the braking effort (expressed in Newtons) necessary to achieve this minimum prescribed braking force at the particular weight that the vehicle is presented.

⁽⁶⁾ For Categories 2 and 5 vehicles the minimum secondary brake performance will be 2,2m/s² (as the secondary brake performance was not affected by Directive 85/647/EEC).

1.4.2. Efficiency

- For all vehicle categories, a braking ratio less than 16 % in relation to the maximum authorized mass, or, for motor vehicles, less than 12 % in relation to the maximum authorized combination mass of the vehicle, whichever is greater'.

Article 2

Member States shall apply suitable procedures to establish, as far as practicable, that the brake performance of the vehicles registered in their territory meet the requirements specified in Directive 77/143/EEC.

Article 3

Member States may require higher braking efficiency minima and may include testing against higher laden weights, than those specified in Annex II for those vehicles registered in their territory, provided such requirements do not exceed those of the vehicle's original type-approval.

Article 4

Member States may, after consulting the Commission, establish their own testing standards regarding brake efficiency for vehicles that are considered to be of historic interest.

Article 5

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1997. They shall immediately inform the Commission thereof.

When these provisions are adopted by Member States, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for making such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in this field governed by this Directive.

Article 6

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Done at Brussels, 8 June 1994.

For the Commission

Marcelino OREJA

Member of the Commission

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 29 March 1994

ruling on additional aid by Germany to the coal industry for 1993

(Only the German text is authentic)

(Text with EEA relevance)

(94/332/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 a letter dated 15 February 1994, Germany informed the Commission, pursuant to Article 9 (3) of Decision No 2064/86/ECSC, of an additional financial measure which it intends to apply retroactively for 1993 in order to support the coal industry, concerning deliveries of coal and coke to the Community's steel industry.

On 23 December 1992 the Commission adopted Decision 93/151/ECSC⁽²⁾ on financial aid by Germany to the coal industry in 1993.

As mentioned in that Decision, Germany intended to grant in 1993, pursuant to Decision No 2064/86/ECSC, a total of DM 2 948 million under the system of aid to deli-

veries of coking coal, coke and coal for use in blast furnaces in the Community's steel industry.

In Decision 93/151/ECSC, the Commission noted that the amount of aid under the system was linked to the availability of funds; accordingly, Germany is required to give notification of any changes which it intends to make to the amount authorized by the Commission for 1993.

In a letter dated 15 February 1994, Germany informed the Commission that the amount of aid for the supply of coal and coke to the Community's steel industry was insufficient. The increase necessary for 1993 over the amount authorized by the Commission is DM 300 206 000, which brings the total aid for the supply of coal and coke in 1993 to DM 3 248 206 000.

The reason for the increase in aid is that the gap between the world market price for coking coal and German production costs has proved wider than originally foreseen, on account of the drop in prices on the world market and the development of the US dollar-German mark exchange rate.

The figure of DM 3 248 206 000 for this aid is compatible with Article 4 of Decision No 2064/86/ECSC, since it serves to bridge the gap observed in 1993 between the world market price and the production costs for a volume of 18,35 million tonnes, in accordance with the conditions set out in Article 12 of that Decision.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

⁽²⁾ OJ No L 59, 12. 3. 1993, p. 33.

The contribution of the measure envisaged to the restructuring and rationalization of the coal industry and to solving social and regional problems in spacing out the closure of loss-making installations satisfies the criteria and objectives of Article 2 of the Decision.

Moreover, the aid is compatible with the provisions of Articles 4 and 12 of the Decision inasmuch as it does not lead to prices lower than those which would be charged for coal from non-member countries and for coke manufactured from coking coal imported from non-member countries.

Consequently, the aid referred to in this Decision is compatible with the proper functioning of the common market.

II

The Commission will have to ensure, pursuant to Article 11 (2) of Decision No 2064/86/ECSC, that the direct aid authorized for current production is intended solely for the purposes set out in Articles 3 to 6 of that Decision. To this end will have to be informed of the amounts of payments and how they are allocated,

HAS ADOPTED THIS DECISION:

Article 1

Germany is hereby permitted to grant, for 1993, additional aid amounting to DM 300 206 000 for the supply of coking coal, coke and coal for injection into blast furnaces in the Community's steel industry, which brings the total aid for this purpose in 1993 to DM 3 248 206 000.

Article 2

Germany shall notify the Commission by 30 June 1994 of the amount of aid actually paid in respect of 1993.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 29 March 1994.

For the Commission

Abel MATUTES

Member of the Commission

COMMISSION DECISION

of 29 March 1994

authorizing the grant by the United Kingdom of aid to the coal industry

(Only the English text is authentic)

(Text with EEA relevance)

(94/333/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 letter of 17 February 1994 the United Kingdom notified the Commission, in conformity with Article 9 (2) of Decision No 2064/86/ECSC, of a financial measure it proposes to take in respect of the coal industry for the 1993 financial year, which ends on 31 March 1994.

The following aid is submitted for the approval of the Commission pursuant to Decision No 2064/86/ECSC :

- aid for the constitution of a provision, for the 1993 financial year, totalling £120 million to cover operating losses incurred by underground coal-mining undertakings.

The measure planned by the United Kingdom to support the coal industry complies with Article 1 (1) of Decision No 2064/86/ECSC. Consequently, under Article 10 thereof the Commission must determine whether the measure is compatible with the objectives and criteria laid down in the Decision and with the proper functioning of the common market.

II

By Decisions 90/634/ECSC⁽²⁾ and 91/221/ECSC⁽³⁾ the Commission authorized aid to the United Kingdom coal industry for the financial years 1987, 1988 and 1989 totalling £6 153 million. Apart from covering operating losses, this aid served to write off the losses in the value of fixed

assets and to constitute provisions to cover compensation for hearing loss and for concessionary supplies of coal, smokeless fuel or, in certain cases, a payment in kind to mineworkers on retirement.

Authorization was given in view of the fact that these measures facilitated the process of restructuring, rationalization and modernizing the United Kingdom coal industry in conformity with the objectives specified in Article 2 (1) of Decision No 2064/86/ECSC. The measures helped to improve the competitiveness of the industry through the closure of production capacity that offered no prospects of long-term economic viability and through the introduction of new production techniques or new equipment for capacity offering prospects of long-term economic viability.

On 25 March 1993, the United Kingdom published a White Paper on the prospects for coal. This document stresses the Government's commitment to make the United Kingdom coal industry fully competitive with imported coal and to privatize British Coal in the near future.

The reduction in world market prices coupled with the absence of outlets for this coal in the European Union has resulted in the process of restructuring of the United Kingdom coal industry being intensified. A large number of underground mines have therefore had to be closed, or production in them has been stopped and the installations have been mothballed.

To enable the restructuring process to form part of a rational coal-mining policy allowing certain pits the time necessary to increase their productivity and, from that position, to become competitive, the United Kingdom Government proposes to constitute a provision not exceeding a total of £120 million to cover the operating losses of those pits.

This aid should temporarily enable these pits to find a market among power stations for the disposal of their production. In the absence of this aid, these pits would be condemned to closing in the short term, which would increase the severity of the social and regional problems related to the decline of this industry.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

⁽²⁾ OJ No L 346, 11. 12. 1990, p. 22.

⁽³⁾ OJ No L 98, 19. 4. 1991, p. 16.

III

The aid to cover the operating losses must be considered with regard to the objectives of Decision No 2064/86/ECSC, in particular those specified in Article 2 (1). The fact that the aid forms part of a clearly defined restructuring plan aimed at closing down production units that offer no prospects of economic viability or rationalizing installations to make them competitive in terms of production with imported coal and the temporary nature of the aid means that it is compatible with the provisions of the Decision.

The aid planned will not, according to the United Kingdom's notification, exceed the difference, for any quantity contracted, between the foreseeable average cost and the foreseeable average return per tonne and therefore complies with Article 3 (1) of the Decision.

The Commission is taking account, as provided for in Article 10 (4) of the Decision, in its assessment of the measure and the restructuring programme submitted to it, of the special situation of the United Kingdom coal industry as regards the objective of making the industry competitive with imported coal.

This aid will help to improve the competitiveness of the Community coal industry and to resolve the social and regional problems related to its development in conformity with the first and third indents of Article 2 (1) of the Decision.

The United Kingdom will ensure that the aid does not lead to any discrimination, within the meaning of Article 4 (b) of the ECSC Treaty, between producers, between purchasers or between consumers.

With regard to the constitution of a provision, the United Kingdom will inform the Commission each month, for monitoring purposes, of the amounts actually paid, the quantities covered and the beneficiary undertakings.

IV

In the light of the above, and on the basis of the information supplied by the United Kingdom, the aid planned

for the current production of the coal industry is compatible with the objectives of Decision No 2064/86/ECSC and with the proper functioning of the common market.

This Decision covers the period until 31 December 1993, in conformity with Decision No 2064/86/ECSC. Should the United Kingdom decide to grant aid after this date, it shall notify this to the Commission in accordance with Commission Decision No 3632/93/ECSC⁽¹⁾.

This Decision does not prejudice the compatibility of any contracts which might be concluded between coal and electricity producers, with the provisions of the Treaties,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom is hereby authorized to constitute a provision for the year 1993 of £120 million to cover operating losses of underground coal-mining undertakings.

Article 2

The United Kingdom shall inform the Commission each month of the payments actually made to beneficiaries from the provision authorized under Article 1 of this Decision and the quantities of coal covered.

Article 3

This Decision is addressed to the United Kingdom.

Done at Brussels, 29 March 1994.

For the Commission

Abel MATUTES

Member of the Commission

⁽¹⁾ OJ No L 329, 30. 12. 1993, p. 12.