

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(90) 2285 final

Brussels, 13 December 1990

COMMISSION REPORT

on the application of Community rules for State aid to the coal industry in 1988

COMMISSION REPORT

on the application of Community rules for State aid to the coal industry in 1988

1. Introduction

Article 14 of Commission Decision No 2064/86/ECSC of 30 June 1986 establishing Community rules for State aid to the coal industry stipulates that the Commission should report each year to the Council, the European Parliament and the Consultative Committee on the application of this Decision.

This report examines the financial aid granted by the Federal Republic of Germany, France, Belgium, Spain and Portugal to their coal industries in 1988 and by the United Kingdom during the financial year from 1 April 1988 to 31 March 1989.

This report is presented without prejudice to the more general report on Decision No 2064/86/ECSC which the Commission will be presenting by the end of 1990, in accordance with Article 16(2) of the Decision. It is important to note, however, the Commission's intention to apply rigorously to the energy field the rules of the Treaty on State aids in order to avoid distortions of competition and allow greater competitiveness.¹

All the Member States intending to grant aid to coal undertakings in 1988 were obliged to present to the Commission by 1 October 1987 (1 January 1988 for the United Kingdom) information on all the measures they intended to take directly or indirectly in favour of the coal industry in 1988.

These measures can only be considered to be compatible with the proper functioning of the common market where they help to achieve at least one of the following objectives:

- improved competitiveness in the coal industry, helping to secure better security of supply;

¹ Cf. doc. COM(88) 238 final.

- creation of new capacities as long as they are economically viable;
- solutions to social and regional problems related to changes in the coal industry.

In accordance with Article 9 of this Decision, the Commission has received notification of measures scheduled for 1988 from the following Member States:

- the German government in letters dated 30 September 1987, 2 March 1988, 12 April 1988, 20 September 1988, 25 November 1988, 1 February 1989 and 25 July 1989;
- the Belgian government in letters dated 12 October 1987 and 5 November 1987;
- the Spanish government in letters dated 2 October 1987, 20 October 1987, 16 May 1988 and 13 June 1988;
- the French government in a letter dated 29 December 1987;
- the Portuguese government in letters dated 29 April 1988, 16 May 1988 and 1 August 1988;
- the United Kingdom government in letters dated 22 January 1988 and 9 February 1990.

The Commission gave a ruling on these financial measures and aid by Decisions of 22 December 1987,² 7 February 1989,³ 30 March 1989⁴ and 14 February 1990⁵ for Germany, 11 February 1988⁶ for Belgium, 21 March 1988⁷ for France, 29 April 1988⁸ and 28 March 1990⁹ for the United Kingdom, 8 September 1988¹⁰ and 20 December 1989¹¹ for Spain and 14 October 1988¹² for Portugal.

The financial aid mentioned in this document is the aid for 1988 authorized by the Commission on 31 March 1990. The final figures for 1988 will be included in the report for 1989.

2 OJ No L 33, 5.2.1988, p.34.
3 OJ No L 61, 4.3.1989, p.46.
4 OJ No L 116, 28.4.1989, p.52.
5 OJ No L , 1990, p. .
6 OJ No L 80, 25.3.1988, p.54.
7 OJ No L 105, 25.4.1988, p.31.
8 OJ No L 125, 19.5.1988, p.40.
9 OJ No L , 1990, p. .
10 OJ No L 274, 6.10.1988, p.41.
11 OJ No L 105, 25.4.1990, p.19.
12 OJ No L 307, 12.11.1988, p.49.

2. Coal industry and market

2.1. Production

In 1988 the production of coal in the Community amounted to 214 million tonnes, i.e. 3% less than in 1987. This drop is due to reductions in Belgium (-43%), Germany (-4%), France (-11%) and the United Kingdom (-0.3%). In 1989 decreasing production levels in Belgium (-24%), France (-5%) and Germany (-2%) should lead to a Community production level of around 208 million tonnes.

Table 1

	<u>Coal production</u>				<u>Variation between</u>
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989 ++</u>	<u>1989 and 1988</u>
					<u>%</u>
Germany	87 126	82 380	79 319	77 470	- 2,3
France	14 394	13 690	12 142	11 500	- 5,3
Belgium	5 590	4 357	2 487	1 855	-24,2
United Kingdom	104 635	101 644	101 379	97 500	- 3,8
Ireland	72	45	52	62	+19,2
Spain	21 793	18 964	19 001	19 286	+ 1,5
Portugal	212	261	237	225	- 5,1
Italy	-	14	49	62	+26,5
Community	233 822	221 355	214 666	207 990	- 3,1

+ including "lignito negro"

++ estimate

2.2. Employment

In terms of employment the continuation of measures to rationalize and reduce activity in the coal industry in all coal-producing countries has led to a further drop in employment figures. At the end of 1988 337 000 people, i.e. 41 000 less than in 1987, were employed in the coal industry. The most significant drop in real terms was in Belgium (-32.3%) following the closure of the Eisden and Waterschei pits. Belgium is followed by France (with -16.8%), the United Kingdom (-16.5%) and Portugal (-7.1%), which in turn are followed by Germany and Spain with -5.6% and -4.9% respectively.

Table 2

<u>Employment structures</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>
Germany	164 073	156 483	147 751
France	38 917	33 526	27 909
Belgium	17 387	10 513	7 116
United Kingdom	151 359	130 369	108 855
Spain	47 999	46 475	44 176
Portugal	1 098	1 007	935
Community	420 833	378 373	336 742

2.3. Coal demand and trade

In 1988 the gross internal consumption of coal in the Community dropped by 4.1% compared with the previous year to a level of 310 million tonnes.

Table 3

<u>Gross internal consumption of coal</u>				
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1988-1987</u>
Belgium	13,7	14,0	14,0	-
Denmark	11,7	12,1	10,4	- 14,9
Germany	89,5	84,9	81,1	- 4,5
Greece	1,8	1,6	1,4	- 12,5
Spain	30,4	28,8	24,9	- 13,5
France	30,6	27,6	27,0	- 2,2
Ireland	2,3	3,3	3,3	-
Italy	20,7	21,1	20,4	- 3,3
Luxembourg	0,2	0,2	0,2	-
Netherlands	10,4	10,9	12,9	- 18,3
Portugal	1,9	2,9	3,3	- 13,8
United Kingdom	112,5	116,1	111,3	- 4,1
Community	325,7	323,5	310,1	- 4,1

Consumption dropped in electric power stations and in coking plants. Electric power stations absorbed 195 million tonnes (-10 million t) and coking plants consumed 71 million tonnes (-1 million t). The other sectors, covering mainly the other industries, domestic households and other (small) consumers show a drop in consumption from 46 to 44 million tonnes (-2 million tonnes).

As regards the prospects for 1989 established at the end of October, demand is expected to remain unchanged.

This forecast is the result of certain Member States' current preference for using natural gas for power stations earlier than expected.

Imports of coal from non-Community countries in 1988 reached 95.7 million tonnes, i.e. an increase of 2.3 million tonnes compared with 1987. Intra-Community trade in coal sank by 1.1 million tonnes in 1988 to a level of 8.6 million tonnes.

Supply of coal to other Community countries

<u>Year</u>	<u>Germany</u>	<u>Belgium</u>	<u>France</u>	<u>United Kingdom</u>	<u>Spain</u>	<u>Portugal</u>
1987	5 336	875	670	2 001	-	-
1988	4 448	783	1 299	1 332	4	-

Belgian and French deliveries to other Community countries are negligible and thus play only a very minor role in the competition between Community producers. German and British deliveries of coal decreased in 1988 by approximately 900 000 and 700 000 tonnes respectively compared with the previous year.

These deliveries have continued to dwindle in recent years and, because of the different grades, hardly compete with deliveries from other Community producers.

2.4. Financial situation of Community coal undertakings

A detailed analysis of costs and returns meets with numerous obstacles, notably because national averages mask - especially in Spain - great disparities between undertakings. Furthermore, costs and returns do not take account of the calorific power of coal, which varies appreciably from one producer country to another. Some disparities also exist in the definitions despite efforts to harmonize. These are all problems that the Commission intends to examine elsewhere.

Production costs in 1988 continued their downward trend in Belgium, France and the United Kingdom, while increasing to various extents in the other Member States.

Table 4

Financial situation of the coal industry

	Production costs ¹				Revenue				Difference		
	ECU/t				ECU/t				ECU/t		
	1986	1987	1988	88/87	1986	1987	1988	88/87	1986	1987	1988
Germany	117		125	+ 2,5	35	110	110	-	- 12	- 15	- 15
Belgium	120	22	107	- 0,9	53	50	44	- 12,0	- 57	- 53	- 63
Spain	80	89	93	+ 5,7	22	57	60	+ 5,3	- 24	- 32	- 33
France	117		88	- 1,1	40	45	5	- 2,0	- 11	- 12	- 13
Portugal	59	51	61	+ 13,0	37	45	51	+ 13,3	- 22	- 17	- 10
United Kingdom	72	72	77	+ 5,7	52	53	61	+ 5,2	- 11	- 13	- 10

¹ Overall costs, including return on capital and amortization

The situation as regards revenue in 1988 improved in Portugal, Spain and the United Kingdom, remained stable in Germany but deteriorated in Belgium and France.

In all coal-producing Member States except Spain there have been improvements, often marked, in productivity. In Spain there has been a drop in productivity of around 6%. Increases in productivity have been strongly influenced by restructuring and rationalization in the coal industry.

The least productive pits have been primarily affected by closures and when the decision has been taken to close a pit in the relatively near future, underground preparation work has been reduced to a strict minimum, releasing workers for production or reducing the number of underground workers. Productivity has increased in both cases.

Table 5

	<u>Underground output per man</u>					
	1986	1987	1987-1986	1988	1988-1987	
			%		%	
Germany	4 556	4 667	+ 2,4	4 764	+ 2,1	
France	3 300	3 881	+ 17,6	4 106	+ 5,8	
Belgium	2 566	2 665	+ 3,9	2 696	+ 1,2	
United Kingdom	4 089	4 458	+ 9,0	4 851	+ 8,8	
Spain	2 059	2 240	+ 8,8	2 106	- 6,0	
Portugal	1 597	1 600	+ 0,2	1 644	+ 2,8	

A further improvement in production costs is expected for 1989 thanks to rationalization efforts and the resultant gains in productivity.

In addition, a certain increase in world prices should lead to a small improvement in returns.

3. Description of financial aid scheduled for the coal industry in 1986

An assessment in economic terms of the real amount of aid must take account of the specifics of the coal industry.

Short-term changes on the international coal market are not necessarily representative of long-term trends. It is worth noting in this context that the prices currently applied on the world market have forced certain producers in non-Community coal-exporting countries to close many mines.

The problems are particularly acute in the European coal sector where the highly rigid production apparatus resulting from technical, geological and geographical factors does not allow adaptation to short term market fluctuations in terms of either quantity or cost.

The financial flow of aid thus contains an element that is difficult to quantify, covering the difference between the short-term cost of imported coal - serving as a reference price to determine the price of Community coal - and the long-term marginal cost of new production capacity in non-Community coal-exporting countries which provide guarantees regarding security of supply.

It is against this long-term backdrop that coal producers and large consumers are legitimately concerned with minimizing the risks of a volatile market through long-term contracts, although the terms of these contracts must bear out economic realities and not hamper efforts to deploy the instruments the Treaties offer for balanced and determined progress towards maximum integration of energy markets.

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, measures which, even if they are not a direct burden on published budgets, are nevertheless financed by levies made compulsory by the fact of State aid and 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 coal mining were to stop. Research, development and demonstration activities are also regarded as not related to current production provided that they are not to the exclusive benefit of the company undertaking the research. Where such measures help to promote innovations in the undertaking itself they are considered as related to current production.

In terms of current production, it is also essential to distinguish between direct and indirect aid. Under Decision No 2064/86 ECSC direct aid is regarded as any financial aid granted directly to coal undertakings. Indirect aid is any aid which, although often granted to an economic operator not producing coal, is of indirect benefit to coal undertakings.¹³

3.1. Financial aid related to current production

In 1988 aid to current production amounted to ECU 5722 million, i.e. a reduction of 4% compared to 1987. There is thus a continuation of trends observed in recent years. As can be seen from Annex 1, this downswing is due mainly to major reductions in the level of aid in Belgium (-24.3%), France (-41.5%) and the United Kingdom (-62.5%), a decrease which is largely due to the restructuring programmes carried out by these countries.

¹³ This definition therefore differs from the economic approach where direct aid is regarded as aid affecting supply and indirect aid is aid which changes demand to the extent that the recipient of the financial flow is not necessarily the beneficiary of the economic effect.

Table 6

Financial aid related to current production

	Mio ECU		ECU/t	
	1988	1987	1988	1987
<u>Direct</u>				
Art. 3 Deficit grant aid	1 027,5	1 805,3	4,70	8,16
Art. 4 Sales aid	1 881,0	1 894,5	8,76	8,56
Art. 5 Investment aid	73,8	65,7	0,34	0,30
Art. 6 Aid for underground staff	105,6	112,3	0,49	0,51
Other	23,7	30,0	0,11	0,14
<hr/> Subtotal	<hr/> 3 111,6	<hr/> 3 907,8	<hr/> 14,49	<hr/> 17,65
Indirect	2 609,9	2 051,3	12,16	9,27
<hr/> Total	<hr/> 5 721,5	<hr/> 5 959,1	<hr/> 26,65	<hr/> 26,92

3.1.1. Direct aid

Direct aid to current production under Decision No 2064/86 ECSC includes deficit grant aid (Art.3), investment aid (Art.4), aid for underground staff (Art. 6) and sales aid for coking coal and coke (Art. 4). Although this latter form of aid is in fact aid for supply it is regarded as direct aid since the aid is granted to producers and not to the consumer.

3 1.1.1. Germany

In 1988 direct aid authorized by the Commission amounted to DM 4 089 million (ECU 1 975.3 million), i.e. DM 51.55 (ECU 24.90) per tonne.

		Mio DM	Mio ECU
Article 4	Aid for supplying coal and coke to the Community's iron and steel industry	3 779	1 805,3
Article 5	Investment aid	115	56,5
Article 6	Aid for underground staff ("Bergmannsprämie")	175	84,5
Other measures	Special amortization linked with rationalization	20	9,7
<hr/> Total		<hr/> 4 089	<hr/> 1 975,3

Pursuant to Article 12 of Decision No 2064/86/ECSC, coal undertakings are authorized, where necessary, to grant rebates on list prices or production costs for deliveries of coal and coke to the blast furnaces of the Community's iron and steel industry under long-term contract. These rebates must not cause prices 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 notification from the German government, this aid to supply, amounting to DM 3779 million, almost completely covers the difference between the price charged on the world market (about DM 97.85/tonne) and the production costs for a production level of 26.4 million tonnes. The aid is therefore compatible with the provisions of Article 4 of the Decision.

It should allow the closure of certain pits to be staggered and thus help to solve the social and regional problems referred to at the third indent of Article 2(1) of the Decision.

The investment aid of DM 115 million is for investment projects in the pits, coking plants, briquetting plants and coal-fired electric power stations. Government estimates put investments in the coal sector at around DM 3 900 million, about 80% of which was for the Ruhr coalfields with the balance divided between the coalfields of Aachen, Saar and Ibbenbüren. According to the initial notification the investment aid, which covers 2.9% of total investments, was to be divided proportionally between these coalfields. The Commission was informed subsequently of the government's intention to allocate this aid to Eschweiler Bergwerksverein, and it had still not ruled on this plan to date.

The aid of DM 175 million to finance miners' bonuses ("Bergmannsprämie" (DM 10 per underground shift) will enable the coal industry to keep qualified staff underground. The aid is a specific measure which has been in existence for several years (tax allowance on miners' income) and must be notified separately from the aid referred to in Articles 3, 4 and 5 of the Decision. The aid is thus compatible with Article 6 of the Decision, and will help to improve the competitiveness of the coal industry, in line with the first indent of Article 2(1).

The special amortization for measures to rationalize coalmining amounts to DM 20 million. This measure is based on Article 51 of the income tax law and on Article 81 of the Implementing Regulation (Einkommensteuereinführungsvorordnung) and will not give any special competitive advantages to the German coal industry over the other Community coal producers. The measure will allow rationalization to be intensified and competitiveness to be improved, in line with the first indent of Article 2(1) of the Decision.

3.1.1.2. Belgium

In 1988 direct aid authorized by the Commission amounted to FB 8 708.7 million (ECU 202.6 million), i.e. FB 3 501 (ECU 81.46) per tonne.

		million FB	million ECU
Article 3	Aid to cover operating losses	6 151.6	143.1
Article 4	Aid to supply coal and coke to the Community's iron and steel industry	1 954.1	45.4
Article 5	Investment aid	600.1	14.0
Article 6	Aid for the maintenance of qualified underground staff	3.0	0.1
Total		8 708.7	202.6

Aid to cover operating losses, i.e. FB 6 151.6 million, was granted to the Campine coalfield for the production of 2 245 000 tonnes, in order to make up some of the difference between foreseeable average costs and foreseeable average returns. This volume of production involves primarily coal delivered to thermal power stations, the sales price of which is closely linked to the price of imported coal. The aid covers 93% of the foreseeable operating losses and thus fulfils the conditions of Article 3(1) of the Decision.

The aid to cover operating losses will help to facilitate the restructuring of the coal industry by allowing the closure of certain pits to be staggered. It will thus help to solve the social and regional problems, in line with the third indent of Article 2(1).

According to the notification of the Belgian government the aid for the supply of coal and coke to the blast furnaces of the Community's iron and steel industry, amounting to FB 1 954.1 million, covers the difference between the price charged on the world market, i.e. about FB 2 000 per tonne, and the production costs for a production level of 675 000 tonnes. The aid is thus compatible with the provisions of Article 4 of the Decision.

This aid will help to facilitate the rationalization of the coal industry by permitting pit closures to be staggered. It thus helps to solve the social and regional problems in line with the third indent of Article 2(1).

The investment aid of FB 600 million is for the construction of a fluidized bed electric power station. The aid will cover 50% of the overall investment, amounting to FB 1 200 million; it complies with the provisions of Article 5(1) and (2).

The aid for the maintenance of qualified underground personnel (FB 3 million) is a specific measure which has been in existence for several years and is applied independently of the aid provided for in Articles 3 to 5 of the Decision. The aid is thus compatible with the provisions of Article 6

The objective of the aid is to keep qualified staff in the coal industry for rationalization measures in order to improve its competitiveness, in accordance with the first indent of Article 2(1) of the Decision.

3.1.1.3. France

In 1988 the amount of direct aid authorized by the Commission totalled FF 1 741 million (ECU 249.8 million), i.e. FF 143.39 (ECU 20.57) per tonne.

		million FF	million ECU
Article 3	Aid to cover operating losses	1 661	238,3
Other measures	Aid to research	80	11,5
Total		1 741	249,8

The aid to cover operating losses, i.e. FF 1 661 million, will make up only 51% of the difference, for each tonne produced and for each region, between foreseeable average costs and foreseeable average returns and thus complies with the conditions of Article 3(1) of the Decision. As in the case of Belgium, these average returns are closely linked with developments in the price of imported coal.

Aid to cover operating losses will help to stagger certain pit closures and will thus help to solve the social and regional problems connected with changes in the coal industry, in line with the third indent of Article 2(1).

3.1.1.4. United Kingdom

According to notifications from the United Kingdom government, direct aid authorized by the Commission in the 1988-89 financial year amounted to UKL 217.5 million (ECU 315.2 million), i.e. UKL 2.15 (ECU 3.11) per tonne.

		<u>million UKL</u>	<u>million ECU</u>
Article 3	Aid to cover operating losses	203,0	294,2
Article 6	Aid for the transfer of work and place of employment	14,5	21,0
Total		<u>217,5</u>	<u>315,2</u>

The aid to cover operating losses, i.e. UKL 203 million, was given to British Coal for a production level of 101.3 million tonnes, to make up the difference between foreseeable average costs and foreseeable average returns for each tonne produced. The aid covers 71% of foreseeable operating losses and thus meets the requirements of Article 3(1).

The aid to cover operating losses will help to facilitate the rationalization of the coal industry by allowing pit closures to be staggered. It will thus help to solve the social and regional problems in line with the third indent of Article 2(1).

The aid for the transfer of work and place of employment is a specific measure which has existed for several years and is applied independently of the aid provided for in Articles 3 to 5 of the Decision. The aid is thus compatible with the provisions of Article 6.

The aim of the aid is to facilitate the restructuring of the coal industry and improve its competitiveness, in line with the first indent of Article 2(1).

3.1.1.5. Spain

Direct aid authorized by the Commission amounted to PTA 51 384.3 million (ECU 367.0 million), i.e. PTA 2 704 (ECU 19.31) per tonne.

		<u>million PTA</u>	<u>million ECU</u>
Article 3	Aid to cover operating losses	49 029,3	350,0
Article 4	Aid for supplying coal and coke to the Community's iron and steel industry	1 400,0	10,0
Article 5	Aid to investments	605,0	4,3
Other types of aid	Aid to promote innovation	350,0	2,5
<hr/>			
Total		51 384,3	367,0

Aid to cover operating losses, i.e. PTA 49 029.3 million, was granted to the Hunosa, Figaredo, Hullasa and Camocha undertakings for a total production level of 4 292 000 tonnes in order to cover the difference between foreseeable average costs and foreseeable average returns. The aid does not exceed the anticipated operating losses and thus complies with the conditions of Article 3(1) of the Decision.

This aid must help to facilitate the rationalization process in the coal industry, in particular by staggering the closure of certain pits as part of a regional policy of industrial redeployment. It will thus help to solve the social and regional problems in line with the third indent of Article 2(1).

According to the notification of the Spanish government, the aid to supply coal and coke to the blast furnaces of the Community's iron and steel industry, amounting to PTA 1 400 million will make up the difference which exists between the world market price, i.e. about PTA 6 000 per tonne, and production costs for a level of production of 200 000 tonnes. The aid is thus compatible with the provisions of Article 4.

This aid will help to facilitate the rationalization process in the coal industry by allowing pit closures to be staggered as part of a regional policy of industrial redeployment. It will thus help to solve the social and regional problems linked to changes in the coal industry, in line with the third indent of Article 2(1).

The investment aid of PTA 605 million is for the mining investment projects of various undertakings. The aid covers 20% of all investments, which amount to PTA 2 100 million, and is divided between the following pits: La Central Asturiana, Bierzo-Villablino, Narcea, Leon-Este, Palencia, Aragon, Catalonia and the Balearic Islands. It complies with the provisions of Article 5(1) and (2) of the Decision for each coal undertaking.

This investment aid can be regarded as compatible with the Community's coal policy in that it will help to increase the coal industry's competitiveness, in accordance with the first indent of Article 3(1) of the Decision.

3.1.1.6. Portugal

In 1988 the Commission authorized aid of ESC 280 million (ECU 1 7 million), i.e. ESC 1 181 (ECU 7.17) per tonne, to be granted to cover losses.

		<u>million ESC</u>	<u>million ECU</u>
Article 3	Aid to cover operating losses	280,0	1,7

This aid makes up the difference which exists between foreseeable average costs and foreseeable average returns for each tonne produced. The aid does not exceed the foreseeable operating losses and thus meets the requirements of Article 3(1) of the Decision.

This aid will help to avoid early closure of the mine and forms part of a policy of industrial diversification. It will therefore help to solve the social and regional problems linked to changes in the coal industry, in accordance with the third indent of Article 2(1) of the Decision.

3.1.2. Indirect aid

In this report indirect aid is regarded as financial measures which, although generally granted to an economic activity other than the production of coal, are of indirect benefit to coal undertakings. Such measures are included in the definition set out in Annex 2 to Decision No 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 reasons and types of aid must be regarded as indirect aid for current production.

This is the case with the aid to finance specific systems of social welfare contributions to the coal industry in some Member States where the aid makes the effective social benefit costs of the coal undertakings 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 benefiting from the aid.

In most coal-producing Member States agreements or contracts to supply coal exist between producers of coal and producers of electricity. Such agreements or contracts in force in 1988 include ways of fixing prices which do not necessarily correspond with the realities of the short-term market. In an attempt to gain a clear picture the Commission has undertaken as complete a study as possible of these agreements and contracts, illustrating, where appropriate, the element of financial aid detected. The agreements and contracts proper are currently being examined in detail by the Commission departments in relation to their compatibility with the rules of the Treaties.

Where it has a direct influence on the level of domestic prices restriction on the quantity of imports could also be regarded as indirect aid. In the absence of accurate information on the impact of such measures, however, they are not covered in this document.

3.1.2.1. Indirect aid to production

3.1.2.1.1. Germany

The notification submitted to the Commission indicates that the State aid for social security systems in the mining industry as a whole make the effective social security burden of coal undertakings lower than the normal burden that undertakings would have to bear under Article 7 of the Decision. The difference for the mining industry as a whole amounts to DM 421 million, of which about 80% (i.e. DM 337 million) is for the coal industry.

As a result, the limits laid down in Article 7 of the Decision are exceeded by that amount, which must therefore be regarded as indirect aid to current production. In effect, the production costs of undertakings are reduced by DM 4.25 per tonne, i.e. 1.7% of total production costs.

State aid for social security systems in the mining industry as a whole applies to all forms of mine (coal, ore, salts, etc.). The reduction in production costs of 1.7% is not a significant competitive advantage for the German coal industry in respect of other Community coal-producers, since the returns do not cover the production costs.

This measure helps to alleviate the social problems mentioned at the third indent of Article 2(1) of the Decision.

3.1.2.1.2. France

For 1988 the French government notified the granting of aid to Cerchar to encourage technical research in the coal industry. The aid, which has been in existence for several years, amounts to FF 80 million. The conditions for the granting of the aid remain unchanged.

3.1.2.1.3. Spain

The Commission approved aid to promote innovation in the coal industry in 1988. This aid, which amounts to PTA 350 million, is subdivided between the following coalfields: La Central Asturiana, Bierzo Villablino, Narcea, Leon-Este, Palencia, Aragon, Catalonia and the Balearic Islands.

This aid is designed to guarantee that research results are translated as rapidly as possible into practical applications in production. This measure must be seen in the light of Article 10(2) of the Decision.

The Commission has carried out the examination and has come to the conclusion that the aid to promote innovation does not give the Spanish coal industry any special advantages which are contrary to the common market.

This financial measure will help to improve competitiveness in accordance with the first indent of Article 2(1) of the Decision.

3.1.2.2. Indirect aid to consumption

This section describes the methods of price fixing in contracts and agreements between producers of coal and producers of electricity. Where appropriate and where quantifiable, the analysis also reveals the extent of the financial aid.

3.1.2.2.1. Germany

The Third Electricity from Coal Law¹⁴ defines the price and compensation mechanism ("Kohlepfennig") governing both the transactions forming part of the "Jahrhundertvertrag" and the consumption of coal from other Community countries.

The "Kohlepfennig" was fixed at 7.25% for 1988. In accordance with Article 10(2) of Decision No 2064/86/ECSC and by Decisions of 30 March 1989 and 14 February 1990, the Commission approved to the tune of DM 4 900 million the financial measure consisting of compensation to electricity producers for 1988.

In its Decision No 89/296/ECSC¹⁵, ruling on this measure, the Commission called on the German government to present it with a plan by 30 September 1989 for a decreasing scale for the measure, or for any other measure with an equivalent effect extending until 31 December 1993, the date of expiry of Decision No 2064/86/ECSC.

As one of the main objectives of Decision No 2064/86/ECSC is to improve the competitiveness of the Community coal industry and to create new economically viable capacities, the Commission also called on the German authorities to present a plan for the restructuring, rationalization and modernization of the coal industry.

3.1.2.2.2. France

In 1984 an agreement was concluded between EdF and Charbonnages de France. The agreement covers the following points:

- the quantities of coal and electricity that EdF must buy from CdF from 1984 to 1988;
- the price at which these quantities are to be traded.

A slight surcharge on imported coal is granted by EdF on purchases of national coal. This price is the price of imported coal C.I.F. Le Havre plus 10% delivered to the thermal power stations in the Paris region.

¹⁴ COM(88) 541, 20.10.1988, point 4.1.2.2.1.

¹⁵ OJ No L 116, 28.4.1989, p.52.

The quantities of national coal, delivered to EdF in the period 1986 to 1988, are on a declining scale as follows:

1986 = 2.1 million tonnes
1987 = 1.8 million tonnes
1988 = 1.6 million tonnes.

As regards the purchase by EdF of electricity produced by the pithead power stations, i.e. approximately 10 TWh, EdF pays for the first 7 TWh the flat-rate sum decreasing from FF 4 000 million in 1984 to FF 2 000 million in 1988, additional deliveries being paid on the basis of the price of imported coal plus 10%, with specific consumption of 2 400 Kcal/KWh, and application of the fixed costs observed in the EdF power stations. Thus, if EdF's supply of electricity becomes so high that it replaces production from a nuclear power station, EdF will buy this electricity at the marginal cost of the nuclear kWh.

The guaranteed supply provided for by the contract and the fact that collieries stock enough coal to satisfy EdF demand at very short notice make for two counter-concessions at the extra cost of 10%. It does not appear, therefore, from the information at the Commission's disposal, that this mechanism contains indirect financial aid. A new agreement based on broadly similar principles entered into force on 1 January 1989.

3.1.2.2.3. United Kingdom

In the United Kingdom an understanding was reached in 1986 between British Coal and the Central Electricity Generating Board. This agreement provides that the CEGB will take 95% of its requirements from British Coal.

This understanding means that, for the 1988-89 financial year, British Coal will supply 75 million tonnes of coal to the CEGB, the price of which differs as a function of instalments.¹⁶

The average price of purchases by the CEGB amounted to approximately UKL 40 per tonne. Since the Central Electricity Generating Board was due to be privatized in 1990, the understanding would expire on 31 December 1989.

Since the 1960s there has also been a similar understanding in principle between the South of Scotland Electricity Board and British Coal, the deliveries being made from the Scottish coalfield. This understanding is currently being renegotiated.

¹⁶ COM(88) 541, 20.10.1988, point 4.1.2.2.4.

At this stage the information available has not enabled the Commission to determine the existence or otherwise of public financial aid. Following a request from the Commission in accordance with Decision No 2064/86/ECSC the United Kingdom government underlined that this was a commercial understanding between two companies which contains no element of public aid to them and does not therefore come within the scope of the said Decision.

3.1.2.2.4. Spain

In Spain a new system of awarding contracts in the sector of coal for feeding thermal power stations 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 producers of electricity at a reference price. These contracts must be in line with criteria such as improved competitiveness of the coal undertaking or, failing that, a plan to reduce production. After negotiation between the contracting parties the contracts are submitted for agreement to the Spanish government. Mining companies with production costs in excess of the reference price may demand a supplement from the electricity producers covering the difference between their production costs (excluding amortization) and the reference price. The additional price paid by the electricity producers is reimbursed by way of a fund (OFIIO: Oficina de compensacion de la Energia Electrica) which is maintained by the electricity producers. This agreement only covers coal produced in underground mines.

In accordance with Article 10(2) of the ECSC Decision, the Commission approved PTA 11 182 million of compensation payments made by OFIIO in 1988.

In its Decision of 20 December 1989¹⁷ ruling on this measure, the Commission called on the Spanish government to present before 30 June 1990 a plan for a decreasing scale for the measure or for any other measure with an equivalent effect extending until 31 December 1993, the expiry date of Decision No 2064/86/ECSC.

The Commission also called on the Spanish authorities to present a plan for the restructuring, rationalization and modernization of the coal industry.

The agreement concluded between CARBUNION and UNESA is being closely examined by the Commission in relation to the EEC and ECSC Treaties. This analysis is aimed at helping to complete the internal energy market.

¹⁷ OJ No L , 1990, p. .

3.2 Financial aid not related to current production

Under Decision No 2064/86/EECSC 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 that they do not affect the production costs of the industry in the country in question. In 1988 aid amounted to ECU 7 401 million, as compared with ECU 7 108 million in 1987.

Table 7

Financial aid not related to current production

		million ECU	
		<u>1988</u>	<u>1987</u>
Article 7	Social grants	6 353,4	6 062,3
Article 8	Inherited liabilities	1 047,7	1 045,4
<hr/>			
Total		7 401,1	7 107,7
<hr/>			

3.2.1. Financial aid in the sector of social benefits

Article 7 of the Decision states that State aid to finance social grant 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 ration in other industries. The excess levels noted in Germany were considered as indirect aid to current production under point 3.1.2.1.

3.2.1.1. Germany

In 1988 DM 9 050 million was allocated to cover the deficit of the pension insurance scheme in the mining industry as a whole (Knappschaftliche Rentenversicherung). Some 80% of this amount, i.e. about DM 7 240 million, went to the coal industry. The Commission's examination showed, as mentioned in point 3.1.2.1., that the limits laid down in Article 7 of the Decision were exceeded. This excess is due to the fact that the financing of sickness insurance for those entitled to a pension under the miners' insurance schemes was changed by the financing laws of 1983 and 1984. Contributions to the miners' sickness insurance fund are now covered in part by the sickness insurance scheme by way of equalization of charges.

3.2.1.2. France

According to the French government's notification, social benefit payments amounted to FF 10 459.1 million. Details of this aid are shown in the table below.

<u>Origin</u>	<u>Amount of aid in million FF</u>	<u>Purpose</u>
State	3 200,0	Disability and old-age pension insurance Regular contribution amounting to 23% of wages subject to contribution plus additional State adjustment
General system	2 178,5	Disability and old-age pension insurance Regular contribution to cover part of the "exceptional expenditure" (amount fixed by law)
General system	1 543,6	Insurance against industrial accidents and occupational diseases Repayment of inherited liabilities
General system	1 639,2	Sickness insurance Treatment benefits
General system	1 897,8	Disability and old-age pension insurance "Exceptional expenditure" in the coal industry within the meaning of Article 7 of Decision No 2064/86/ECSC
Total	10 459,1	

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

3.2.1.3. Belgium

As can be seen in the table below, the public financial aid paid to the Belgian coal industry in the social charges sector amounts to FB 37 998.3 million.

<u>Origin</u>	<u>Amount of aid in million FB</u>	<u>Purpose</u>
State	32 307,0	Old-age pension and survivor's pension insurance Regular contribution required by law
State	5 626,5	Disability pension insurance Disability pension
State	64,8	Occupational diseases 50% of the expenditure arising from miners' pneumoconiosis
<hr/>		
Total	37 998,3	
<hr/>		

The abovementioned aid complies with the requirements 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 system in parallel with the general social insurance scheme, from which pensions are paid to retired workers in that industry. A supplementary system of this kind also exists for the British industry in the form of a retirement fund. For the 1988-89 financial year the British government notified the Commission of the payment from this fund of a sum of UKL 41.5 million. This amount covers only the surplus in numbers that exists in this industry, i.e. the difference between the number of miners in employment and the number of retired miners. The limit set out in Article 7(1) of Decision No 2064/86/ECSC is therefore not exceeded.

3.2.1.5. Spain

The amount of notified public financial aid to the Spanish coal industry in the form of social benefit payments came to PTA 80 380 million in 1988. Details of this aid are shown in the table below.

<u>Origin</u>	<u>Amount of aid in million PTA</u>	<u>Purpose</u>
State	65 811	Old age pension
State	3 090	Temporary disability insurance
State	729	Provisional invalidity and rehabilitation
State	9 441	Health service
State	345	Miscellaneous (family benefits, social assistance, social welfare, one-off payments, prostheses, wheelchairs)
State	964	Administrative costs
<hr/>		
Total	80 380	

The abovementioned financial aid complies with the provisions of 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 coal 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 considered inherited liabilities are set out in Annex I to decision No 2064/86/ECSC.

3.2.2.1. Germany

For 1988 Germany notified the following measures:

Aids to cover water-control	220,0 Mio DM
	(= 106,3 Mio ECU)

All the stated costs of undertakings constitute inherited liabilities since they are the result of production capacity closures of previous years and are thus not related to current production.

The aid for water-control costs, amounting to DM 220 million, was paid to Ruhrbergbau to enable it to cover the inherited liabilities arising from closures since 31 December 1966. Because of pit closures Ruhrbergbau was forced to pay constantly increasing amounts to the Wasserwirtschaftsverbände (water management associations) and to Pumpgemeinschaft Ruhr. The aid does not exceed the real extra costs borne by the undertakings.

The abovementioned measures comply with the provisions of Article 8(1) of the Decision.

3.2.2.2. France

In 1988 the French government granted aid of FF 5 015.0 million (ECU 719.5 million) to cover the inherited liabilities of Charbonnages de France. This sum should allow the following costs to be covered:

- contributions to early retirement pensions	123,0 Mio FF
- conversion costs	560,0 Mio FF
- early retirement, interim pensions and housing allowances	2 450,0 Mio FF
- heating allowances	342,0 Mio FF
- costs of pit closures	75,0 Mio FF
- driveway maintenance costs	74,0 Mio FF
- remaining amortization and servicing of loans transferred to the Central office	811,0 Mio FF
- general research	80,0 Mio FF
<hr/>	
Total	5 015,0 Mio FF

This aid breaks down between the coalfields and Central Office as follows:

- Nord-Pas de Calais	2 360,0 Mio FF
- Lorraine	915,0 Mio FF
- Centre Midi	880,0 Mio FF
- Central Office	860,0 Mio FF

The actual costs to Charbonnages de France are identical to the amount of aid and are thus consistent with the provisions of Article 8(1) of Decision No 2064/86/ECSC.

3.2.2.3. United Kingdom

The United Kingdom notified the following measures for 1988

- redundancy payments for miners losing their jobs following rationalization measures	105,4 Mio L
- aid for free deliveries of coal to miners losing their jobs following restructuring and to miners who had the right to free coal before restructuring	47,7 Mio L
<hr/>	
Total	153,1 Mio L

These are social measures arising out of pit closures. The real inherited liabilities are greater than the amount of aid requested. The UK financial aid of UKL 153.1 million (ECU 221.9 million) meets the criteria of Article 8(1) of the Decision.

4. Conclusions

4.1. Complexity and disparity of national systems

As was already pointed out in the report on aid granted by the Member States in 1987, the examination of the financial measures notified shows marked differences between the various Member States.

Although these disparities can be explained partly by the diversity of geological conditions and degrees of mechanization in the Community, the causes must also be sought within the systems of aid adopted by the Member States.

Some Member States guarantee to coal undertakings revenue covering all or part of the difference between production costs and the world market price; this is done through indirect aid, such as the "Kohlepfennig" system in Germany or through OFIOO in Spain, linked to the existence of long-term contracts. The specific features of such mechanisms do not however lead to the transparency provided by the systems of direct aid covered by public budgets which other Member States operate.

Where the undertakings have diversified into activities other than mining, some Member States only cover operating losses in mining where the consolidated operating accounts of the undertaking show a negative balance. Others cover losses in mining directly or indirectly regardless of the consolidated accounts of the undertaking.

It is also noticeable that the extent to which operating losses are covered varies considerably not only between countries but also within one country from one year to another. Such a policy of carrying over losses naturally involves a weakening of the financial structure of the undertaking which needs to be rectified without delay if the undertaking is to remain operational.

It should also be stressed, however, that some financial measures, entailing sales price levels guaranteed to coal producers or total coverage of operating losses, are not aimed at improving competitiveness. Hence they do not offer any guarantee in the long term of a decreasing scale of measures and do not tie in at all with the principle of the optimization of resources which underlies the completion of the internal market.

Against this background the Commission has invited various Member States to present plans for a decreasing scale of aid linked to programmes for the restructuring, modernization and rationalization of their coal industries.

4.2 Social and regional aspects

The long-term trends which are visible in the energy markets and the principles underlying the completion of the internal energy market and Decision No 2064/86/ECSC governing State aid to the coal industry suggest that the process of restructuring the coal industry must continue. In view of the substantial job losses which this causes in the mining areas, it cannot be stressed too highly that it is absolutely necessary to accompany rationalization measures with an active policy of redeployment of the workforce and diversification of the industrial fabric. In view of the difficult social and regional problems facing the coal industry, the Commission has launched the RECHAR programme to help revitalize the Community's coalmining areas.

Table 1

Financial aid linked to current production in the coal industry

Country : GERMANY

	million ECU		ECU /t	
	1988	1987	1988	1987
<u>Direct</u>				
Article 3 : Deficit grant aid	-	-	-	-
Article 4 : Sales aid	1 825,6 55,5	1 732,9 62,8	23,02 0,70	21,04 0,76
Article 5 : investment aid	84,5	89,4	1,07	1,09
Article 6 : Aid for underground staff	9,7	14,5	0,12	0,18
<u>Other</u>				
Subtotal	1 975,3	1 899,6	24,90	23,06
<u>Indirect</u>	2 530,0	1 964,7	31,90	23,85
Subtotal	2 530,0	1 964,7	31,90	23,85
Total	4 505,3	3 864,3	56,80	46,91

Table 1

Financial aid linked to current production in the coal industry

Country : BELGIUM

	million ECU		ECU/t	
	1988	1987	1988	1987
<u>Direct</u>				
Article 3 : Deficit grant aid	143,1	200,7	57,53	46,06
Article 4 : Sales aid	45,4	161,6	18,25	37,09
Article 5 : Investment aid	14,0	-	5,63	-
Article 6 : Aid for underground staff	0,1	0,2	0,04	0,04
<u>Other</u>	-	-	-	-
Subtotal	202,6	362,5	81,46	83,20
<u>Indirect</u>	-	-	-	-
Subtotal	-	-	-	-
Total	202,6	362,5	81,46	83,20

Table 1

Financial aid linked to current production in the coal industry

Country : FRANCE

	million ECU		ECU /t	
	1988	1987	1988	1987
<u>Direct</u>				
Article 3 : Deficit grant aid	238,3	412,7	19,63	30,15
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
<u>Other</u>	11,5	14,4	0,95	1,05
Subtotal	249,8	427,1	20,57	31,20
<u>Indirect</u>	-	-	-	-
Subtotal	-	-	-	-
Total	249,8	427,1	20,57	31,20

Table 1

Financial aid linked to current production in the coal industry

Country : SPAIN

	million ECU		ECU/t	
	1988	1987	1988	1987
<u>Direct</u>				
Article 3 : Deficit grant aid	350,2	370,8	18,43	19,55
Article 4 : Sales aid	10,0	-	0,53	-
Article 5 : Investment aid	4,3	2,9	0,23	0,15
Article 6 : Aid for underground staff	-	-	-	-
<u>Other</u>	2,5	1,1	0,13	0,06
Subtotal	367,0	374,8	19,31	19,76
<u>Indirect</u>				
Subtotal	79,9	86,6	4,21	4,57
Total	446,9	461,4	23,52	24,33

1)

Table 1

Financial aid linked to current production in the coal industry

Country : PORTUGAL

	million ECU		ECU/t	
	1988	1987	1988	1987
<u>Direct</u>				
Article 3 : Deficit grant aid	1,7	1,1	7,17	4,21
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	-	-	-	-
Other	-	-	-	-
Subtotal	1,7	1,1	7,17	4,21
<u>Indirect</u>	-	-	-	-
Subtotal	-	-	-	-
Total	1,7	1,1	7,17	4,21

Table 1

Financial aid linked to current production in the coal industry

Country : UNITED KINGDOM

	million ECU		ECU/t	
	1988	1987	1988	1987
<u>Direct</u>				
Article 3 : Deficit grant aid	294,2	820,2	2,90	8,06
Article 4 : Sales aid	-	-	-	-
Article 5 : Investment aid	-	-	-	-
Article 6 : Aid for underground staff	21,0	22,7	0,21	0,22
Other	-	-	-	-
Subtotal	315,2	842,7	3,11	8,28
<u>Indirect</u>	-	-	-	-
Subtotal	-	-	-	-
Total	315,2	842,7	3,11	8,28

Table 1

Financial aid linked to current production in the coal industry

Country, : COMMUNITY

	million ECU		ECU/t	
	1988	1987	1988	1987
<u>Direct</u>				
Article 3 : Deficit grant aid	1 027,5	1 805,3	4,79	8,16
Article 4 : Sales aid	1 881,0	1 894,5	8,76	8,56
Article 5 : Investment aid	73,8	65,7	0,34	0,30
Article 6 : Aid for underground staff	105,6	112,3	0,49	0,51
<u>Other</u>	23,7	30,0	0,11	0,14
Subtotal	3 111,6	3 907,8	14,49	17,65
<u>Indirect</u>	2 609,9	2 051,3	12,16	9,27
Subtotal	2 609,9	2 051,3	12,16	9,27
Total	5 721,5	5 959,1	26,65	26,92

Table 2

Financial aid not linked to current production

million ECU

	Financing of social charges in the coal industry				Inherited liabilities			
	Total		Excess aid		Total		Excess aid	
	1988	1987	1988	1987	1988	1987	1988	1987
BELGIUM	833,7	791,9	-	-	-	-	-	-
GERMANY	3 334,9	3 268,4	162,7	132,6	106,3	110,9	-	-
SPAIN	574,1	527,1	-	3,7	-	-	-	-
FRANCE	1 500,6	1 415,6	-	-	719,5	547,2	-	-
PORTUGAL	-	-	-	-	-	0,7	-	-
UNITED KINGDOM ¹⁾	60,1	59,3	-	-	221,9	386,6	-	-
COMMUNITY	6 353,4 ²⁾	6 062,3 ²⁾	162,7	136,3 ²⁾	1 047,7	1 045,4	-	-

1) The United Kingdom has an integrated social security system. The figures shown above cover only the special miners' pension fund, which exists alongside the general social security system.

2) Excluding Portugal.