

**EP Round Table on Coal
Meeting on 15 September 2010**

“Update on coal industry state aid in the EU”

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- **Regulation (EC) 1407/2002 will expire on 31 December**
- **Public Consultation on the aftermath of the expiry of this Regulation between May and July 2009**
- **Follow-up regime drafted by EU Commission as from late 2009**
- **Various drafts discussed under ISC procedure**
- **Commission proposal COM (2010) 372 adopted on 20 July 2010, accompanied by Impact Assessment**

- **Governments of subsidised coal-producing MS**
 - in favour of either prolonging Regulation 1407/2002 (esp. Spain) or a new Regulation allowing at least part of the currently covered aid,
 - a Regulation allowing investment aid and aid for inherited liabilities (esp. Poland)
 - or sector-specific rules that would allow State aid in the context of the gradual closure of its mines until 2018 (esp. Germany)
- **Social partners** in favour of continuing of aid categories currently allowed or at least a new EU regime on State aid for the reduction of activity as well as aid for mine closures and inherited liabilities
- **Environmental organisations** not in favour of new State aid regime

- Regulation (EC) No. 1407/2002

Title: “*State aid to the coal industry*”

- Aid for the reduction of activity (Article 4)
- Aid for accessing coal reserves, either aid for initial investment or current production aid (Article 5)
- Aid to cover exceptional costs (Article 7)

- Commission proposal COM (2010) 372

Title: “*State aid to facilitate the closure of uncompetitive coal mines*”

- Closure aid (Article 3)
- Aid to cover exceptional costs (Article 4)

⇒ **several aid categories dropped**

■ **Conditions:**

- operation of production units must form part of a **closure plan** with **deadline** not beyond **1 October 2014**
- production units must be **closed definitively**
- production units **in activity on 31 December 2009**
- overall amount of closure aid to follow a **downward trend**, reduction between successive 15 months periods **not less than 33 percent** of the aid provided in the initial period

■ **Conditions:**

- **not higher than 2010** aid under (EC) 1407/2002
- conditional on **plan to mitigate environmental impact** of coal use

If the production units are **not closed** at the date fixed in the closure plan, the Member State concerned shall **recover all aid** granted in respect of the whole period covered by the closure plan.

Commission proposal on Aid to cover exceptional costs, Article 4

- **Type of aid:**

- granted to undertakings which carry out or have carried out an activity in connection with coal production to enable them to cover the costs arising from or having arisen from the closure of coal production units and which are not related to current production.

- **Aid may be used to cover:**

- (a) the costs incurred only by undertakings which are carrying out closure of or have closed production units, including undertakings benefiting from closure aid or
 - (b) the costs incurred by several undertakings.

■ Summary

- horizontal State aid rules in as many sectors as possible
- move towards renewable energy sources and environmentally sustainable use of indigenous energy sources
- but also recognizes the importance of making the best use of domestic energy resources, including fossil fuels.
- indefinite coal aid not in line with broad policy objectives, “especially when it counteracts efforts to raise competitiveness or to move to renewable energy sources.”
- But COM also recognizes that “the closure of uncompetitive mines may have consequences, especially on the social level, which need to be addressed.”

■ Discarded

- 1 - “Baseline scenario” (general State aid rules)
- 2 - Guidelines based on TFEU Article 107(3)(c);
- 3 - Council Regulation only for time-limited operating aid (“closure aid”)
- 4 - Council Regulation only for aid to cover exceptional costs
- 6 - Temporary prolongation of Regulation 1407/2002

■ Retained

- 5 - Combination of “closure aid” and “aid to cover exceptional costs based on TFEU, Article 107(3)(c)

- Choice reflected in considerations of COM (2010) 372:
 - “The Union's policies of encouraging renewable and lower carbon fossil fuels for power generation do not justify the indefinite support for uncompetitive coal mines.”
 - “However, in the absence of sector-specific State aid rules, only the general State aid rules will apply to coal. In this context, uncompetitive coal mines, currently benefiting from aid under Regulation (EC) No 1407/2002, may no longer be eligible for aid and may be forced to close.”
 - “Member States should be able to take measures to alleviate the social and regional consequences of the closure of those mines, ...”

Some impact assessment statements (I)

- “Sudden closure of coal mines with **massive lay-offs** **overburden the regional labour market** to a point where many mine workers remain unemployed for long periods”
- “The Regulation would allow clearly digressive operating aid aimed at covering current production losses as long as it accompanies an **orderly winding-down of activities ...**”
- “This would be a gradual **phasing-out of operating aid** over a **maximum period of 10 years...**”
- “Aid must be clearly digressive at a rate of **minimum 10% per year.**”

⇒ **not considered in current proposal**

- “ ... It follows that, first, **financial resources would only be freed up in the longer term**, when job losses are gradually absorbed by the labour market and when exceptional costs linked to mine closures are reduced. Second, the **amount of budgetary resources freed up** by the stop of subsidies depends very much on the ability of local/regional labour markets to **absorb the labour** formerly employed in the mines.”

⇒ **not considered in current proposal**

- Some important statements

- „Given the regional concentration of coal mines ..., the social impact of the simultaneous closure of the mines could be significant. ...up to **100000 jobs may be at stake.**“

- “From an **environmental** point of view, there is a **lot of uncertainty.** ... This uncertainty results from the high substitution rate of domestic coal by imported coal. Although this would not be a 100% substitution, the difference between the policy options would depend upon the modalities of the national policies with regard to favouring the switch to other energy sources.”

⇒ **not considered in current proposal**

- **On the one hand:**

- "...the **small contribution** of subsidised hard coal to the overall energy mix strongly limits the capacity of such subsidies to compensate for such disruptions." (Impact Assessment, p.17)
- "Subsidised coal has only a **marginal impact** on the security of energy supply on the EU level." (Explanatory Memorandum, p. 2)

- **On the other hand:**

- "In order to minimise the **distortion of competition** in the internal market resulting from aid, ..." (Recital 7)
- "... to mitigate the **negative environmental impact** of aid to coal, the Member State should provide a plan..." (Recital 8)

⇒ **How can coal aid being phased out distort competition and how can it have a unique negative environmental impact?**

- “The opinions of the Impact Assessment Board are not binding. However, the opinion accompanies the draft initiative together with the impact assessment report throughout the Commission's political decision-making. The Commission impact assessment is an aid - not a substitute - for political judgement. Ultimately it is the Commission which decides whether or not to adopt an initiative, **taking account of the impact assessment** and the Board's opinion.” (source: IAB)
- **But:** Why an **impact assessment**, if **COM ignores the social impact** in its political judgement?
- And why an **explanatory memorandum** preceding the proposal if **COM also ignores the social impact** stated in the direct context?
- On top: **why did COM not cover other aspects?**

Preparation of Member State Decision on final COM (2010) 372

- Opinion of the European Parliament
- Opinion of the European Economic and Social Committee
- Opinion of the Committee of the Regions
- Preparation of Member State decision in COREPER
- First examination in Competition WG: 21 Sept. 2010
- Commission briefing of Environment Council: 14 Oct. 2010
- (poss.) Adoption in Competitiveness Council: 10 Dec. 2010
- Final decision to be applied from 01 Jan. 2011