I

(Acts whose publication is obligatory)

COMMISSION DECISION 528/76/ECSC

of 25 February 1976

regarding the Community system of measures taken by the Member States to assist the coal-mining industry

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 2 to 5, 46, 47, 67, 68 and the first and second paragraphs of Article 95 thereof,

Having consulted the Consultative Committee and with the unanimous assent of the Council,

Whereas :

I

The structural changes which occurred in the energy market at the end of the 1950's led the Member States on 21 April 1964 to sign the Protocol to the Agreement regarding energy policy (1). Pursuant to item 11 of this Protocol and on the basis of the first and second paragraphs of Article 95 of the Treaty, the High Authority on 17 February 1965 issued Decision 3/65 regarding the Community system of measures taken by Member States to assist the coal-mining industry (2). This Decision, which was extended by Commission Decision 27/67 (3), ceased to have effect on 31 December 1970.

An investigation into the economic conditions governing the output and sale of Community coal in 1970 showed that, in spite of the efforts towards rationalization already made, the pits in many of the Community coalfields would not be viable without aid. After consultation with the Consultative Committee and with the unanimous assent of the Council, the Commission therefore issued on 22 December 1970 Decision 3/71 (4), which ceased to have effect on 31 December 1975.

The situation in the coal-mining industry in the Community has changed since 1973 because of events in the world market for energy in general and oil in particular; not only have serious difficulties arisen with regard to the security of Community energy supplies, but also the price of imported energy has increased by leaps and bounds, which has helped the coal-mining industry's competitive position considerably. However the economic recession has created new difficulties and problems.

The need to ensure the long-term security of the Community's energy supplies should encourage the member countries to reduce their dependence on imported energy to a minimum (5); in the light of this new situation, the following guidelines are applicable to the Community's coal-mining industry (6):

(a) maintenance of overall Community coal production taking into account the natural and technical situation in the individual fields under satisfactory economic conditions;

(b) efforts to maintain or regain the coal-mining industry's competitiveness by increasing productivity, by rationalizing production and by reducing costs;

(c) an active manpower policy;

(d) increased investments to expand existing capacity or to create new productive capacity in suitable coalfields.

There have been improvements in the coal-mining industry's economic returns; many coalfields or companies have been able to break even, if the

(1) OJ No 69, 30. 4. 1964, p. 1099/64.
(2) OJ No 31, 25. 2. 1965, p. 480/65.
(3) OJ No 261, 28. 10. 1967, p. 1.
(4) OJ No L 3, 5. 1. 1971, p. 7.
(5) 'Community energy policy. Objectives for 1985' (COM (74) 1960 fin.).
(6) 'Medium-term guidelines for coal 1975 to 1985' (OJ No C 22, 30. 1. 1975).

inherited liabilities resulting from pit closures over the past few years are not taken into account. There are still unprofitable pits which will probably be closed down in the years to come ; however closures must be so phased as to avoid creating economic and social problems in the regions concerned.

Because of the uncertainties which lie ahead, it is impossible to say whether or to what extent the present economic state of the coal-mining industry may change as a result of higher production costs and changes in the prices of rival sources of energy.

It is therefore not certain that the coal-mining industry will be able to comply with the abovementioned guidelines without assistance. If Member States were to abandon all subsidies to the coal-mining industry, the closure of uneconomic pits would become inevitable in the short term and it would be doubtful whether output could be maintained in the long term. Such a development would :

(i) make it impossible to implement the basic objectives of the second paragraph of Article 2 of the ECSC Treaty, and would in particular have a damaging effect on the efforts to rationalize the coal-mining being made in the common interest in furtherance of the aims of Article 3 (c), (d) and (g) of the Treaty ;

(ii) affect the supply of energy for the Community in ways which would be incompatible with Article 3 (a) of the Treaty ; and

(iii) involve the risk of causing serious economic and social disturbances in certain mining regions in the Community.

The ECSC Treaty permits Member States to retain their right to introduce changes in the financing of social benefits, while empowering the Commission to intervene, if it becomes clear that the changes made by the Member States are such as might be liable to distort competitive conditions in the common market. Contributions by the State to the financing of the social security system in order to compensate for the abnormal burdens falling on the coal-mining industry as a result of its decline can be considered compatible with the common market, especially where the measures taken by the State help to bring the ratio of the burden per miner in employment and the benefits per person in receipt of benefit into line with that of other sectors of industry. In the present circumstances it is sufficient if the measures taken for this purpose are coordinated. The Treaty does not provide the means of achieving such coordination and it is therefore permissible to rely on the first paragraph of Article 95 of the Treaty.

The Treaty provides for the establishment, maintenance and observance of normal conditions of competition. As a result of the decline of coal output over recent decades, the undertakings are faced with abnormal and unequal burdens which might distort normal competition. State subsidies to cover all or part of these burdens can be considered compatible with the common market, provided that they are examined beforehand by the Commission and that the relevant categories of the 'inherited' liabilities are defined. The appropriate conditions for the financing of social benefits apply here by analogy.

It is therefore necessary to create a new Community system of aids for the coal-mining industry to guarantee at all times attainment of the abovementioned objectives. The Treaty does not provide the Commission with any specific means of establishing such a system and, in the circumstances, it must rely on the first paragraph of Article 95 in order to guarantee the achievement of the objectives set out in the opening Articles of the Treaty.

II

Such recourse to the first paragraph of Article 95 of the Treaty must fit into the general programme of the Community defining a common energy policy. In the light of the new situation on the world energy market, at its meeting of 17 December 1974 (1) the Council noted that :

— the economic equilibrium of the Community would be upset and continued economic and social progress would be impaired, given the present unforeseeable situation of the world market, if the Community continued to be highly dependent on energy, especially oil, imported from non-member countries ; this dependence should therefore be reduced to a minimum ;

— overall Community coal production should be maintained at its present level under satisfactory economic conditions.

(1) Council resolution R/3649/74.

At its meeting on 13 February 1975 (1) the Council approved the following guidelines to enable the above-mentioned objectives for the Community's coal-mining industry to be attained :

— measures should be taken to finance the necessary investments and to make available a suitable labour force ;

— stabilized and regular sales should be ensured under satisfactory economic conditions and with due regard to the interests of the consumers.

Sales of coal to the steel and electricity industries would require particular attention in this connection as would steps to build up coal stocks for the purpose of compensating for the effects of fluctuations in demand and preventing interruptions in supplies.

It is moreover important that the measures taken should not go beyond that which is absolutely necessary, and should not depart from the normal rules of the Treaty except to the extent that is strictly unavoidable in order to solve the problems which have arisen in the Community ; in particular, indirect subsidies to industrial consumers of coal should be avoided.

The coal policy guidelines set out in the preceding paragraphs have led to the conclusion that the Commission must examine the financial measures envisaged by the Member States to assist the coal-mining industry prior to their introduction, to ascertain whether they contribute to the achievement of the following aims :

— maintenance of the level of the Community's total coal production under satisfactory economic conditions ;

— concentration of production in those collieries or coalfields which have the best potential for increasing their productivity or which are best suited to contribute to the supply of particular coal markets in the Community ;

— closure of uneconomic collieries without causing serious economic and social disturbances in regions where re-employment possibilities are still inadequate.

III

The approval of the Commission for the measures envisaged by Governments must be based on precise and full knowledge of these measures, and must take due account of the interaction of all the economic and social factors which they involve. For this reason there must be provisions requiring the Member States, within the framework of Article 47 of the Treaty, to provide the Commission regularly with full information on the direct or indirect measures envisaged in support of the coal-mining industry, and also on the reasons for and the scope of these measures, particularly with regard to their effects on long-term trends in output, imports and the sale of coal, with due regard to the long-term prospects for security of coal and energy supplies.

Furthermore, criteria should be established to ensure that the aids granted correspond to the purpose intended ; for this reason, there must be no possibility of granting aids, the relative size or particular details of which would be such as to impair the proper functioning of the common market, particularly by altering the conditions governing production, sales, and trade within the Community in a way contrary to the common interest. Steps must therefore be taken to ensure that so far as possible all action taken by the Member States in the financial field :

— is broadly in accordance with the quantitative forecasts for each coalfield or undertaking ;

— takes account of the guidelines of this Decision in respect of both long-term maintenance of production under satisfactory economic conditions and of the formation of Community coal prices in view of the need to avoid indirect aid to industrial consumers ;

— contributes to the requisite progress of rationalization ;

— forestalls serious economic and social disturbances in regions where the re-employment possibilities are still inadequate.

In assessing aids, the Commission should consider not only those aids granted on the basis of the present Decision, but also all other financial measures of support for the coal-mining industry in the Community.

Furthermore, when the financial position of undertakings in the coal-mining industry so requires, provision must be made for advance payment even before the approval procedure has been completed.

IV

Finally it is necessary to define the various forms of aid which can be given advance approval by the Commission :

(a) overall Community production can be stabilized under satisfactory economic conditions only if additional production capacities are created in new or existing pits in those coalfields which are economically sound ; therefore large-scale investments must be made for this purpose and these could be facilitated by the grant of aids ; to make

(1) Council resolution R/505/75.

the system of aids more transparent the coal undertakings should be required to enter investment aids in a special account ;

(b) the stabilization of overall production also calls for expenditure on the training and stabilization of the labour force ; consequently, it must be possible to approve the grant of aids to finance such expenditure ;

(c) mining undertakings should be allowed to establish and maintain as necessary seasonal stocks of coal and coke, in order to ensure continuous utilization of production capacity and to increase the flexibility of the Community's coal supply ; since this could place very large financial burdens on the coal-mining industry, it must be possible to grant aids for this purpose ;

(d) it must be possible to grant aids to undertakings to reduce or compensate for the burdens occasioned by the maintenance of security stocks of coal and coke, set up on government initiative in order to secure energy supplies ;

(e) in order to guarantee security of sales of Community steam coal to power stations, Member States may have to adopt special measures ; however, it should be ensured that such measures do not go beyond that which is necessary to maintain the competitiveness of power station steam coal, and do not take a form that would prejudice the applicability of this Decision ;

(f) it may be that, in the case of unprofitable coalfields or undertakings, the aids envisaged above will not suffice to prevent the occurrence of serious economic and social disturbances in those regions which do not yet offer adequate possibilities of re-employment ; they may furthermore fail to ensure that production in the other coalfields which are important from the point of view of long-term supply does not drop below the level considered necessary to guarantee security of the Community's energy supplies ; in such case additional aids could be required, up to the maximum necessary to cover the difference between the probable average costs of coal production and the average returns achievable in the year covered by the forecast.

The Commission may, after consultation with the Governments of the Member States, limit aids to those coalfields which are important from the point of view of long-term supply if it considers that the difference between costs and receipts results from behaviour by undertakings in the coal-mining industry which is in keeping neither with satisfactory economic conditions nor with the requirements of the long-term security of the energy supply.

The financial imbalance of an undertaking may render it essential to cover, in addition, the actual losses incurred in the two preceding years, subject to proof that failure to cover these losses would have consequences contrary to the aims of this Decision.

V

In view of the unpredictable future of the coal-mining industry, the application of different forms of aid depending on the situation constitutes an effective means of achieving both the economic and social aims which derive from the principles set out in the opening Articles of the Treaty.

The proper implementation of this Decision must be ensured through provisions which enable the Commission to exercise its power of approval effectively, to make that approval subject to any appropriate conditions, to carry out all necessary checks subsequently and to revoke its approval when it is no longer justified. The Commission must also be in a position to object to aids granted to undertakings which, either in the application of their list prices or by recourse to alignment, apply artificially low prices which would interfere with the proper functioning of the common market. For this reason, provision must also be made to ensure that this Decision may be suspended in the event of serious disturbances of supply in the market or of a change in the basic economic conditions which led to its adoption. The Commission will inform the Council during 1980 of how this Decision is being applied.

In view of the need to secure the Community's energy supplies and to allow the necessary measures to be taken by the coal-mining industry, it seems advisable to fix the validity of this Decision for a period of 10 years. In order to take into account any new circumstances, provision should be made so that, five years after the date of its entry into force, this Decision may be amended or revoked on the initiative of a Member State or the Commission in accordance with the procedure laid down in the first paragraph of Article 95 of the ECSC Treaty,

HAS DECIDED AS FOLLOWS:

SECTION I

General aims

Article 1

The Commission is empowered, subject to the conditions set out below, to approve financial support by each Member State for the coal-mining industry of the Community, if, having regard to the objectives laid down by the Council in its resolution of 17 December 1974 on Community coal production, this support facilitates the achievement of the following objectives:

(1) maintenance, extension or rationalization of the production capacity of pits or coalfields which, having regard to their location in relation to markets, to their reserves of qualities in demand or their potential for improved production, appear best able to supply the Community's long-term energy coal and coking coal requirement under satisfactory economic conditions;

(2) further adaptation of the production of pits or coalfields having a low economic return to market conditions in such a way as to avoid causing serious economic and social disturbances in those regions where re-employment possibilities are still inadequate.

SECTION II

Obligations of Member States

Article 2

1. If a Member State intends to take measures in accordance with Article 1, it must provide the Commission, not later than 1 November each year, and separately for each coalfield or undertaking, with the following information:

(1) all financial measures which the State in question proposes to take in the ensuing year in order to give direct or indirect support to the coal-mining industry;

(2) when the financial measures are in support of social security benefits in the coal-mining industry:

(a) the legal and administrative provisions applicable in each case or changes in existing provisions that have already been notified,

(b) the total amount of social security benefits, broken down by category, paid during the preceding year to workers and former workers in the coal-mining industry and to their dependants, the number of recipients of these benefits and the corresponding information for the general system,

(c) the various resources drawn upon and the corresponding amounts allocated for the financing of the benefits referred to in (2)(b);

(3) where the financial measures are designed to cover the inherited liabilities of undertakings in the coal-mining industry:

(a) the type of inherited liability to be covered,

(b) the probable amount of the inherited liability for the year in which aid is granted,

(c) information on the extent to which undertakings have integrated inherited liabilities into the cost of current production or have built up special financial reserves to cover such liabilities themselves;

(4) the reasons for and the scope of the various intervention measures, all further information for their assessment in accordance with this Decision, and proof that the measures are not more extensive than is absolutely necessary to achieve the aims desired;

(5) forecasts of trends in production, imports and sales of coal and coke, presented in the form of balance sheets, showing:

(a) for the fifth year ahead:

— an overall forecast of the availability and sales of coal,

(b) for the year ahead:

— a forecast of the availability and sales of coal for each of the following sectors: coking plants, power stations, other industrial consumers and domestic use,

— a forecast of production and sales of coke for each sector;

(6) information over a five-year period on the probable development of existing production capacity in the coalfields or undertakings and on plans and measures to create new pits;

(7) information for the following year on proposed closures of pits or parts thereof, and forecasts of the restructuring of the regions concerned and re-employment of redundant workers in connection with regional development programmes.

2. For 1976, the information specified in paragraph 1 is to be provided not later than 30 June 1976.

3. If a Member State intends to take supplementary financial measures in addition to the measures already notified under paragraph 1 or to modify existing measures during the calendar year, it must inform the Commission thereof in time for it to assess the proposed measures and to pronounce upon them in accordance with the procedure laid down below.

SECTION III

Procedure for assessment and approval

Article 3

1. The Commission shall examine how far the measures proposed by the Member States to assist the coal industry are compatible with the proper functioning of the common market, on the basis of the following criteria :

(1) consistency of the quantitative forecasts established for each coalfield or undertaking within the figure for the overall supply of the Community with coal and coke ;

(2) considerations of intra-Community trade and the state of competition between the Community's coal producers ;

(3) advisibility of the financial measures envisaged by the Governments, in the light of the objectives of this Decision, the pricing of Community coal, in so far as prices are affected by the level of aid, with due respect for the principle that the aid must be no higher than absolutely necessary and must not constitute indirect subsidization of industrial consumers ;

(4) progress in the adaptation and development of production capacities and in the rationalization of those pits with the highest productivity, having regard to their situation in relation to the markets and to their reserves of qualities of coal in demand ;

(5) need to avoid serious economic and social disturbances caused by the closure of unprofitable pits in regions where re-employment possibilities are still inadequate.

2. When carrying out its examination in accordance with the criteria in paragraph 1, the Commission shall take into consideration not only those aids which can be granted under this Decision, but all other financial measures taken to assist the coal-mining industry of the Community. It shall ensure that these aids and financial measures do not contravene the principle of non-discrimination laid down in the Treaty.

Article 4

1. Contribution by Member States to the financing of social security benefits shall be considered compatible with the common market, provided that, for undertakings in the coal-mining industry, they bring the ratio between the burden per miner in employment and the benefits per person in receipt of benefit into line with the corresponding ratio in other sectors.

2. The Governments of the Member States shall submit to the Commission the necessary basic data and details of how they calculated the ratios between the burdens and benefits referred to in the foregoing paragraph.

Article 5

1. Measures taken by Member States to assist undertakings to cover the costs arising from pit closures which are not related to current production and sale of coal shall be considered compatible with the common market provided that the amounts of such measures do not exceed the amount of such costs, i.e. of the inherited liabilities. Such aid may be used to cover :

(1) the costs incurred by single undertakings which are making or have made closures, limited to the following :

(a) costs of social security payments incurred through pensioning off workers before they reach the legal retiring age,

(b) other exceptional expenditure for workers made redundant because of closures,

(c) the payment of pensions and allowances outside the statutory insurance scheme to workers made redundant because of closures, and to those who were entitled to such payments before the closure,

(d) the free delivery of coal to workers made redundant because of closures and to those who were entitled to such coal before the closure,

(e) residual charges arising out of tax provisions,

(f) additional safety work that has to be carried out underground as a result of closures,

(g) subsidence or similar damage attributable to pits which were worked earlier,

(h) residual charges in respect of payments to bodies dealing with water supply and disposal of waste water,

(i) other residual charges in respect of water supply and disposal of waste water,

(j) residual costs in respect of sickness insurance scheme contributions on behalf of former mineworkers,

(k) exceptional material loss caused by the closure of pits where compensation for these losses is vital to the continuing existence of the undertaking ;

(2) the costs incurred by several undertakings :

(a) increases in the contributions needed to cover social security obligations outside the statutory insurance scheme where such increases result from a reduction, due to closures, in the number of those liable to pay contributions,

(b) expenditure caused by closures, in respect of water supply and disposal of waste water,

(c) increases in payments to bodies dealing with water supply and disposal of waste water where these increases are attributable to a reduction, following closure, in the production of coal on which the levy must be paid.

2. The measure may consist of a lump sum, which shall not exceed the actual amount of the inherited liabilities.

3. The Governments of the Member States shall submit to the Commission the necessary basic data and details of their methods of calculation of the ratio between the actual overall inherited liabilities of undertakings and the proposed measure.

Article 6

1. The Commission may, after consultation with the Council, approve the aids provided for in Articles 7 to 12 below, provided that it is satisfied that the aids meet the requirements of Article 3.

2. The Commission shall give its opinion, in accordance with the procedures and rules of the Treaties, on all other aids and financial measures, in particular those referred to in Articles 4 and 5, as far as they are covered by the Treaties.

3. The Member States shall not grant the aids referred to in paragraph 1 above without the prior approval of the Commission.

4. Where the financial position of an undertaking requires the payment of advances on the financial measures proposed before the procedure for approving them has been completed, such advances shall be designated as such and shall only be paid on the express understanding that they may have to be repaid.

SECTION IV

Aid from Member States

Article 7

1. Approval may be given to aids from Member States which are intended to maintain or extend production capacities in mining areas where economic conditions are favourable.

2. Approval may be given to aids from Member States which are intended, within the framework of further rationalization or adaptation of undertakings to the conditions obtaining on the coal market, to improve the economic returns from, or the safety of, existing mines.

3. The aid referred to in paragraphs 1 and 2 may be granted for individual investment projects, for investment programmes or for the testing of equipment involving new techniques subject to the following conditions :

(1) the investment projects or programmes must help to improve the economic returns from, or safety in, the mines ; Governments must supply proof of this ;

(2) investment projects or programmes designed to improve economic returns must primarily contribute to :

(a) concentration of pits,

(b) increased mechanization and automation of coal winning or of underground operations,

(c) upgrading the coal produced ;

(3) investments intended for the testing of equipment involving new techniques must help to speed up and facilitate the practical application of new technology in the coal-mining industry.

4. Undertakings in the coal-mining industry shall be required to enter the investment aids received in a special account.

5. In the case of investment programmes, the Commission must be informed at least once a year, in respect of each individual project in the programme which it is decided to carry out, of the aim of the project and of the amounts of the investment expenditure assigned to it and the amount of the aids involved.

6. Where the aids applied for concern investments which have already benefited from measures taken under Articles 54 and 55 of the ECSC Treaty, the amount of such benefits must be shown separately for each project.

Article 8

Approval may be given to aids from Member States which are intended to help finance expenditure borne by undertakings in connection with such recruiting, training, adaptation and stabilization of the labour force as is absolutely necessary.

Article 9

1. Approval may be given to aids for the building-up and holding of exceptional stocks intended to make the supply of Community coal more flexible and more readily adaptable to periodic fluctuations in demand.

2. Exceptional stocks shall qualify for aid only if they are stocks of marketable coal and coke belonging to the producers or financed or built up directly or indirectly by them and if in aggregate they exceed one-twelfth of the annual production of the coalfield or undertaking concerned. Where security stocks are held by virtue of Article 10, they shall not be taken into account when fixing these exceptional stocks.

3. The aid may not exceed the cost of storing the quantities referred to in paragraph 2, inclusive of depreciation but exclusive of any decrease in value.

4. The aid is to be calculated one year in advance, on the basis of a fixed amount per metric ton, separately for coking coal, other kinds of coal and coke; the method of calculation thereof must be indicated.

Article 10

Approval may be given to aids for the building-up and holding of long-term security stocks of coal and coke belonging to the producers or financed or built up directly or indirectly by them and stored at the pit head or stored by the consumers. Such stocks must be intended to increase the security of coal supplies against interruptions in the supply of energy and must be built up on the initiative of the Government of the Member State concerned. The aid granted may cover storage costs properly so-called, depreciation and decrease in value. Additionally the undertaking concerned may receive reimbursement from public funds of the capital tied up in the security stocks, provided that an undertaking is given that the sum will be repaid to public funds if the stocks are disposed of.

Article 11

1. Approval may be given to special aids from Member States which are intended to stabilize in the long-term the sale of Community steam coal for power stations.

2. The aids referred to in paragraph 1 must be such as to fit into the general pattern of other aids and must not adversely affect the way in which this Decision is applied.

Article 12

1. In addition to the aids provided for in Articles 7 to 11, approval may be given to aids where it can be shown that:

(1) in unprofitable coalfields the adjustment of the level of production to the level called for by market conditions would give rise to major social and economic disturbances in a region where the possibilities of re-employment are still inadequate; or

(2) in profitable coalfields or in coalfields whose production is necessary for the supply of specific markets, the production capacity necessary in the long term to ensure the Community's energy supply cannot be maintained without such aid.

2. Aid under paragraph 1 (1) shall be granted only:

(1) if pit closures and redundancies are likely;

(2) to the extent that it does not exceed, for each individual coalfield or undertaking, the difference between the foreseeable average costs of coal production and the average returns achievable in the next calendar year (coal production year);

(3) if, for each coalfield or undertaking, it is expressed as a uniform figure per metric ton produced;

(4) if its amount is justified by the communication of details of the average production costs and receipts for the most recent period of time elapsed.

3. Aid under paragraph 1 (2) must be calculated in accordance with the requirements laid down in paragraph 2 (2) to (4) provided that the Commission may fix a maximum amount if it finds that the difference

between the foreseeable average costs of coal production and the average returns achievable in the next calendar year (coal production year) is due to changes in the situation of undertakings in the coal-mining industry which are in keeping neither with satisfactory economic conditions nor with the requirements of the long-term security of the energy supply.

4. The reductions in costs resulting from the grant of aids in accordance with Articles 4, 5 and 7 to 11 of this Decision must be allowed for in calculating the production costs or operating losses of pits.

Production costs may include normal depreciation and a normal rate of interest on the capital required for the operation.

5. In determining the level of aid payable, aids granted under Decision 73/287/ECSC on coking coal and coke must be taken into consideration and shown in the accounts.

6. In exceptional cases where the maintenance of a pit is indispensable due to the existence of the circumstances listed in paragraph 1, but is threatened by the financial imbalance of the undertaking, an aid may be granted which goes beyond that permitted under paragraphs 2 and 3, provided such aid is limited to covering a previously uncovered difference between the production cost of and the returns on the coal produced during a period not exceeding the two preceding years. In this case, documentary evidence covering the points referred to in the preceding paragraphs must be submitted for the period during which the losses were incurred. Information must also be supplied regarding the extent to which such losses have meanwhile been reduced as a result of other measures taken by Member States.

SECTION V

General and final provisions

Article 13

In deciding whether the financial measures proposed by Member States are compatible with the proper functioning of the common market, the Commission shall also give due consideration to any aids which may be granted under Decision 73/287/ECSC of 25 July 1973.

Article 14

1. In order to ensure that any aid it approves is used exclusively for the purposes set out in Articles 7 to 12 of this Decision, the Commission may :

(1) make its approval subject to any appropriate conditions ;

(2) limit the use which undertakings in receipt of aid may make of their right to align their quotations in accordance with Article 60 of the ECSC Treaty and require them to maintain minimum prices. Any infringements shall be dealt with under Article 64 of the ECSC Treaty.

2. The Commission may carry out any appropriate checks on undertakings.

3. The Commission shall revoke its approval of aids or shall amend the terms of approval if it finds that the aids no longer fulfil the conditions imposed by Articles 7 to 12 of this Decision, or that the actual consequences of such aids or the use to which they are put are contrary to the conditions required for approving the grant thereof. The Member State concerned shall comply with the Decision to revoke approval or to modify its terms within the time limits laid down by the Commission.

Article 15

If, at the request of a Member State or on its own initiative, the Commission finds that :

(1) the application of this Decision threatens to cause a major disturbance in the common market for coal, or difficulties which could bring about a deterioration in general energy supplies or in the economic situation of a region, or

(2) appreciable changes occur in the conditions or the scale of intra-Community trade on the coal market, thereby changing the economic circumstances which formed the basis for taking this Decision,

the Commission may wholly or in part suspend the application of this Decision after consulting those concerned. The Commission shall immediately inform the Council.

Independently of the provisions contained in the preceding subparagraphs, the Commission shall submit a report to the Council in 1980 on the experiences and the problems encountered in applying this Decision.

Article 16

The Commission shall report at regular intervals to the Council on the application of this Decision.

Article 17

The Commission shall take, after consultation with the Council, all requisite measures for the application of this Decision.

Article 18

1. This Decision shall enter into force on 1 January 1976. It shall cease to have effect on 31 December 1985.

2. Five years after its entry into force, this Decision may in accordance with the procedure laid down in the first paragraph of Article 95 of the ECSC Treaty, be revoked or amended on the initiative of a Member State or the Commission, should any new developments render this necessary.

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

Done at Brussels, 25 February 1976.

For the Commission

Christopher SOAMES

Vice-President