Basic information

2010/0220(NLE) NLE - Non-legislative enactments Regulation	Procedure completed
State aid to facilitate the closure of uncompetitive coal mines **Subject** 2.60.03 State aids and interventions 3.60.01 Solid fuels, coal mining, mining industry	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	RAPKAY Bernhard (S&D)	06/09/2010

Committee for opinion	Rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	REUL Herbert (PPE)	09/11/2010
REGI Regional Development	BŘEZINA Jan (PPE)	27/09/2010

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
JURI Legal Affairs	LICHTENBERGER Eva (Verts/ALE)	30/09/2010

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	3057	2010-12-10
Environment	3036	2010-10-14

European Commission

Commission DG	Commissioner
Competition	ALMUNIA Joaquín

Key events

Date	Event	Reference	Summary

06/07/2010	Legislative proposal published	COM(2010)0372	Summary
07/10/2010	Committee referral announced in Parliament		
14/10/2010	Debate in Council		Summary
09/11/2010	Vote in committee		Summary
12/11/2010	Committee report tabled for plenary, 1st reading/single reading	A7-0324/2010	
23/11/2010	Decision by Parliament	T7-0424/2010	Summary
23/11/2010	Results of vote in Parliament		
23/11/2010	Debate in Parliament		
10/12/2010	Act adopted by Council after consultation of Parliament		
10/12/2010	End of procedure in Parliament		
21/12/2010	Final act published in Official Journal		

Technical information

Procedure reference	2010/0220(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consultation of Parliament
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 107-p3-ae Treaty on the Functioning of the European Union TFEU 109
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/03615

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE448.908	20/09/2010	
Amendments tabled in committee		PE450.639	12/10/2010	
Specific opinion	JURI	PE450.740	19/10/2010	
Committee opinion	REGI	PE448.995	04/11/2010	
Committee opinion	ITRE	PE450.934	09/11/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0324/2010	12/11/2010	
Text adopted by Parliament, 1st reading/single reading		T7-0424/2010	23/11/2010	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0372	06/07/2010	Summary
Document attached to the procedure	SEC(2010)0850	06/07/2010	
Document attached to the procedure	SEC(2010)0851	06/07/2010	
Commission response to text adopted in plenary	SP(2011)610	26/01/2011	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2010)0372	03/12/2010	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Decision 2010/0787
OJ L 336 21.12.2010, p. 0024 Summary

State aid to facilitate the closure of uncompetitive coal mines

2010/0220(NLE) - 10/12/2010 - Final act

PURPOSE: to facilitate the transition from the specific state aid regime currently applying to the coal sector to the general state aid rules applicable to all sectors in the EU.

NON-LEGISLATIVE ACT: Council Decision 2010/787/EC on State aid to facilitate the closure of uncompetitive coal mines.

CONTENT: the existing rules, in force since 2002 (Regulation No 1407/2002), will expire on 31 December 2010. The non-renewal of the special state aid regime would force some Member States to close uncompetitive hard coal mines immediately, a situation that would entail serious social, technical and regional consequences. This Decision marks the transition, for the coal sector, from the application of sector-specific rules to the application of general State aid rules which are applicable to all sectors.

In the context of closure of uncompetitive mines, aid to the coal industry may be considered compatible with the proper functioning of the internal market if it complies with the provisions of this Decision.

Closure aid: aid to an undertaking intended specifically to cover the current production losses of coal production units may be considered compatible with the internal market only if it satisfies the following conditions: (a) the operation of the coal production units concerned must form part of a **closure plan the deadline of which does not extend beyond 31 December 2018**; (b) the coal production units concerned must be closed definitively in accordance with the closure plan; (c) the coal production units concerned must have been in activity on 31 December 2009.

In order to minimise the distortion of competition in the internal market resulting from State aid to facilitate the closure of uncompetitive coal mines, **such aid should be degressive** and strictly limited to coal production units that are irrevocably planned for closure. The overall amount of closure aid

granted by a Member State must follow a downward trend: by the end of 2013 the reduction must not be less than 25 %, by the end of 2015 not less than 40 %, by the end of 2016 not less than 60 % and by the end of 2017 not less than 75 % of the aid granted in 2011.

In order to mitigate the **environmental impact** of the production of coal by coal production units to which closure aid is granted, the Member States must establish a plan to take measures aimed at mitigating the environmental impact of the production of coal by production units to which aid is granted pursuant to this Article, for example in the field of energy efficiency, renewable energy or carbon capture and storage.

Aid to cover exceptional costs: the Decision includes the possibility of allowing subsidies, until December 2027, in order to cover exceptional expenditure in connection with the closure of mines that are not related to production, such as social welfare benefits and rehabilitation of sites. In order to avoid such aid from unduly benefiting undertakings that close only some of their production sites, the undertakings concerned should keep **separate accounts** for each of their coal production units.

ENTYR INTO FORCE: 22/12/2010.

DATE OF APPLICATION: 01/01/2011.

DATE OF EXPIRATION: 31/12/2027.

State aid to facilitate the closure of uncompetitive coal mines

2010/0220(NLE) - 14/10/2010

The Commission briefed the Council on its proposal aiming to phase out subsidies in order to facilitate the closure of uncompetitive coal mines. It stressed, nevertheless, that EU objectives concerning climate change must be taken into account and that investments should be redirected to renewable energies. Such state aid would be allowed only in the context of closure plans to completed by 1 October 2014.

State aid to facilitate the closure of uncompetitive coal mines

2010/0220(NLE) - 23/11/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 465 votes to 159, with 39 abstentions, a legislative resolution amending the proposal for a Council regulation on State aid to facilitate the closure of uncompetitive coal mines.

The main amendments suggested are as follows:

Legal basis: Parliament considers that the proposal should be based on Article 107(3)(e) and Article 109 of the Treaty on the Functioning of the European Union.

Principles: Members specify that aid to the coal industry may be considered compatible with the proper functioning of the internal market covering only costs in connection with coal for the production of electricity, the combined production of heat and electricity, the production of coke and the fuelling of blast furnaces in the steel industry, where such use takes place in the EU.

Closure aid: the proposal provides for State aid aiming at facilitating the closure of uncompetitive coal mines. Certain conditions should be respected to ensure that it is compatible with the internal market:

- the operation of the production units concerned must form part of a closure plan the deadline of which does not extend beyond 31 December 2018 (as opposed to 1 October 2014);
- the production units concerned must be closed definitively in accordance with the closure plan unless they have become competitive by the date set out in that plan and the Union's energy needs require their continued existence ;
- the overall amount of closure aid granted by a Member State must follow a downward trend;
- the overall amount of closure aid granted by a Member State for any particular undertaking must follow a downward trend, where the annual reduction must not be less than 10 % of the aid provided in the first year of the closure plan.

Parliament deleted, among other conditions to be respected, the one which obliged Member States to provide a plan to take measures aimed at mitigating the environmental impact of the use of coal, for example in the field of energy efficiency, renewable energy or carbon capture and storage.

If the production units to which aid is granted are not closed at the date fixed in the closure plan as authorised by the Commission or have not become competitive by that date, the Member State concerned shall recover all aid granted in respect of the whole period covered by the closure plan.

Structural Funds: in light of the extremely serious socio-economic impact of pit closures, particularly in thinly populated regions, Members believe that consideration should be given to targeted support from the EU structural funds in future budgets, even if the regions affected are situated in Member States with less severe economic problems. Retraining workers affected by the pit closure plans should be provided for immediately and all the possibilities of regional, national and Union financing should be explored for that purpose. Members believe that the financing of environmental protection measures and costs relating to long-term pit closures will need to continue beyond 2014.

Use of renewable and lower carbon fossil fuels: as regards the Union's policies to aid the use of renewable and lower carbon fossil fuels for power generation, Member States should provide a plan of measures aimed at mitigating the environmental impact of the use of coal, for example in the field of energy efficiency, renewable energy or carbon capture and storage. This applies to all types of coal and all types of resources. It should be recognised that the replacement of subsidised coal by unsubsidised coal has no beneficial impact on the environment.

State aid to facilitate the closure of uncompetitive coal mines

2010/0220(NLE) - 06/07/2010 - Legislative proposal

PURPOSE: to establish the principles of State aid to facilitate the closure of uncompetitive coal mines

PROPOSED ACT: Council Regulation.

BACKGROUND: aid to the EU hard coal industry is regulated by a sector-specific legal instrument: Council Regulation (EC) No 1407/2002 on State aid to the coal industry (the "Coal Regulation"). This expires on 31 December 2010. In the absence of a new legal framework allowing for certain specific types of State aid to the coal industry, Member States could grant aid only within the limits of general State aid rules applicable to all sectors. Compared to the Coal Regulation, the general State aid rules significantly reduce the possibilities for State aid to the coal industry, especially but not only with regard to production aid. However, some Member States are facing very high production costs compared to current and projected world market prices and therefore have an economically uncompetitive production of hard coal today and most likely in the future. Subsidised coal has only a marginal impact on the security of energy supply on the EU level (although at the level of individual Member states the situation varies) The small contribution of subsidised hard coal to the overall EU energy mix strongly limits the capacity of such subsidies to compensate for supply disruptions, be it in coal or in other energy sources. Subsidised coal serves for only 5.1% of the electricity production in the EU. When taking into account only the aid to cover production losses, this figure is reduced to 1.4% (even if it may be higher for individual Member States).

But as the expiry of the Coal Regulation will force some Member States to close their hard coal mines, they will have to cope with the social and regional consequences. Given the regional concentration of coal mines (e.g. Ruhrgebiet in Germany, the north-west of Spain, the Jiu Valley in Romania), the social impact of the simultaneous closure of the mines could be significant. When taking into account jobs in related industries, up to 100000 jobs may be at stake. The immediate closure of the mines that could take place after a sudden end of subsidies would overburden the regional labour markets with a flood of redundant mine workers, which cannot rapidly enough be re-employed in other industries and therefore risk becoming long-term unemployed.

With regard to the environment, it must also be considered that the closure of a mine necessitates a series of measures to rehabilitate the mining site, such as the removal of mining equipment from the mine, cleaning-up the site, underground safety work, and removal of waste water. In case the undertaking continues mining or non-mining economic activities, State financing could constitute State aid and the other activities of the undertaking may be at risk if the undertaking had to bear these costs alone.

IMPACT ASSESSMENT: the Commission has assessed various policy options that address the possible adverse effects of mine closures that may follow a phasing-out of subsidies, especially with regard to their social and environmental aspects.

- **Option 1: the baseline scenario** - the Commission would not propose a new sector-specific legal instrument applicable after the expiry of the Coal Regulation. Only general State aid rules would apply to the hard coal sector from 2011.
- **Option 2: Commission Guidelines** - the Commission would adopt guidelines based on Article 107(3)(c) of the TFEU which would be similar to those adopted in the shipbuilding and steel sectors and would allow Member States to grant aid limited to cover payments by coal mine undertakings to workers made redundant or accepting early retirement due to mine closures, the costs of counselling such workers and the costs of vocational retraining. It may also cover costs to finish ongoing contracts (for a maximum of 6 months) or the costs related to cancelling such contracts, whichever is lower, as well as expenditure incurred for the immediate cleaning and rehabilitation of the production sites. It could not cover the sometimes significant amounts involved in the rehabilitation of the underground as their scope and duration (sometimes even eternal) would exceed what can be authorised under Article 107(3)(c) TFEU.
- **Option 3: Council Regulation allowing time-limited operating aid (closure aid)** – the Commission would propose a Council Regulation on the basis of Article 107(3)(e) TFEU. The Regulation would allow Member States to grant clearly degressive operating aid aimed at covering current production losses as long as it accompanies an orderly winding-down of activities in the context of a well-defined mine closure plan (concerning only mines already existing today). This would be a gradual phasing-out of operating aid over a maximum period of 10 years.
- **Option 4: Council Regulation allowing aid to cover exceptional costs (inherited social and environmental liabilities)** - the Commission would propose a Council Regulation on the basis of Article 107(3)(e) TFEU. This Regulation would allow Member States to grant aid for the social and environmental costs linked to the closure of coal mines, such as social welfare benefits and costs related to the rehabilitation of the former coal mining sites.
- **Option 5: the combination of options 3 and 4** - the Commission would propose a Council Regulation on the basis of Article 107(3)(e) TFEU that allows Member States to grant both, closure aid (as in option 3) and aid to cover exceptional costs (as in option 4).
- **Option 6: prolongation by 10 years of the current Coal Regulation**.

From an economic point of view, option 2 seems to be preferable to the baseline scenario in terms of mitigating the direct economic impact on the most concerned regions and industries. At the same time, it is preferable to options 3 to 5 in terms of minimizing the impact on competition.

From the social point of view, option 5 gives the most favourable result when compared to the baseline scenario. The combination of a gradual closure of mines, allowing maximizing (early) retirement possibilities, with complementary support in terms of counselling and retraining effectively reduces the negative social impact of the mine closures in the regions concerned. Although it does not promote the creation of permanent jobs, it directly addresses the problem that the social impact of mine closures is geographically concentrated in a few regions.

From an environmental point of view, there is a lot of uncertainty. Although the immediate environment of the mines would certainly benefit from an immediate or almost immediate stop of production (options 1, 2 and 4), the picture is uncertain with regard to global greenhouse gas emissions when the emissions from the burning of coal by electricity producers are taken into account. 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.

Lastly, with regard to the local impact, we need to consider that option 5 ensures the financing of the rehabilitation of the mining sites and the gradual closure of mines allows to better taking account of preparations that need to be done well in advance of the closure.

The impact assessment concludes that there is no clear-cut objective preference for one particular policy option. Options 2 and 5 stand out as the most adequate options to attain the policy objective of cushioning the impact of the mine closures, but taking account of the different legal constraints imposed by Article 107(3) (c) and Article 107 (3) (e), namely that no operating aid can be granted under the former.

As for a simple prolongation of the current Coal Regulation (option 6), past experience with that Regulation has shown that its degressivity and the conditions attached are too weak to ensure an effective restructuring of the coal industry. On the contrary, Member States could deviate from the policy objective by simply continuing to provide production aid to uncompetitive mines without a clear commitment for closure. It follows that the same mining undertakings could still be uncompetitive at the new expiry date of the Regulation in 10 years. The underlying problem of non-competitiveness would not be solved, but just delayed.

Based on the results of the impact assessment, the Commission has decided to propose a new Council Regulation based on option 5. Indeed, mine closures will have a strong social impact concentrated on a few regions in the EU which requires an adequate transitional period. During this transitional period, operating aid will be necessary to ensure an appropriate and progressive phasing out. For legal reasons, this objective can only be achieved with a Council regulation based on Article 107(3)(e). In the context of the aftermath of the economic and financial crisis and taking into account the Commission's declared stronger focus on the social dimension of European policy making, an additional instrument for Member States to soften the social and regional impact of mine closures will contribute to enhance the social cohesion of Europe's regions.

LEGAL BASE: Article 107(3)(e) in order to define the categories of State aid in the hard coal sector that the Commission may declare compatible with the internal market. Article 107(3)(e) provides that other categories of aid compatible with the internal market may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

CONTENT: the proposal aims to offer Member States a legal framework that allows them to address more effectively the possible adverse effects of mine closures that may follow a phasing-out of subsidies, especially with regard to their social and environmental aspects, while minimising distortions of competition on the internal market. The Commission proposes a sector-specific State aid regime that is to be considered as a transitory regime towards the full application of general State aid rules in the (hard) coal sector.

In addition to the possibilities offered by the general State aid rules, the proposal offers the option of declaring two types of aid to the hard coal industry as compatible with the internal market: closure aid and aid to cover exceptional costs.

Closure aid: this is operating aid designed to cover the current production losses of production units that are planned for closure. It allows a gradual closure process of uncompetitive coal mines. This type of aid may only be granted to coal mines in the context of a definitive closure plan. Therefore, aid is degressive and must be recovered in case the concerned mine is not closed. Such aid can only be granted to production units that were already active before the Commission made its proposal. Early discussions with Member States have shown that unexpected events may necessitate a temporary stabilisation or increase of subsidies between successive years in order to allow a coal mine to pursue its activity until the planned closure date. Therefore, the Commission decided to deviate slightly from one of the modalities described in option 5 of the impact assessment report: while maintaining the overall obligation of significant degressivity, it proposes a rate of degressivity defined between successive periods of fifteen months (rather than yearly). It proposes a rate of degressivity of minimum 33% between successive periods of fifteen months and a maximum duration of the closure plan of 4 years. The proposal also contains safeguards to avoid overcompensation and to limit possible distortions of competition in the energy markets.

Aid to cover exceptional costs: such aid aims to cover costs which are not related to current production and which arise in the context of mine closures, such as so-called social and environmental inherited liabilities. The annex of the proposed Regulation includes an exhaustive list of cost categories that can be covered.

Procedures: the proposal contains procedural provisions which are very similar to those of Council Regulation (EC) No 1407/2002 and which clarify how such aid is to be notified to the Commission in order to allow the Commission a thorough assessment before considering authorisation.

FINANCIAL IMPLICATIONS: the proposal has no implications for the Union’s budget.