
In reply to the invitation to social consultations concerning consequences of expiration on 31.12.2010 of the Regulation (EC) 1407/2002 on state aid for the coal industry we hereby express the following opinion:

1. Our opinion about expiration on 31.12.2010 of the Regulation (EC) 1407/2002 concerning state aid for the coal industry is negative. Based on the proved reserves, energy resources in the European Union, such as oil and natural gas, are estimated to last for about 25 years, while coal for about 100 years. Therefore, Europe cannot turn away from coal, which thanks to its increasingly cleaner combustion technologies will become in the upcoming years one of the principal sources of electricity and heat generation.

In addition, taking into consideration the structure of commercial power industry, based on among other things, coal combustion technologies, energy security of Poland and the European Union requires maintenance of proper production level of this resource. Already in 2001, the European Parliament adopted a resolution concerning the European strategy on security of energy supply, which recognised importance of coal as an indigenous energy resource. At the same time, it was adopted that in respect of that industry, financial assistance for the hard coal mining should be considered and the restructuring process continued in parallel. The foregoing is becoming ever more relevant due to the fact that Poland and other EU Member States are increasingly more dependent on external supply of primary energy sources.

The European Commission, in its Strategic Energy Review published in November 2008, confirmed importance of indigenous energy resources in guaranteeing energy supply.

In our opinion, general rules of providing assistance would not be sufficient for further development of this industry when one takes into consideration the size of the planned investments aiming at development of coal companies and their adjustment to changing situation on the Polish and European markets. Text of item 13 of the preamble to the Regulation (EC) 1407/2002 remains valid and states that due to the risks concerning geological uncertainty, aid for covering initial costs of investments will help production entities that are profitable, or near economic profitability level, initiate technical investments required to remain competitive.

It is therefore necessary to support operating activities and strategic investments by providing state aid for initial investments by continuing rules of providing sectoral public assistance introduced in the Regulation (EC) 1407/2002.

Currently, hard coal is the main primary energy source in Poland, while brown coal, natural gas, and renewable energy sources supplement the requirements in respect of primary energy. Furthermore, hard coal is one of the cheapest primary energy sources, and the envisaged implementation of greenhouse gas emission charges makes it even more competitive against e.g. brown coal. Therefore, it seems impossible to compare significance of state aid for the brown coal industry, as its share in assurance of proper level of energy supply is smaller.
2. In the opinion of our company, further assistance for the coal industry will significantly improve its efficiency, and consequently save jobs in the industry and associated sectors. It is particularly important in areas where one of the main employers is the mining industry. State aid for this sector provides opportunity for smoother transition from the current business to an economic activity in other areas. Mining companies should be allowed to benefit from public assistance in order to alleviate social and regional ramifications of their closing down, and in the case of unprofitable mines, such help should be continued in the event it is lesser or equal to revenues lost due to liquidation of such entities. Text of item 7 of the preamble to the Regulation (EC) 1407/2002 remains valid and states that enhancing EU energy security justifies maintenance of the coal production capacities, including with state aid, in the view that in the future majority of coal production will become uncompetitive against imported coal.

3. Under the current EU legislature, the legal basis for granting state aid for initial investments is formed by the Council Regulation No. 1407/2002. Funds for this purpose, as well as for other purposes provided for in the Regulation, are to be provided from the Member State’s budget. Regardless of the current, unexciting condition of Polish public finance, which is the reason for lack of financing of this purpose in the previous years, continuance of the Council Regulation No. 1407/2002 should be strongly encouraged. The obvious benefit of the continued state aid for the coal industry will appear in the form of maintenance of optimal production capabilities, which stands for ability of their adjustment to the actual market demand of Poland and the European Union.

Operations of mining companies are highly capital-intensive and require long-term periods to achieve return on investment. The characteristics of underground mining make the effects of the investments achievable in periods often exceeding one year. The insufficient production output of mining companies in Poland, registered last year, resulted from, among other things, problems with procurement of funds. Underinvestment of the mining was directly reflected in insufficient work on making available and preparing new exploitation fields, which consequently resulted in Polish companies being unable to meet the growing demand for coal. The aforementioned situation forced some of the current coal customers to secure their needs with foreign contracts for coal from outside the European Union.

The current financial crisis forced banks to tighten up loan criteria and dramatically increase security requirements due to the higher risk of conducting business activities. This situation significantly restricted access of the coal industry to external sources of financing their investment activities. State aid for the coal industry in respect of initial investments is necessary in order to support projects of preparation and implementation of work on making available new coal deposits, purchasing modern technologies (machines and equipment) and enhancing quality of coal processing which permit to maintain optimum production volume in the upcoming years, and at the same time guaranteeing access to coal reserves.
It is of utmost importance that state aid for the coal industry, materially enhancing energy security of the European Union, remains valid after 2010 and includes modern coal processing technologies and maintenance of coal plants scheduled for temporary shut down so that they can restore production immediately in the event that the coal market situation changes or an energy crisis breaks out.

4. Operating assistance in the form of defraying costs of current activities is an important element in further improvement of profitability of mines and the entire industry by adjusting production capacities to the actual market requirements. When analysing public aid in the operating area, one should keep in mind that the coal industry is still a significant source of revenues for the state budget. Moreover, the hard coal mining directly and indirectly affects the economic and financial standing of other sectors, such as transport, energy, and machinery. Taking into consideration effectiveness of the state aid system for the hard coal mining, the operating assistance must be concurrently connected with aid for initial investments – the investments in improvement of effectiveness of a mining company.

5. The European Union strategy provides for implementation of undertakings in development of new technologies of extraction and processing of hard coal that ensure fulfilment of growing customer requirements in respect of mining technologies (gasification or liquefaction of coal) and clean coal combustion technology. Mining companies launch innovation activities in the aforementioned areas. Further restriction of mine operations, including their closing down due to withdrawal of certain types of state aid would result in e.g. development of clean coal technologies being limited or stopped and the money spent on this purpose so far would be lost.

6. In our opinion, state aid for the mining industry should continue after 2010 because the Polish hard coal mining, due to the size of the resource base and the current raw materials and energy policy, plays and will continue to play in the future the role of a guarantor of security and energy independence of Poland and the European Union. Securing access for the Member States to coal resources and energy security of the entire EU should be considered crucial. Lack of state aid for the coal industry may contribute to further restriction of access to hard coal and growth of dependence of the European Community members, which have significant reserves of primary energy resources, on external suppliers of such resources. In the future, this may lead to a significant increase of prices of the primary energy sources used, slowing development of the Member States, e.g. as a result of a negative policy and termination of supplies from out-of-the EU countries, and very significant (both in terms of money and time) industrial investments related to the change of the primary energy source.

7. Activities of the hard coal mining lead to interference with the natural environment and fundamental changes thereof. Problems related to alleviation of negative impact of the mining production on the natural environment remain valid. However, mining
companies do launch ecological initiatives, effects of which are often noticeable in the long term only.

Effects of mining activities should be analysed in respect of securing access to coal reserves and providing energy security for the European Union.

Nevertheless, specific terms of providing government aid in respect of the environmental protection may significantly contribute to competitiveness of coal companies on coal markets.

8. Currently, the mining industry benefits from state aid chiefly in the form of partial refund of costs of coal allowances, adjustment disability allowances for former employees of liquidated mines which belonged to the Company, and repair of damage caused by mine operations. Lack of such assistance may adversely affect profitability of coal companies and their competitiveness on coal markets. Without public aid, mines having financial difficulties will not be able to cover high costs of investments in development, environmental protection, and repair of mining damage.

9. The future of the hard coal mining in Poland and the European Union depends primarily on the economic situation in the sector. As a result of restructuring of the mining and the state aid provided for this purpose the following effects have been obtained: limitation of production capacities (reduction of production output) and reduction of workforce, which have contributed to improvement of financial results of mining companies.

In spite of numerous positive effects, the current state aid has not led to the complete adjustment of the mining to market conditions so as to help mines achieve permanent profitability with simultaneous reduction of its liabilities.

State aid for the coal industry, in the form of support of initial investments, allows for continuation of investments in production operations, which will help save jobs and develop production potential of other companies in Poland and the European Community member states. Aid for initial investments, especially in modern technologies, including the so-called clean coal, making available new coal deposits and coal processing would help improve competitiveness of the coal on the single European market. These activities must take place with significant government aid, which should not be completely prohibited after 2010.

10. The experiences so far in minimising negative (social and ecological) effects of closing down mines clearly indicate that the process should be carried out gradually, with additional means from the state budget.

Lack of investments in development, and termination of economic activities of mines is a process, which, from the time perspective is highly capital-intensive, and even following its completion, requires financial means for many years after for rehabilitation of mine damage, environmental protection, and employee benefits.

State aid for the coal industry must be provided after 2010, especially in the context of energy security, which is a priority of the European Union energy policy.

Katowicki Holding Węglowy S.A. (Coal Holding Katowice, Poland)