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PUBLIC VERSION

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Subject: State aid SA.33013 (2011/N) – Poland
Coal plan for the period 2011-2015 (Pomoc państwa dla sektora górnictwa węgla kamiennego w latach 2011 – 2015)

Sir,

1. PROCEDURE

1. By electronic notification of 16 May 2011, registered by the Commission on the same day (SANI 5851), the Polish authorities, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union ("TFEU"), notified the State aid scheme for the hard coal mining sector in the period 2011-2015.
2. By letters of 14 July and 21 September 2011, the Commission requested additional information. By letters of 17 August and 11 October 2011, registered the same day, the Polish authorities sent to the Commission additional information.

2. DESCRIPTION

2.1. Objective

3. The State aid programme "*State aid for the Polish coal sector for the period 2011-2015*" ("the aid programme") is a continuation of aid programme *N 575/2007 – State*

Jego Ekscelencja
Pan Radosław SIKORSKI
Minister Spraw Zagranicznych
Al. J. Ch. Szucha 23
00-580 Warszawa
POLSKA

aid for the Polish coal sector for the period 2008-2010, approved by the Commission by decision of 2 April 2008¹. That programme was in force until the end of 2010.

2.2. Legal basis

4. The legal basis of programme N 575/2007 was the *Act of 7 September 2007 on the functioning of hard-coal mining in 2008-2015* (Dz. U., No 192, item 1379), together with the implementing acts. The aid programme: “*State aid for the Polish coal sector for the period 2011-2015*” broadens the legal basis of the *Act of 27 April 2001 – Environmental Law* (Dz. U. 2008, No 25, item 150, with subsequent amendments), on the basis of which the National Fund for Environmental Protection and Water Management (NFOŚiGW) shall issue grants for re-cultivation of post-mining land, including the collection and treatment of mine water and saline water.
5. The aid programme also provides for extending the duration of the programme to 2015 and, taking into account that the budget allocated for the period 2008-2010 was fully utilised, a new programme budget will be created.

2.3. Scope of the scheme

6. In accordance with Articles 8, 13 and 14 of the *Act on the functioning of hard-coal mining in 2008-2015*, aid may be granted solely to cover the costs of the sector’s past restructuring and relates to mines closed before 1 January 2007. Aid for the hard-coal mining is granted solely with respect to mines closed before 1 January 2007.
7. Moreover, in accordance with Art. 8 par. 3 of the *Act of 7 September 2007 on the restructuring of coal mining in the period 2008-2015* (Dz. U., N 192, item 1379) and item 8 of the “*Strategy for hard coal mining in Poland in 2007-2015*” closures of mines put into liquidation after 31 December 2006 will no longer be financed from public funds. The decisions to close mines will be made independently by the management boards of coal companies, taking into account, *inter alia*, the fact that their closure will be financed solely from the companies’ own funds accumulated, *inter alia*, in the mining works’ liquidation fund.

2.4. Beneficiaries

8. The beneficiaries of the aid programme are planned to be Kompania Węglowa S.A. and Katowicka Grupa Kapitałowa, in relation to the paying out of coal allowances, compensatory pensions and the repair of mining damage (see the types of aid given broken down by closed mines along with the aid amounts in Annex I).
9. Kompania Węglowa S.A. and Katowicka Grupa Kapitałowa carry out post-closure activities. They are also production entities that carry out, alongside their basic activities, i.e. coal extraction, the following activities: production of aggregates, production of power, mining works and methane extraction from mines.
10. Furthermore, the aid programme also includes benefits to Spółka Restrukturyzacji Kopalń S.A. (hereinafter SRK) and also to the employees of mines closed in the past (see the types of aid given broken down by closed mines along with the aid amounts in Annex II).

¹ ECOJ C137, 4.6.2008, p.2

11. SRK was set up on 21 August 2000 and, as a result of the merger of the following companies: Kopalnia Węgla Kamiennego "Jan-Kanry" S.A., Kopalnia Węgla Kamiennego "Porąbka-Klimontów" S.A., Kopalnia Węgla Kamiennego "Satrun" S.A., Kopalnia Węgla Kamiennego "Sosnowiec" S.A., it became the legal successor of the aforementioned companies. Subsequently, SRK was purchasing further mines which were put into liquidation before 1 January 2007. Together with acquiring the assets of the closed mines, including financial assets, SRK also assumed their liabilities.² Annex 2 contains the list of mines, with their current names, to which costs financed in the framework of the notified by Polish authorities support scheme are related.
12. In accordance with SRK's statutes, its activities cover tasks relating to:
- physical closure of underground workings and shafts;
 - closure or development of the surface infrastructure of closed coal mines (equipment and buildings of coal processing facilities, social and administrative buildings);
 - securing operating mines against gas and fire hazards and against the threat of water, by pumping the water flowing into closed mines, during and following closure;
 - removal of damage caused by the mining activities of the closed mines;
 - remediation of post-mining land;
 - selling administrative and social buildings to investors or handing them over to local authorities;
 - sale of real estate;
 - management of residential property formerly belonging to the closed mines.

SRK's statutes also provide for the creation of new jobs for the workers of the closed mines. In practice, however, that activity has not been undertaken by SRK for several years.

2.5. Granting authority, form of the aid, eligible costs, and amount of aid

13. The aid provided for under the notified scheme is to be granted by the Minister for Economic Affairs (MEA), the Social Insurance Institution (hereinafter "ZUS"), the National Fund for Environmental Protection and Water Management (hereinafter "NFOŚiGW") and the State Fund for Rehabilitation of Disabled Persons (hereinafter "PFRON").
14. The aid is to take the form of a grant, the waiver of contributions to PFRON and of charges and penalties payable to NFOŚiGW.

2.5.1. Aid granted to Kompania Węglowa S.A and Katowicka Grupa Kapitałowa

15. The aid programme provides for the granting of public aid to Kompania Węglowa S.A and Katowicka Grupa Kapitałowa in the following forms:
- 15.1. **A grant awarded by the Minister for Economic Affairs (MEA)**, for repairing damage caused by operations at a closed mining works, including damage arising

² After Poland's accession to the EU, only Katowice-Kleofas and Bytom II were acquired by SRK. These mines were also the last mines to be acquired by SRK.

as a result of reactivation of old workings (Art. 8 par. 2 of the *Act on the functioning of hard-coal mining in 2008-2015*)³.

15.2. **A grant awarded by MEA** to finance the following rights of employees or former employees of mining enterprises:

- the right to free coal, for pensioners of mines that are entirely closed – the grant is paid out to the mining enterprises in which the mines whose closure commenced prior to 1 January 2007 are included (Art. 13 of the *Act on the functioning of hard-coal mining in 2008-2015*);
 - compensatory benefits awarded on the basis of a final court judgment or settlement, due to employees or former employees of mines whose closure commenced prior to 1 January 2007 (Art. 14 of the *Act on the functioning of hard-coal mining in 2008-2015*).
16. Grants for the benefit of a mining enterprise are to be paid out to a separate bank account, and the costs of the tasks implemented are to be recorded in separate accounting ledgers, thus ensuring that the beneficiary records the aid in the proper manner. The mining enterprise will be obliged to submit monthly reports on the implementation of the activities indicated in the application, and also on the utilisation of advances received; any advances not utilised will be subject to reimbursement.
17. The following costs are eligible: Compensatory benefits; Coal allowances or their equivalents (the supply of free coal to workers who have lost or who lose their jobs, and to workers being entitled to such payments before the closure of the mine); Costs of mining damage, on the assumption that it was caused by production entities covered by a closure plan.
18. Both the right to free coal as payment in kind, and the right to compensatory payments result under collective labour agreements in force in the production facilities that have been closed down. Compensatory payments, in accordance with Art. 444 of the *Act of 23 April 1964 – the Civil Code (Dz. U., No 16, item 93, as amended)*, apply in the case of bodily injury or health disorders, in particular if the injured party has become wholly or partially unfit for paid employment. Therefore, if an employee suffered an accident in a mine whose closure commenced prior to 1 January 2007, that person receives a compensatory payment, in addition to any pension paid out by ZUS. That benefit seeks to increase the pension received so as to make it equivalent to the remuneration the miner could have received in the job had the miner not suffered the accident. Compensatory benefits are paid out on the basis of court judgments or settlements concluded with mining enterprises.

³ According to Polish Law, mine workings where the extraction of coal has been discontinued become old workings, also referred to as abandoned workings or post-exploitation caverns. Damages caused by the operations carried out at mining works typically appear as a result of the deformation of the mining area. When the deforming of a mining area due to the activation of old workings, i.e. a sudden, unexpected movement, occurs in the area situated above the place where hard coal used to be extracted, it is referred to as reactivation of old workings.

19. The amounts of State aid granted by the Minister for Economic Affairs are:

	Mining damage	Compensatory benefit	Right to free coal	Total PLN '000
2011	10 241.0	7 950.0	12 877.8	31 068.8
2012	11 000.0	7 950.0	13 500.0	32 450.0
2013	12 500.0	7 900.0	13 500.0	33 900.0
2014	11 890.0	8 000.0	14 880.1	34 770.1
2015	10 590.0	8 100.0	14 966.3	33 656.3
TOTAL	56 221.0	39 900.0	69 724.2	165 845.2

2.5.2. *Aid granted to Spółka Restrukturyzacji Kopalń S.A. (SRK)*

20. The aid programme provides for the granting of public aid to SRK for the financing of closure and post-closure activities and the payment of benefits to former employees of those mines, as follows:

20.1. Grant awarded by the Minister of Economic Affairs (MEA), designated for:

- tasks relating to mine closure and also activities carried out following total closure of mines;
- tasks relating to securing neighbouring mines against water, gas and fire hazards, during and following the closure of mines;
- repairing damage caused by operations at closed mining works, including damage arising as a result of the reactivation of old workings;

20.2. Grant awarded by NFOŚiGW, designated for:

- the re-cultivation of land degraded by mining activity;
- the collection and treatment of mine water and saline water;

20.3. Grant awarded by the Minister of Economic Affairs (MEA) for the financing of coal allowances and payments of the financial equivalent to free coal to employees and former employees of completely closed mines whose closure commenced prior to 1 January 2007;

20.4. Grant awarded by the Minister of Economic Affairs (MEA) for the financing of compensatory pensions awarded on the basis of final court judgments or settlements, payable to employees and former employees of mines whose closure commenced prior to 1 January 2007;

20.5. Exemption from the obligation to make on-going payments to the PFRON, and also to make payment of charges and penalties due to NFOŚiGW relating to those funds, but excluding those charges and penalties constituting the revenues of local authorities.

21. The budget of the aids granted to SRK for the period 2011-2015 is as follows:

	PFRON	NFOŚiGW		MEA					Total	
	<i>Exemptions</i>	<i>Exemptions</i>	<i>Grant</i>	<i>Compensa- tory pensions</i>	<i>Right to free coal</i>	<i>Closure activities</i>	<i>Securing mines against water hazard</i>	<i>Mining damage</i>	<i>PLN '000</i>	<i>GGE (PLN '000)</i>
2011	793.8	2 600.0	15 412.0	15 500.0	26 425.0	26 749.2	200 000.0	12 100.0	299 580.0	299 580.0
2012	808.7	2 700.0	36 405.9	15 810.0	28 835.0	28 000.0	200 000.0	13 230.0	325 789.6	325 789.6
2013	853.3	2 800.0	24 598.2	17 000.1	31 094.0	31 481.1	199 650.1	14 065.8	321 542.5	321 542.5
2014	870.9	2 800.0	5 414.8	17 968.6	33 744.7	33 013.7	196 240.6	4 719.4	294 772.7	294 772.7
2015	887.6	2 800.0	3 868.7	18 587.9	36 634.6	33 434.2	199 980.1	2 307.9	298 501.0	298 501.0
TOTAL	4 214.3	13 700.0	85 699.6	84 866.5	156 733.3	152 678.2	995 870.8	46 423.1	1 540 185.8	1 540 185.8

22. The Polish authorities argue that some of the activities of SRK are not to be considered as economic activities (namely the activities of closing down of a coal mine and the management of the assets under liquidation). According to the Polish authorities, the activities carried out by SRK to create new working places for workers of closed-down mines and to sell superfluous property of mining enterprises are economic activities.

2.6. Duration and budget

23. The aid will be granted under a plan lasting until the end of 2015.
24. The total budget for 2011-2015 is PLN 2 453 194 900 (EUR 603 584 073) of which PLN 165 845 200 for Kompania Węglowa S.A and Katowicka Grupa Kapitałowa and PLN 1 540 185 800 for Spółka Restrukturyzacji Kopalń S.A and PLN 747 163 900 for the payment of the financial equivalent to free coal..
25. The annexed Tables (Annexes 1, 2 and 3) provided by the Polish authorities indicate the amounts of aid planned to be granted by type of costs per year and by production unit: Annex 1 for aid given through Kompania Węglowa S.A and Katowicka Grupa Kapitałowa, Annex 2 for aid given through Spółka Restrukturyzacji Kopalń S.A. (SRK) and Annex 3 for the payments of the financial equivalent to free coal.

2.7. Procedure for the granting of aid

26. According to the notification, in relation to aid awarded in the form of grants for the repair of mining damage, mining undertakings applying for aid must submit their annual plan of operations, broken down by individual months. After that plan has been accepted, the granting authority concludes a contract with the mining undertaking on the funding of the operations provided for in the plan. The beneficiary is awarded advances in each month covered by the plan (with the proviso that obtaining a subsequent advance is dependent on accounting for the grant instalment received in the previous

month). The mining undertaking is required to report on the implementation of the plan and on the use made of the advances. Unused advances must be repaid.

27. The award of aid in the form of a grant to cover the costs resulting from both free coal and compensatory benefits is to be carried out on the basis of funding requirements submitted by mining companies. Advances are paid on the basis of those requirements when they have been approved by the granting authority. Beneficiaries are required to submit monthly and annual reports on the use of the aid which they have been granted.

2.8. Cumulation

28. The aid to be granted under the notified scheme cannot be cumulated with other operating aid for the same eligible costs.

3. ASSESSMENT

3.1. State aid within the meaning of Article 107(1) TFEU

29. State aid is defined in Article 107(1) TFEU as any aid granted by a Member State or through State resources in any form whatsoever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods in so far as it affects trade between Member States.
30. The first condition of Article 107(1) TFEU relates to the possibility of the measure favouring specific beneficiaries. It needs to be determined whether the beneficiary companies derive an economic benefit and whether that benefit favours certain undertakings or production of certain goods.
31. The notified scheme clearly provides economic benefits for the coal mining companies Kompania Węglowa S.A. and Katowicka Grupa Kapitałowa in that they receive a direct grant to finance the rehabilitation of mining damage, compensatory benefits and free coal allowances, which they would normally have to pay for themselves.
32. The Polish authorities accept that the activities carried out by SRK to create new working places for workers of closed-down mines and to sell superfluous property of mining enterprises are economic activities. However, the Polish authorities allege that some of the activities of SRK are not to be considered as economic activities (namely the activities of closing down of a coal mine and the management of the assets under liquidation). Nevertheless, the costs incurred by a company when closing down a mine are the result of liabilities deriving from the mining activity, which is economic by nature, even if, as in the present case, they are transferred to successor companies such as SRK. The Commission considers therefore that the liquidation company SRK also engages in economic activities, both in its job-creation activities and its real estate sale activities, and in its mine-closure activities and its management of assets under liquidation. SRK is therefore an undertaking which is one of the beneficiaries of the support, since it also obtains economic benefits from the notified scheme.
33. Moreover, the aid programme is planned to be adopted for the sole benefit of the Polish coal mining companies identified above in recitals 31 and 32. Such measures are therefore selective.

34. The second condition of Article 107(1) TFEU relates to the presence of State resources. In this particular case, the existence of a State resource is demonstrated by the fact that the measure is effectively financed from the public budget by the Minister for Economic Affairs, ZUS, NFOŚiGW and PFRON.
35. In order to fulfil the third and fourth conditions of Article 107(1) TFEU, the aid must distort or threaten to distort competition or affect or be liable to affect trade between Member States. In the case in hand, coal is traded between Member States. In particular, 95% of the coal exported from Poland is exported to other Member States (10.187.661 tonnes out of a total of 10.623.213 tonnes exported in 2010). The measure thus threatens to distort competition as it reinforces the financial position of the beneficiaries in the framework of the restructuring process of the sector in Poland and other Member States. The support to the activities concerned is also therefore likely to affect trade between Member States.
36. The Polish authorities specify that the payment of the financial equivalent to free coal due to pensioners of totally closed mines was mandated by the State to ZUS, the pension fund, as that payment is done jointly with the payment pension or benefit. However, it represents an indirect aid to the closed mines as they are relieved from the obligation to provide free coal under the collective labour agreements in force in the production facilities that have been closed down.
37. For those reasons, the Commission comes to the conclusion that the measure in question falls within the scope of Article 107(1) TFEU.

3.2. Lawfulness of the aid

38. By notifying the aid measure before its implementation, the Polish authorities fulfilled their obligations under Article 108(3) TFEU.

3.3. Compatibility of the aid

39. The Commission has assessed the compatibility of the notified scheme, on the basis of Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines⁴ (hereinafter "the Council Decision") for the period from 1 January 2011 until 31 December 2015, which sets out criteria for compatibility of the State aid under examination pursuant to Article 107(3)(e) TFEU.
40. For the period from 1 January 2011 until 31 December 2015, the notified scheme falls within the scope of the Council Decision, as the beneficiaries carry out an activity in connection with coal production. The notified scheme covers 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 Union, and therefore complies with Article 2(2) of the Council Decision.
41. In line with Article 5 of the Council Decision, the aid is not combined with other State aid within the meaning of Article 107(1) TFEU or with other forms of European Union financing for the same eligible costs. Moreover, as required by Article 6 of the Council

⁴ OJ L 336, 21.12.2010, p. 24.

Decision, all aids received by the beneficiaries are to be shown in the profit-and-loss accounts as a separate item of revenue distinct from turnover. The beneficiaries are also to keep separate accounts for production and closing works. It follows that the notified scheme meets the conditions laid down in the Council Decision as to cumulation and separation of accounts of the beneficiary.

42. As regards the nature of the costs to be covered, the notified scheme is meant to enable the beneficiaries to cover costs arising from or having arisen from the closure of the coal production unit and which are not related to current production. In particular, the Polish authorities state that no aid is granted for the closure of mines within the scope of Article 3 of the Council Decision, i.e. aid for current production.
43. The aid is intended to cover costs referred to in Article 4 of the Council Decision. In particular, the aid is planned to be given in the context of definite closure of mines and in line with Article 4(1) of the Council Decision the procedure in place should ensure that the amounts to be paid do not exceed the relevant costs.
44. The Polish authorities confirm that the costs covered are not related to the financing of costs resulting from non-compliance with environmental regulations, such as:
 - Directive 2006/21/EC⁵ on the management of waste from extractive industries,
 - Directive 2004/35/EC⁶ on environmental liability with regard to the prevention and remedying of environmental damage;
 - The Framework Directive 2000/60/EC⁷ establishing a framework for Community action in the field of water policy;
 - Directive 92/43/EEC⁸ on the conservation of natural habitats and of wild fauna and flora
 - Directive 85/337/EEC⁹ on the assessment of the effects of certain public and private projects on the environment.

Consequently, measures undertaken in order to comply with mandatory requirements arising from relevant environmental legislation will not be included in eligible costs.

45. Moreover, the categories of costs planned to be covered correspond to eligible categories defined in the Annex to the Council Decision, for the purposes of Article 4. Specifically, they cover:
 - Compensatory benefits referred to in recitals 15.2 and 20.4, which correspond to point 1.c of the Annex (payment of pensions and benefits outside the statutory system to workers who have lost or who lose their jobs, and to workers being entitled to such payments before the closure of the mine);
 - Coal allowances or their equivalents referred to in recitals 15.2, 20.3, which correspond to point 1.e of the Annex (the supply of free coal to workers who have lost or who lose their jobs, and to workers being entitled to such payments before the closure of the mine);

⁵ OJ L 102, 11.4.2006, p. 15.

⁶ OJ L 143, 30.4.2004, p. 56.

⁷ OJ L 327, 22.12.2000, p. 1.

⁸ OJ L 176, 20.7.1993, p. 29.

⁹ OJ L 175, 5.7.1985, p. 40.

- Costs of mining damage, on the assumption that it was caused by production entities covered by a closure plan referred to in recitals 15.1 and 20.1, which correspond to point 1.h of the Annex (mining damage, to the extent that this was caused by coal-producing entities which have been closed, or are in the process of being closed);

- Costs of securing operating mines against water, gas and fire hazards, arising as a result of mine closures referred to in recital 20.1, which correspond to point 1.g of the Annex (additional underground safety work resulting from the closure of coal-producing entities);

- Costs related to the rehabilitation of former coal mining sites referred to in recital 20.2, which correspond to point 1.i of the Annex (residual costs resulting from contributions to bodies responsible for water supplies and for the removal of waste water, and other residual costs resulting from water supplies and the removal of waste water).

46. The Polish authorities state that the increase in the value of the land will be deducted from the eligible costs corresponding to point 1.g, 1.i and 1.m of the Annex to the Council Decision, as required in that Annex. As regards the costs referred to in point 1.h of the Annex to the Council Decision, the mines are not the owner of the land and do not benefit from any increase in the value of the land. In the case of SRK, there is a mechanism provided for reducing the subsidies granted to SRK to cover the mentioned closure and post closure costs with the amount of revenues stemming from the sale of recultivated sites and of mines' assets and infrastructure.
47. The Commission also notes that the exemption from payments to NFOŚiGW is granted to SRK in order to decrease the environmental costs of mine closures. In the absence of such an exemption, SRK would have to additionally bear costs due to the payments for NFOŚiGW. Such additional costs would result in a decrease of budget for closing activities, including in particular mining damage. However, any decrease of budget for closing activities would be off-set by means of direct payments to SKR, which would in turn pay to NFOŚiGW. Therefore, the Commission considers that the exemptions from NFOŚiGW's charges and penalties are financially equivalent to the direct payment to SKR of those cost amounts. Those exemptions are thus in line with the requirement in Article 4 of the Council Decision that aid to cover exceptional costs be limited to cover costs incurred by undertakings which are closing or have closed coal production units.
48. The Commission reminds the Polish authorities that in case of co-financing through Structural Funds of the Union, the rules applicable to those Funds must be respected and in particular the provisions laid down in Regulation (EC) No 1083/2006¹⁰, Regulation (EC) No 1080/2006¹¹ and Regulation (EC) No 1084/2006¹².
49. It follows that the notified scheme complies with the relevant conditions laid down in the Council Decision.

¹⁰ OJ L 301, 12.11.2008, p. 40.

¹¹ OJ L 210, 31.7.2006, p. 1.

¹² OJ L 210, 31.7.2006, p. 79.

4. Conclusion

50. The Commission has accordingly decided to consider the aid to be compatible with the internal market for the period from 1 January 2011 until 31 December 2015 pursuant to Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines and has therefore decided not to raise objections to the notified measure.
51. The Commission reminds the Polish authorities that, in accordance with Article 108(3) TFEU, plans to refinance, alter or change that scheme have to be notified to the Commission pursuant to Commission Regulation (EC) No 794/2004¹³.
52. The Commission reminds the Polish authorities that, in accordance with Article 7(4) of the Council Decision, they shall notify to the Commission all the aid which they intend to grant to the coal industry under the Council Decision during a coal year if the aid Poland plans to grant to the coal industry during a coal year differs from the amounts in the present notification..
53. The Commission also reminds the Polish authorities that, in accordance with Article 7(5) of the Council Decision, they shall inform the Commission of the amount and of the calculation of the aid actually paid during a coal year no later than six months after the end of that year. Where any corrections are made to the amounts originally paid during a given coal year, the Polish authorities shall inform the Commission before the end of the following coal year.
54. If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/eu_law/state_aids/state_aids_texts_pl.htm

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
B-1049 Brussels
Fax No: 32 2 296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice President

¹³ Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 [now 88] of the EC Treaty; OJ L 140, 30.4. 2004, p.1.

Annex 1

State aid for coal companies in the period 2011 - 2015 (PLN '000)

	Breakdown	Date of unit's closure	Amount of state aid per year					Total	Number of persons entitled to benefits				
			2011	2012	2013	2014	2015		2011	2012	2013	2014	2015
I	mining damage		10.241,0	11.000,0	12.500,0	11.890,0	10.590,0	56.221,0					
I.1	<i>Kompania Węglowa S.A.</i>		<i>6.166,4</i>	<i>9.250,0</i>	<i>7.550,0</i>	<i>7.140,0</i>	<i>6.840,0</i>	<i>36.946,4</i>					
1	KWK Dębieńsko *	31.12.2001	1.064,2	2.000,0	2.500,0	2.200,0	2.000,0	9.764,2					
2	KWK 1 Maja ***	31.12.2003	0,0	600,0	200,0	200,0	200,0	1.200,0					
3	KWK Jaworzno	31.05.2000	0,0	3.000,0	2.700,0	1.800,0	2.000,0	9.500,0					
4	KWK Siersza **	31.03.2002	1.800,0	2.187,7	1.812,0	2.701,0	2.100,0	10.600,7					
5	ZG Bytom II	31.12.2006	7,7	8,0	8,0	8,0	8,0	39,7					
6	RSW KWK Siemianowice ***	30.09.2000	33,1	29,0	30,0	31,0	32,0	155,1					
7	KWK Wawel	31.12.1998	3.261,4	925,3	0,0	0,0	0,0	4.186,7					
8	KWK Polska	30.11.2000	0,0	500,0	300,0	200,0	500,0	1.500,0					
I.2	<i>Katowicka Grupa Kapitałowa</i>		<i>4.074,6</i>	<i>1.750,0</i>	<i>4.950,0</i>	<i>4.750,0</i>	<i>3.750,0</i>	<i>19.274,6</i>					
1	KWK Katowice-Kleofas ****	31.12.2006	3.074,6	750,0	3.750,0	3.750,0	3.750,0	15.074,6					
2	KWK Kazimierz-Juliusz - Ruch Juliusz	31.12.1998	1.000,0	1.000,0	1.200,0	1.000,0	0,0	4.200,0					
II	compensatory benefits		7.950,0	7.950,0	7.900,0	8.000,0	8.100,0	39.900,0	784	785	780	785	785
II.1	<i>Kompania Węglowa S.A.</i>		<i>6.221,0</i>	<i>6.300,0</i>	<i>6.300,0</i>	<i>6.400,0</i>	<i>6.500,0</i>	<i>31.721,0</i>	<i>650</i>	<i>655</i>	<i>655</i>	<i>660</i>	<i>660</i>
1	KWK Dębieńsko *	31.12.2001	1.143,5	1.163,5	1.163,0	1.183,0	1.203,0	5.856,0	107	107	107	107	107
2	KWK Jaworzno	31.05.2000	1.383,3	1.403,3	1.403,0	1.423,0	1.443,0	7.055,6	108	108	108	108	108
3	KWK Siersza **	31.03.2002	303,4	313,4	313,0	323,0	333,0	1.585,8	36	36	36	36	36
4	ZG Bytom II	31.12.2006	790,0	784,0	785,0	800,0	815,0	3.974,0	82	87	87	90	90
5	ZG Brzeziny	31.12.2002	27,6	27,6	28,0	28,0	28,0	139,2	3	3	3	3	3
6	KWK Gliwice *	08.05.2001	2.573,2	2.608,2	2.608,0	2.643,0	2.678,0	13.110,4	314	314	314	316	316

II.2	<i>Katowicka Grupa Kapitałowa</i>		1.729,0	1.650,0	1.600,0	1.600,0	1.600,0	8.179,0	134	130	125	125	125
1	KWK Katowice-Kleofas ****	31.12.2006	1.729,0	1.650,0	1.600,0	1.600,0	1.600,0	8.179,0	134	130	125	125	125
III	right to free coal		12.877,8	13.500,0	13.500,0	14.880,1	14.966,3	69.724,2	15.649	15.486	15.303	15.091	14.879
III. 1	<i>Kompania Węglowa S.A.</i>		12.582,5	13.217,3	13.222,1	14.606,6	14.697,4	68.325,9	15.320	15.170	15.000	14.800	14.600
1	KWK Dębieńsko *	31.12.2001	2.636,3	2.843,5	2.750,0	3.051,1	3.088,6	14.369,5	3.133	3.103	3.054	3.011	2.991
2	KWK Jaworzno	31.05.2000	4.139,1	4.550,0	4.500,0	4.816,6	4.795,2	22.800,9	5.142	5.104	5.065	5.015	4.890
3	KWK Siersza **	31.03.2002	2.945,0	3.200,0	3.150,0	3.415,9	3.453,2	16.164,1	3.656	3.615	3.575	3.525	3.495
4	ZG Bytom II	31.12.2006	623,0	580,0	550,0	737,6	741,6	3.232,2	697	695	691	689	686
5	ZG Brzeziny	31.12.2002	340,0	250,0	230,0	400,3	406,0	1.626,3	379	371	370	365	363
6	KWK Gliwice *	08.05.2001	1.899,1	1.793,8	2.042,1	2.185,1	2.212,8	10.132,9	2.313	2.282	2.245	2.195	2.175
III. 2	<i>Katowicka Grupa Kapitałowa</i>		295,3	282,7	277,9	273,5	268,9	1.398,3	329	316	303	291	279
1	KWK Katowice-Kleofas ****	31.12.2006	295,3	282,7	277,9	273,5	268,9	1.398,3	329	316	303	291	279
IV	TOTAL AID		31.068,8	32.450,0	33.900,0	34.770,1	33.656,3	165.845,2	16.433	16.271	16.083	15.876	15.664

* The transfer to SRK of the KWK Dębieńsko and KWK Gliwice mines involved an agreement on the division of liabilities between SRK and Kompania Węglowa S.A., whereby SRK protects the mines from flooding and Kompania Węglowa S.A. settles claims for damages and employees' claims.

** The transfer to SRK of the KWK Siersza mine involved an agreement on the division of liabilities between SRK and Kompania Węglowa S.A., whereby Kompania Węglowa S.A. settles claims for damages and employees' claims and SRK handles the closure of the mine.

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used to set up a mine under the name of KWK Katowice-Kleofas operating as part of Katowicka Grupa Kapitałowa. That mine closed on 31 December 2006. As a result, the assets of the KWK Kleofas and KWK Katowice mines are in the hands of SRK, which is handling the closure and protecting the mines from water damage. Furthermore, state aid has been granted in connection with this closure to Katowicka Grupa Kapitałowa (to clear up damage resulting from the mine's operation and settle employees' claims).

Annex 2

Breakdown	Date of unit's closure	State aid for SRK in the period 2011 - 2015 (PLN '000)						Number of persons entitled to benefits				
		2011	2012	2013	2014	2015	Total	2011	2012	2013	2014	2015
<i>compensatory benefits</i>		<i>15.500,0</i>	<i>15.810,0</i>	<i>17.000,1</i>	<i>17.968,6</i>	<i>18.587,9</i>	<i>84.866,6</i>	<i>1.826</i>	<i>1.806</i>	<i>1.777</i>	<i>1.748</i>	<i>1.719</i>
Wałbrzyskie KWK	31.12.2001	1.949,0	1.956,0	2.126,0	2.196,0	2.332,0	10.559,0	477	471	464	458	452
Nowa Ruda	31.03.2002	846,0	920,0	1.000,0	1.034,0	1.098,0	4.898,0	96	96	95	93	91
KWK 1 Maja ***	31.12.2003	1.100,0	1.084,7	1.130,0	1.230,0	1.250,0	5.794,7	92	90	87	84	81
KWK Jan Kanty	31.03.2002	426,0	432,7	455,0	490,0	500,0	2.303,7	42	42	41	40	39
KWK Sosnowiec	30.06.2000	986,0	997,0	1.113,0	1.154,0	1.186,0	5.436,0	89	88	86	84	82
KWK Saturn	31.12.2000	308,0	311,0	347,0	360,0	370,0	1.696,0	32	32	31	30	29
KWK Porąbka Klimontów	31.12.2000	1.355,0	1.370,0	1.530,0	1.586,0	1.629,0	7.470,0	148	148	145	142	139
KWK Jowisz	31.12.2002	2.678,6	2.748,8	2.887,4	3.013,4	3.096,4	14.424,6	262	259	255	251	247
KWK Powstańców Śląskich	31.12.2000	3.830,0	3.894,2	4.150,0	4.448,0	4.540,0	20.862,2	378	370	365	360	355
ZWM Jadwiga	31.12.2001	39,1	40,6	55,0	65,0	70,0	269,7	3	3	3	3	3
KWK Niwka Modrzejów	31.01.2002	1.237,0	1.286,3	1.400,0	1.485,0	1.585,0	6.993,3	128	128	127	126	125
KWK Siemianowice -Rozalia ***	31.12.2001	745,3	768,7	806,7	907,2	931,5	4.159,4	79	79	78	77	76
<i>right to free coal</i>		<i>26.425,0</i>	<i>28.835,0</i>	<i>31.094,0</i>	<i>33.744,7</i>	<i>36.634,6</i>	<i>156.733,3</i>	<i>14.788</i>	<i>14.608</i>	<i>14.428</i>	<i>14.248</i>	<i>14.068</i>
Nowa Ruda	31.03.2002	6.177,3	6.674,9	7.125,3	7.652,0	8.217,6	35.847,1	3.501	3.421	3.341	3.261	3.181
KWK Andalużja	31.12.2000	3.858,6	4.237,5	4.598,3	5.022,8	5.489,8	23.207,0	2.151	2.139	2.127	2.115	2.103
KWK Julian	31.12.2000	2.893,6	3.169,4	3.430,9	3.738,1	4.074,5	17.306,5	1.613	1.600	1.587	1.574	1.561
KWK Powstańców Śląskich	31.12.2000	4.319,7	4.744,2	5.149,6	5.626,1	6.149,6	25.989,2	2.408	2.395	2.382	2.369	2.356
KWK Bobrek -Miechowice	31.12.2000	3.349,2	3.648,8	3.928,1	4.255,7	4.611,5	19.793,3	1.867	1.842	1.817	1.792	1.767
KWK Centrum -Szombierki	31.12.2000	3.598,6	3.924,2	4.228,3	4.585,9	4.975,0	21.312,0	2.006	1.981	1.956	1.931	1.906
KWK Rozbark	31.12.1998	2.228,0	2.436,0	2.633,5	2.864,1	3.116,6	13.278,2	1.242	1.230	1.218	1.206	1.194

Breakdown	Date of unit's closure	State aid for SRK in the period 2011 - 2015 (PLN '000)					
		2011	2012	2013	2014	2015	Total
<i>closure activities</i>		26.749,2	28.000,0	31.481,1	33.013,7	33.434,2	152.678,2
Wałbrzyskie KWK	31.12.2001	2.882,6	2.792,6	3.664,7	4.025,4	3.335,2	16.700,5
Nowa Ruda	31.03.2002	3.333,3	3.568,3	5.322,7	6.641,9	7.541,2	26.407,4
KWK 1 Maja ***	31.12.2003	848,1	620,6	872,6	1.097,8	741,1	4.180,2
KWK Jan Kanty	31.03.2002	1.097,1	3.025,3	1.570,6	2.195,7	1.297,0	9.185,7
KWK Siersza **	31.03.2002	1.236,0	1.380,8	1.291,4	1.719,9	1.185,8	6.813,9
KWK Sosnowiec	30.06.2000	628,9	465,4	523,5	548,9	555,9	2.722,6
KWK Saturn	31.12.2000	5.053,4	589,6	1.640,4	695,3	704,1	8.682,8
KWK Porąbka Klimontów	31.12.2000	3.357,9	2.885,7	3.769,5	3.952,2	3.446,4	17.411,7
KWK Jowisz	31.12.2002	722,9	716,8	837,7	878,3	1.074,6	4.230,3
KWK Paryż	31.12.1999	2.116,9	1.086,0	1.221,6	1.280,8	1.297,0	7.002,3
KWK Andaluzja	31.12.2000	0,0	100,9	1.260,0	1.418,1	0,0	2.779,0
KWK Julian	31.12.2000	570,3	341,3	383,9	402,6	407,7	2.105,8
KWK Powstańców Śląskich	31.12.2000	799,8	853,3	1.617,7	2.076,7	1.111,7	6.459,2
KWK Bobrek-Miechowice	31.12.2000	0,0	0,0	0,0	0,0	1.204,4	1.204,4
KWK Pstrowski	31.12.2001	2.202,1	5.728,5	1.099,4	1.152,7	1.167,3	11.350,0
KWK Centrum -Szombierki	31.12.2000	0,0	0,0	401,3	420,8	6.077,4	6.899,5
KWK Rozbark	31.12.1998	0,0	0,0	305,4	0,0	0,0	305,4
KWK Kleofas ****	02.07.2001	409,5	403,4	698,1	914,9	481,8	2.907,7
KWK Niwka Modrzejów	31.01.2002	1.490,4	3.441,5	5.000,6	3.591,7	1.805,6	15.329,8
<i>protecting mines from water damage</i>		200.000,0	200.000,0	199.650,1	196.240,6	199.980,1	995.870,8
Nowa Ruda	31.03.2002	96,6	1.900,0	4.615,0	6.120,0	70,0	12.801,6
KWK Jan Kanty	31.03.2002	17.964,1	16.880,0	16.700,0	17.220,0	11.100,0	79.864,1
KWK Sosnowiec	30.06.2000	2.410,5	1.862,0	1.910,0	2.026,0	4.100,0	12.308,5

KWK Saturn	31.12.2000	11.800,2	9.728,0	9.766,0	9.836,0	12.500,0	53.630,2
KWK Porąbka Klimontów	31.12.2000	4.518,2	4.218,0	4.286,0	4.267,1	6.100,0	23.389,3
KWK Jowisz	31.12.2002	1.000,0	1.150,0	1.250,0	1.350,0	1.450,0	6.200,0
KWK Paryż	31.12.1999	2.373,8	2.028,0	2.091,0	2.036,0	4.000,0	12.528,8
KWK Grodziec	31.12.2000	1.324,5	1.897,0	1.463,0	1.606,0	3.450,0	9.740,5
KWK Powstańców Śląskich	31.12.2000	12.253,1	28.980,0	28.860,0	21.570,0	6.950,0	98.613,1
KWK Bobrek-Miechowice	31.12.2000	6.134,2	6.150,0	6.250,0	6.400,0	7.500,0	32.434,2
KWK Pstrowski	31.12.2001	36.216,2	32.830,0	32.100,0	32.420,0	38.000,0	171.566,2
KWK Centrum- Szombierki	31.12.2000	12.090,3	11.480,0	11.360,0	11.370,0	15.800,0	62.100,3
KWK Katowice ****	02.07.2001	4.647,7	4.278,0	4.296,0	4.866,0	6.500,0	24.587,7
KWK Kleofas ****	02.07.2001	6.668,0	6.288,0	6.166,0	6.436,0	8.600,0	34.158,0
KWK Niwka Modrzejów	31.01.2002	7.237,7	6.568,0	6.516,0	6.786,0	9.300,0	36.407,7
KWK Dębieńsko *	31.12.2001	27.453,5	19.883,0	18.271,1	17.921,5	17.480,0	101.009,1
KWK Siemianowice - Rozalia ***	30.09.2000	40.689,8	39.180,0	39.300,0	39.040,0	39.580,1	197.789,9
KWK Gliwice *	08.05.2001	5.121,6	4.700,0	4.450,0	4.970,0	7.500,0	26.741,6
mining damage		12.100,0	13.230,0	14.065,8	4.719,4	2.307,9	46.423,1
Wałbrzyskie KWK	31.12.2001	449,3	153,2	133,4	77,7	38,3	851,9
Nowa Ruda	31.03.2002	1.848,9	109,2	174,2	103,2	38,3	2.273,8
KWK Jan Kanty	31.03.2002	144,8	232,1	380,5	27,4	31,0	815,8
KWK Sosnowiec	30.06.2000	0,0	120,3	184,0	42,6	44,0	390,9
KWK Saturn	31.12.2000	0,0	44,9	52,6	17,7	26,3	141,5
KWK Porąbka Klimontów	31.12.2000	0,0	82,0	117,3	29,7	34,4	263,4
KWK Jowisz	31.12.2002	0,0	50,5	58,8	28,6	33,8	171,7
KWK Paryż	31.12.1999	0,0	50,6	58,8	28,6	33,8	171,8
KWK Grodziec	31.12.2000	0,0	50,5	58,8	28,6	33,8	171,7
KWK Andalużja	31.12.2000	3,9	50,5	58,8	28,6	33,8	175,6
KWK Julian	31.12.2000	123,1	1.338,4	731,2	328,1	125,2	2.646,0
KWK Powstańców Śląskich	31.12.2000	1.695,3	1.314,7	1.908,6	1.131,3	757,0	6.806,9
KWK Bobrek-Miechowice	31.12.2000	2.491,4	3.884,8	4.525,7	771,7	213,9	11.887,5
KWK Centrum -Szombierki	31.12.2000	5.219,0	3.832,8	3.861,2	1.130,5	748,6	14.792,1

KWK Rozbark	31.12.1998	123,1	1.913,3	1.759,2	943,5	113,3	4.852,4
KWK Żory	31.12.1999	1,2	2,2	2,7	1,6	2,4	10,1

Breakdown	Date of unit's closure	State aid for SRK in the period 2011 - 2015 (PLN '000)					
		2011	2012	2013	2014	2015	Total
<i>NFOŚiGW - exemptions</i>		<i>2.600,0</i>	<i>2.700,0</i>	<i>2.800,0</i>	<i>2.800,0</i>	<i>2.800,0</i>	<i>13.700,0</i>
Nowa Ruda	31.03.2002	16,1	16,8	17,5	17,5	17,5	85,4
KWK Jan Kanty	31.03.2002	66,6	69,2	71,8	71,8	71,8	351,2
KWK Saturn	31.12.2000	127,9	132,8	137,7	137,7	137,7	673,8
KWK Porąbka Klimontów	31.12.2000	29,0	30,1	31,2	31,2	31,2	152,7
KWK Paryż	31.12.1999	9,7	10,1	10,5	10,5	10,5	51,3
KWK Powstańców Śląskich	31.12.2000	81,6	84,7	87,8	87,8	87,8	429,7
KWK Pstrowski	31.12.2001	669,4	695,1	720,8	720,8	720,8	3.526,9
KWK Szombierki	31.12.2000	82,7	85,9	89,1	89,1	89,1	435,9
KWK Katowice ****	02.07.2001	66,6	69,2	71,8	71,8	71,8	351,2
KWK Kleofas ****	02.07.2001	107,4	111,5	115,6	115,6	115,6	565,7
KWK Niwka Modrzejów	31.01.2002	346,0	359,3	372,6	372,6	372,6	1.823,1
KWK Dębieńsko *	31.12.2001	333,0	345,8	358,6	358,6	358,6	1.754,6
KWK Siemianowice - Rozalia ***	30.09.2000	379,3	393,9	408,5	408,5	408,5	1.998,7
KWK Gliwice *	08.05.2001	284,7	295,6	306,5	306,5	306,5	1.499,8
<i>NFOŚiGW - grants</i>		<i>15.412,0</i>	<i>36.405,9</i>	<i>24.598,2</i>	<i>5.414,8</i>	<i>3.868,7</i>	<i>85.699,6</i>
Wałbrzyskie KWK	31.12.2001	0,0	1.500,0	950,0	300,0	300,0	3.050,0
Nowa Ruda	31.03.2002	0,0	10.000,0	8.051,3	1.300,0	1.300,0	20.651,3
KWK Jan Kanty	31.03.2002	745,9	9.000,0	6.300,0	1.000,0	1.000,0	18.045,9
KWK Siersza **	31.03.2002	3.000,0	6.071,2	773,0	773,0	773,0	11.390,2
KWK Saturn	31.12.2000	7.776,4	0,0	0,0	0,0	0,0	7.776,4
KWK Jowisz	31.12.2002	25,7	3.525,7	3.500,0	300,0	300,0	7.651,4

KWK Andaluzja	31.12.2000	2.692,0	2.706,5	3.929,1	454,2	0,0	9.781,8
KWK Pstrowski	31.12.2001	972,0	1.800,1	0,0	0,0	0,0	2.772,1
KWK Centrum	31.12.2000	200,0	1.802,4	1.094,8	1.287,6	195,7	4.580,5
<i>PFRON exemptions from contributions*****</i>		793,8	808,7	853,3	870,9	887,6	4.214,3

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*** The disparity in the names between the table in Annex 1 (RSW KWK Siemianowice) and the tables in Annex 2 (KWK Siemianowice - Rozalia) is attributable to the fact that the KWK Siemianowice mine was initially part of Rudzka Spółka Węglowa S.A. (which was absorbed by Kompania Węglowa S.A. in 2003) and identified as ZG Rozalia. When they ceased operating the two units were brought together under the name KWK Siemianowice – Rozalia and it is under this name that SRK carried out measures to protect neighbouring mines from water damage and paid compensatory benefits (see p. 6 of Annex 3 to the notification form). Kompania Węglowa S.A., however, is responsible for damage arising from KWK Siemianowice's activities (and it is to cover the costs arising from that damage that Kompania Węglowa S.A. receives state aid).

**** The disparity in the names between the table in Annex 1 (KWK Katowice-Kleofas) and the tables in Annex 2 (KWK Katowice and KWK Kleofas) is attributable to the fact that KWK Katowice and KWK Kleofas used to be separate production units. They closed on 2 July 2001. The liquidated assets were transferred to SRK, and the mines' remaining assets were used to set up a mine under the name of KWK Katowice-Kleofas operating as part of Katowicka Grupa Kapitałowa. That mine closed on 31 December 2006. As a result, the assets of the KWK Kleofas and KWK Katowice mines are in the hands of SRK, which is handling the closure and protecting the mines from water damage. Furthermore, state aid has been granted in connection with this closure to Katowicka Grupa Kapitałowa (to clear up damage resulting from the mine's operation and settle employees' claims).

***** Under Article 21 of the Vocational and Social Rehabilitation and Employment of the Disabled Act of 27 August 1997 (Journal of Laws No 127/2011, item 721, as amended), employers who employ at least 25 full-time equivalent employees must (subject to provisos) make monthly payments into the PFRON at a level constituting the product of 40.65% of the average salary and the number of employees equivalent to the difference between the employment that means the 6% disabled person employment indicator has been achieved and the actual employment of disabled persons. This means that the calculation of PFRON contributions is based on the number of employees currently employed by a given employer. Accordingly, the exemptions from PFRON contributions under the Functioning of Hard Coal Mining in 2008-2015 Act (Journal of Laws No 192, item 1379) cannot be directly applied to mines that have been closed but to the current level of employment at SRK.

Annex 3: Cash equivalents to free coal allowances paid by ZUS to pensioners from mines that have been completely closed and which started being closed before 1 January 2007.

Budget for 2011-2015:

	(PNL '000)
2011	127 000,0
2012	135 000,0
2013	142 000,0
2014	165 155,9
2015	178 008,0
TOTAL	747 163,9