EUROPEAN COMMISSION

Brussels, 07.12.2011
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In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […].

PUBLIC VERSION

WORKING LANGUAGE

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Subject: **State aids SA.24642(N 708/2007) – DE – State aid for the closure of hard coal mines and SA.33766 – notification of aid to coal for 2011**

Sir,

1. PROCEDURE

(1) By letter dated 4 December 2007 Germany notified the Commission of this State aid measure designed to finance the closure of Germany's hard coal mines over the period 2008 to 2018. The measure was registered under n° N 708/07.

(2) The Commission requested additional information by letters dated 7 February 2007 and 7 May 2008, to which Germany replied on 7 March 2007 and 9 June 2008.

(3) By letter dated 12 June 2008 Germany re-notified an amended version of the closure plan.

(4) On 11 August 2008 and 26 November 2008 the Commission requested additional information, which was provided by letter dated 9 September 2008 and 19 December 2008, respectively.

(5) By letter of 26 November 2008, the Commission requested a suspension of the legal two-month deadline for the examination of the measure. This deadline was extended in successive steps until 31 December 2010 (see letters dated 11 January 2010 7 September 2010)

(6) The Commission requested further information by letters of 2 June 2009 and 11 November 2009, which was provided by letters dated 1 July 2009 and 4 December 2010, respectively.

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(7) By letter dated 11 March 2011, Germany re-notified an amended version of the closure plan. The Commission requested further information by letters of 29 April 2011, 26 July 2011 and 12 October 2011. Germany replied by letters of 27 May 2011, 25 August 2011 and 14 October 2011, respectively.

(8) In particular, by letter of 14 October 2011 Germany also notified the aid it intends to grant in respect of the year 2011.

2. PREVIOUS COMMISSION DECISIONS AUTHORISING GERMANY'S RESTRUCTURING AID TO HARD COAL MINES

(9) German hard coal cannot be extracted by open-cast mining methods or at a shallow depth as in the leading coal-exporting countries of the world. It requires extraction from depths of up to 1,500 metres. This mining method entails significantly higher production costs. The extraction of hard coal in Germany is therefore structurally uncompetitive.

(10) This lack of competitiveness vis-à-vis cheaper imported coal has led the German hard coal industry to restructure its activities, especially over the past decade, involving major activity cutbacks and closures of production units.

(11) Starting in 2005, the Commission authorized State aid worth 12 billion EUR in the context of a restructuring plan for German hard coal mines which covered the period 2006-2010 (hereinafter: "the 2005 restructuring plan") and which was approved by the Commission on 22 June 2005[1]. This plan provided for the downscaling of hard coal production from 26 million tonnes of coal equivalent (hereinafter "tce million") to 18.2 tce million in 2010 and to 16 million tce in 2012 through the closure of five production units (four between 2006 and 2010 and one in 2012).

(12) As further described above at recitals 3 to 6, in 2007, given the persisting lack of competitiveness of hard coal, Germany notified a second plan which foresaw the permanent closure of all hard coal mines between 2008 and 2018 and the phasing-out of subsidies to the hard coal industry. An amended version of this plan was submitted in June 2008 following a strong earthquake caused by mining activities in Saarland, which led to deciding the early closure of the mine involved.

(13) Both plans had been notified by Germany under the provisions of Council Regulation (EC) No 1407/2002 of 23 July 2002 on State aid to the coal industry[2] (hereinafter: the Coal Regulation). However, the Coal Regulation was set to expire on 31 December 2010 and could not be relied upon to authorize State aid to coal mining granted beyond that date.

(14) In agreement with Germany, the Commission suspended the examination of the closure plan. However, the Commission continued to approve yearly aid to German hard coal mines on the basis of the 2005 restructuring plan (Cases N 631/07[3], N 563/08[4] and N 592/09[5]).

(15) The Coal Regulation expired on 31 December 2010. It was replaced by Council Decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines[6] (hereinafter: the Coal Decision).

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[1] Commission Decision of 22 June 2005 in case N 320/2004.
[2] OJ L 205 of 2.8.2002, p. 1
[3] Commission Decision C/2008/7044/2 of 26.11.2008
[4] Commission Decision C/2009/4430/2 of 17.6.2009
[5] Commission Decision C (2009)/10432 of 18.12.2009
[6] OJ L 336 of 21.12.2010 p. 24.

(16) In March 2011 Germany re-notified on the basis of the Coal Decision an amended plan (hereinafter: the closure plan) which foresees the permanent closure of all remaining hard coal mines by 2018 and the phasing-out of subsidies to hard coal.

(17) The present decision therefore covers aid which Germany is planning to grant for the permanent closure of German hard coal mines as of 1 January 2011. In particular, it covers the annual aid Germany intends to grant in 2011.

3. DESCRIPTION OF THE CLOSURE PLAN

3.1 Legal basis

(18) The closure plan is based on a framework agreement on coal policy concluded in August 2007 (*Rahmenvereinbarung zur sozialverträglichen Beendigung des subventionierten Steinkohlenbergbaus in Deutschland*) between the Federal Government, the *Land* of North Rhine-Westphalia, the *Land* of Saarland, the mining company RAG AG and the Mining, Chemical and Energy Industrial Union (*Industriegewerkschaft Bergbau, Chemie, Energie*). This framework agreement sets out the basis for the phasing-out process, as well as the amount and conditions of financial support.

(19) The funding of the plan is defined in the German Hard Coal Financing Act (*Steinkohlefinanzierungsgesetz*) which came into force on 28 December 2007.

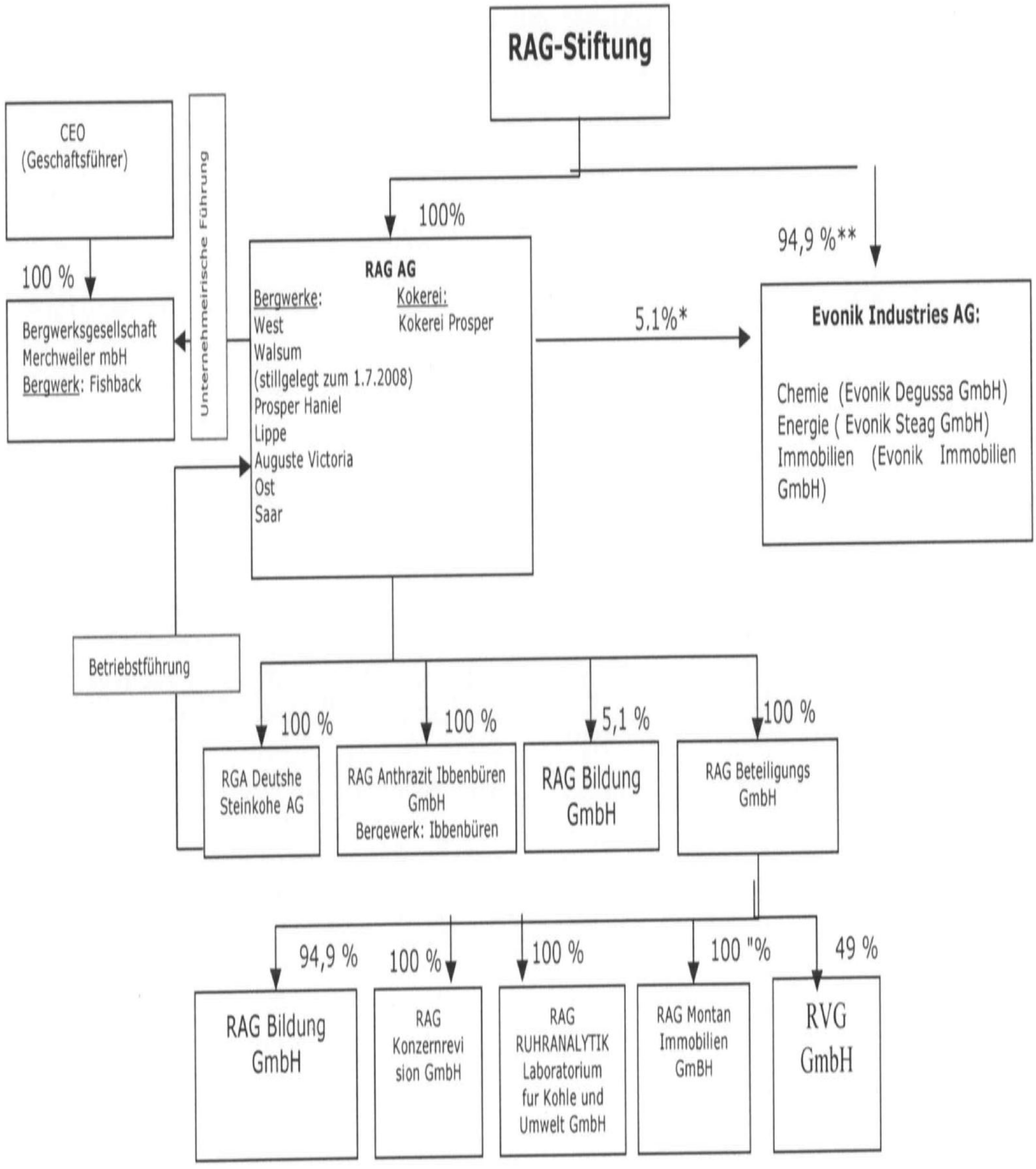
3.2 RAG AG and RAG Foundation– Architecture of the undertaking

(20) German hard coal is produced by RAG AG. Besides its hard coal mining activities (the so-called "black sector"), RAG AG also had operations in the chemical, energy and real estate sectors (its so called "white sectors") which were regrouped under the heading of Evonik Industries AG as of 12 September 2007.

(21) On 10 July 2007 RAG Foundation (*RAG-Stiftung*) was created under civil law to finance the long-term liabilities of the exit from coalmining after 2018. The Foundation acquired the shares in RAG AG belonging to the previous partners E.ON, RWE, ThyssenKrupp and Arcelor for a symbolic sum of 1 €. It is foreseen that Evonik Industries AG will be floated on the capital markets and that part of its shares will be sold (RAG Foundation is expected to keep 25% of shares in Evonik). The mining division of RAG AG will remain part of the Foundation.

(22) After 2018, the Foundation will take over the financing of the commitments of RAG AG's mining business resulting from long-term liabilities using its own capital.

(23) The financing of long-term liabilities is guaranteed by the "*Erblastenvertrag*", an agreement concluded between the *Länder* of North Rhine-Westphalia, Saarland and the RAG Foundation on 14 August 2007. In the event that the assets of RAG Foundation are not sufficient to cover the long-term liabilities, the *Länder* will step in. In this case, the Federal Government has pledged to provide the *Länder* with a one-third contribution.



*Ubernahme Restanteil durch RAG-Stiftung vorgesehen; ** Veräusserungsprozess von 25,01% der Anteile noch nicht abgeschlossen

3.3 The closure plan

(24) The notified plan foresees the closure of subsidized coalmining by the end of 2018. This entails the closure of five production units still currently operated by RAG AG by December 2018. Coal extraction by RAG AG will pass from 12,4 million tonnes in 2011 to zero in 2018.

Closure schedule and expected production until closure

Production units	Date of closure	Coal production until closure
Saar	1 July 2012	2 million tonnes
West	2013(1)	6 million tonnes
Auguste Victoria	[…]	[…]
Ibbenbüren	[…]	[…]
Prosper-Haniel	[…]	[…]

(1) Stopping of production at the end of the previous year

(25) The closure of the production units will be permanent. The framework agreement of 2007 and the Hard Coal Financing Act foresaw that the German Parliament should review on the basis of a joint report by the Federal Government and the governments of the *Länder* of North Rhine-Westphalia and Saarland whether hard coal mining in Germany should continue to receive funding taking into account profitability, security of energy supplies and other objectives of energy policy. However, this provision (*Revisionsklausel*) was abrogated in April 2011, making the decision to close the mines a definitive one.

(26) The State aid notified under the plan is designed to implement the agreed phasing-out process in a socially responsible manner. The closure plan will last until 2018 because this is considered by Germany the earliest date at which the mines can be closed without lay-offs. Avoiding lay-offs is a key element of the framework agreement (in the Ruhr the regional unemployment rate was 12% in January 2011, i.e. still significantly above the national average). According to the German government, this transitional period will also give the power and steelmaking sectors (the main purchasers of German hard coal) sufficient time to adapt their equipment and supply structures to the new situation.

(27) Staff will be reduced gradually from 18 739 workers in 2011 to 5 310 in 2018. Older workers will benefit from early retirement measures. Additional measures will be necessary to help younger staff find new jobs.

(28) The planned aid will cover the following types of costs (following the categorization provided by Germany)

- current production costs;
- closure costs;
- inherited liabilities (both time-limited and eternal)

(29) Current production costs include all costs which are related to the production, dressing and sale of hard coal, i.e. works, material costs, salaries, depreciation, capital costs and overheads. Since the mines are uncompetitive, current production costs will be partially covered by State aid until production is stopped (at the latest in 2018).

(30) Closure costs[7] (*Stilllegungsaufwendungen*) include all costs which arise from the permanent closure of mining operations. They include e.g. expenditure for staff reduction (welfare

[7] NB The notion of closure costs as defined by Germany differs from the terminology used in the Council Decision, where the category "closure costs" refers to current production costs. The terminology used by Germany has been retained here..

benefits resulting from a social plan, technical adaptation of provisions for early retirement) technical closure costs (dismantling of mining equipment, filling of pits, decontamination of land and other measures foreseen in the Federal Mining Act (*Bundesberggesetz*), costs related to the cancelling or modification of ongoing contracts) and exceptional intrinsic depreciation.

(31) Inherited liabilities (*Altlasten*) include costs caused by closure, rationalization and restructuring, which are not related to current production and not caught by the notion of closure costs. They include costs and provisions made by undertakings which undergo or have undergone restructuring (e.g. welfare benefits linked to early retirement schemes, other extraordinary costs due to the cancelling of employment contracts, pension benefits and allowances outside the statutory system, retraining of staff, free coal, other costs related to the rehabilitation of former coal mining sites, for example residual costs resulting from administrative, legal or tax provisions, underground safety work, mine water management (the pumping of water from pits), the cleaning of underground water, polder measures, the management/rectification of mining damage, health care benefits for former miners, exceptional depreciation and costs and provisions made by several undertakings (e.g. increase in social security contributions and pension costs for former members of Community organizations).

(32) These inherited liabilities may be of a time-limited nature, such as welfare benefits' costs, or of an eternal nature (*Ewigkeitslasten*). Eternal liabilities include, in particular, mine water management (the cleaning of underground water, polder measures) and the management/rectification of mining damage (e.g. damage to property caused by land subsidence or tremors caused by mining).

3.4 The subsidies

(33) Subsidies covering production costs will end with the cessation of production in 2018.

(34) Subsidies covering the other categories of costs (closure costs and inherited liabilities) will continue to be needed after 2018. The evolution of these costs after 2018 was estimated by the business accounting company KPMG in 2007.

(35) For the period as from 1st January 2019, EUR 3.136 million will be granted for closure costs and inherited liabilities. Closure costs will account for EUR 1 015 million. The latter amount, granted in its entirety in 2019, will be paid in annual instalments (yielding interest) until 2022.

(36) As regards inherited liabilities, cost provisions are being made and will continue to be made by RAG AG until 2018. However, with the cessation of production, the provisions made will not be sufficient to cover the costs of inherited liabilities, and there will still be a need for State support after 2018.

(37) For time-limited inherited liabilities not covered by the *Erblastenvertrag*, an aid amount up to EUR 2 121 million will be granted in 2019. The aid will be paid out in annual instalments (yielding interest) until 2029.

(38) The aid will cover time-limited liabilities until they come to an end.

(39) By contrast, after 2018 eternal liabilities (*Ewigkeitslasten*) will be financed by RAG Foundation itself. The Foundation will use to this effect the funds generated by the sale of shares of Evonik Industries AG, dividends and interests from financial investments. The capital required to cover eternal liabilities was estimated by the business accounting company KPMG in 2007. Should the Foundation's capital nevertheless be exhausted, the *Länder* and the Federal State will step in to ensure that environmental damage is avoided, pursuant to the

Erblastenvertrag. However, the studies and forecasts which lay the groundwork for the closure plan indicate that the Foundation's capital should suffice to cover eternal liabilities.

(40) Germany considers that the financing of eternal liabilities after 2018 does not involve the grant of State aid because the funds will be provided by RAG Foundation itself using its own capital.

Degressivity mechanism - Amounts of production aid to be paid until 2018 (EUR million)

	2011	**2013**	**2015**	**2017**	**2018**
Total aid	1 956	1 761	1 503	1 182	1 091
Aid for current production ex art. 3 of Council Dec. 787/2010	1.150	862	690	287	287

Aid for exceptional costs until 2018

EUR million	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**
	806	633	899	788	813	765	895	804

For a more detailed breakdown of costs and aid amounts, reference is made to the tables in the Annex to this Decision.

3.5 The German BAFA price system

(41) In its decision on the 2005 restructuring plan, the Commission verified that the method used by the Federal Office of Economics and Export Control (*Bundesamt für Wirtschaft und Ausfuhrkontrolle*, hereafter 'BAFA') to calculate State aid grants for the German coal industry did not lead to overcompensation[8]. Germany confirmed that the BAFA price system has remained unchanged.

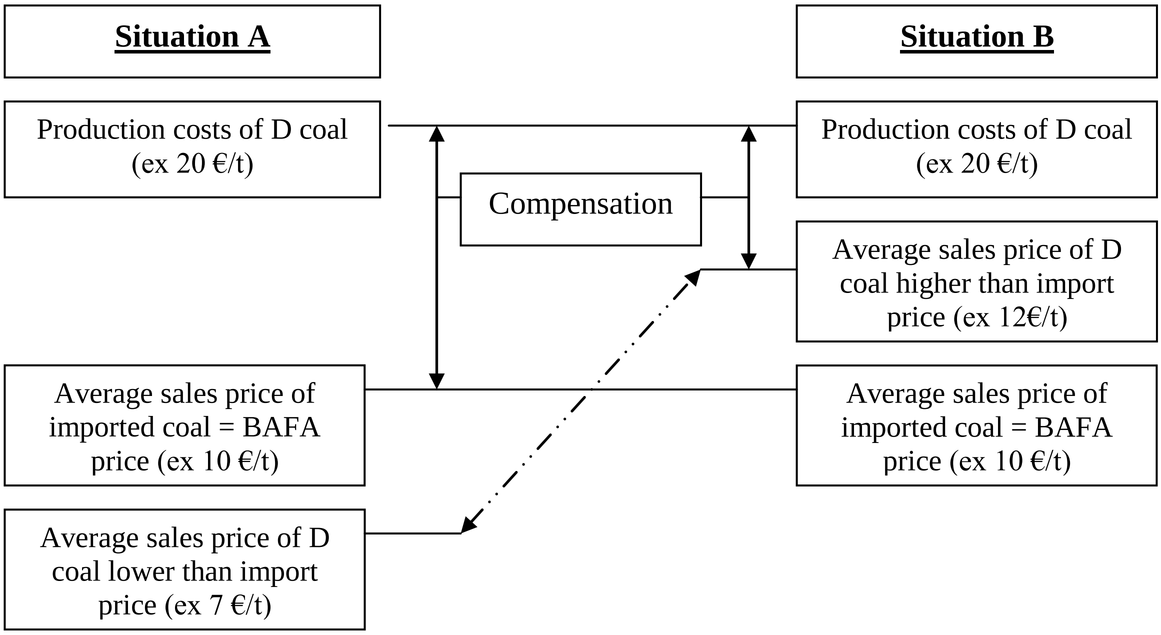
(42) According to the German BAFA system, aid may only be granted up to a maximum made out of the difference between revenues and costs for respectively steam coal (*Verstohmungskohle*) and coking coal (*Kokskohle*) with the addition of closure expenses. These payments are however limited by the average sales price of imported hard coal, the BAFA reference price. Thereby:

(a) *Situation A:* If the sales price for German hard coal is lower than the average sales price for imported hard coal, cost compensation by BAFA can only cover the difference between a hard coal mine's production costs and the average sales price for hard coal imported from third countries.

(b) *Situation B:* Should the average sales price for German hard coal be higher than the average sales price for imported hard coal, then only the difference between the production costs and the average sales price for German hard coal may be compensated by BAFA.

[8] In order to determine the amount of State aid a coal undertaking is entitled to, Germany has issued a special implementing legislation, the so-called “coal guidelines” (Coal guidelines of the Ministry for Economy and Labour of 8 April 1998 (Bundesanzeiger of 7.5.1998, p. 6509) modified on 2 August 1999 (Bundesanzeiger of 2.9.1999, p. 15265)), which define how State aid for the German coal industry is calculated. This calculation is carried out by BAFA.

(43) To illustrate:



Example of BAFA subsidy calculation:

Example under situation 'A':

RAG sells 30 tons of coal.
RAGs production costs are 20 €/t.
RAG has three contracts selling 10t each at three different prices: 10t/7€, 10t/10€ and10t/12€.
The average sales price of imported coal (BAFA price) is 10 €/t.

*Production costs: 30 t * 20 € = 600 €*
*Revenues: 10 t * 7 € + 10 t * 10 € + 10 t * 12 € = 290 €*
Costs – revenues: 600 – 290 = 310

*Since out of 7 €, 10 € and 12 € the average price is 9.7 €, thus below the BAFA price of 10 €, the subsidy will be limited to the BAFA price. Sales revenues will thus be considered not to be 290 € but to be 30 t * 10 € = 300 €.*

Subsidy = Costs – import price revenues = 600 € - 300 € = 300 €.

(44) The German system also foresees until 2012 a revenue capping system (*Erlöskappung*) in case of an increase in world prices. The undertaking's accounts are based on an average revenue of 46 €/tce for sales of hard coal to the power sector and the steelmaking industry. If revenues exceed this ceiling, aid payments to RAG AG are reduced. However, past experience has shown that this revenue capping system may lead to underfinancing for RAG. Therefore, the framework agreement provides for some flexibility, as it allows the German authorities to adjust the ceiling if the system leads to an excessive financial burden for RAG AG. This flexibility clause was used systematically in previous years.

(45) In any event, Germany underlines that payments to RAG AG are readjusted in the framework of an ex-post evaluation which is based on real prices prevailing in the year considered, which ensures that RAG's operating losses are not overcompensated.

3.6 Plan with measures to mitigate the environmental impact of coal production by units to which closure aid is granted

(46) Germany has listed all the measures it has enacted or intends to enact to counter the adverse environmental impact caused by coal mining, framing them in the context of its wider strategy for greening energy production and combating climate change.

(47) As a general premise, Germany points out that the exploitation of coal is part of an energy policy in which renewable energies are set to become the main component of the energy mix, gradually replacing conventional sources of energy.

3.6.1 Renewable energies

(48) This policy is quickly being translated into reality. Germany is achieving its mandatory EU targets for renewable energies faster than prescribed by EU legislation. For example, according to Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market[9], Germany should achieve a 12% share of renewable energies in electricity consumption by 2010. However, in 2010 the share of renewables in Germany was already 17%, thanks to the strategy implemented by the government, the main instrument of which is the Law on Renewable Energies (*Erneuerbare-Energien-Gesetz* or EEG).

3.6.2 Energy efficiency and Carbon Capture and Storage

(49) Germany points out that energy efficiency is key for achieving the EU's ambitious objectives in the struggle against climate change. In Germany, by 2050, primary energy demand should be reduced by 50%.

(50) More specifically, Germany intends to improve energy efficiency and reduce CO2 emissions stemming from hard coal consumption by intervening in three areas:

- Continued promotion of co-generation
- Promotion of the development and deployment of highly energy-efficient power plants through research projects
- Preparation for the deployment of CCS technology.

(51) The government has set itself the objective that, by 2020, co-generation plants should account for 25% of electricity production in Germany. The instrument put in place by the German government to this effect is the Law on Co-generation (*KWK-Gesetz*), which is going to be further developed via a legislative amendment.

(52) The energy efficiency level (*Wirkungsgrad*) of power plants determines the level of CO2 emissions, as highly efficient plants require less fuel and therefore produce lower emissions. The current level of energy efficiency in hard coal-fuelled power plants is 38% (or 30% for older plants). New hard coal-fuelled power plants are expected to reach efficiency levels between 45 and 50%. This will also contribute to a reduction in CO2 emissions. The German government promotes these developments by providing funding for research and development projects aiming to increase the energy efficiency and reduce harmful emissions from power

[9] OJ L 283, 27.10.2001, p. 33–40

plants. The main instrument of this policy is the Research Programme for CO2 Reduction Technologies (COORETEC).

(53) COORETEC also supports research and development projects in the area of Carbon Capture and Storage. Storage technologies are being investigated also in the framework of the Research Programme for Geotechnologies. The German government is currently testing the feasibility of CCS in Germany, as a possible instrument to achieve an 80% reduction of greenhouse gas emissions by 2050.

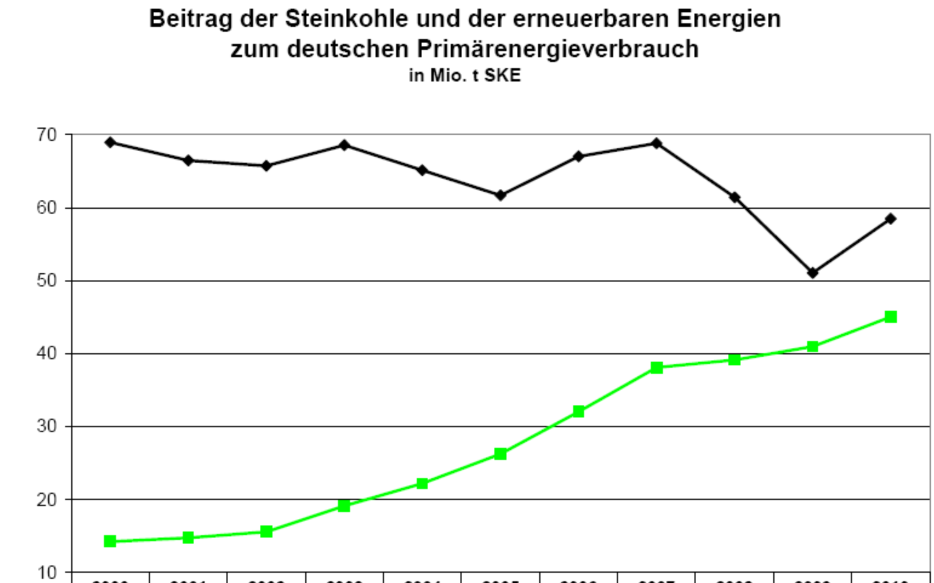
(54) On 7 July 2011 the German Lower Chamber approved a Law on the Demonstration and Implementation of Technologies for the Capture, Transport and Storage of Carbon Dioxide, which promotes research and demonstration projects on CCS. By 2020 Germany should have built two of the twelve CCS demonstration projects co-financed by the EU. The first pilot project for the underground storage of CO2 has already been built in Ketzin. The government will also finance an analysis of CO2 storage potential in Germany. Furthermore, the German government is exploring the use of CO2 as a raw material, and has put in place an ad hoc research programme in close cooperation with industry.

(55) Overall, Germany is investing a total of 26.5 million EUR in research into the development of more efficient power plants and CCS.

3.6.3 Reduction of the share of coal in the German energy mix and of coal-related CO2 emissions

(56) Germany points out that subsidized hard coal production has been declining for many years. Between 2000 and 2007 alone production dropped by 36% (a reduction of 12.3 m. tce). Production will continue to be downscaled until the permanent cessation of production in 2018.

(57) More importantly, the quantities of hard coal (both domestic and imported) used for energy production have diminished over the years. Between 2000 and 2010 the use of hard coal for energy production dropped by 15% (from 69 m. tce to 58.5 m. tce). Conversely, the contribution of renewable energies to primary energy consumption grew by 217% (going from 14.2 million tce to 45.0 million tce).

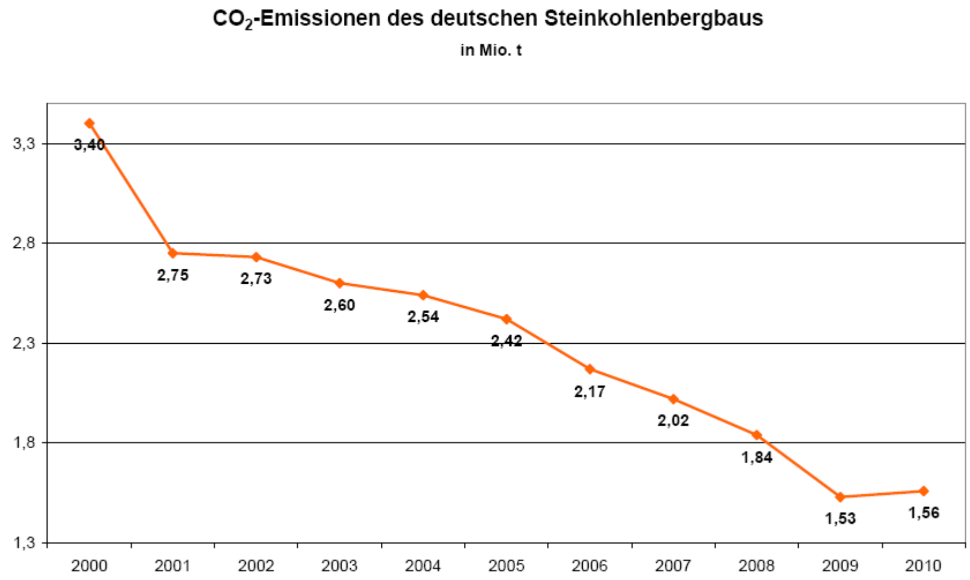


	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Steinkohle	69,0	66,5	65,7	68,6	65,1	61,7	67,0	68,8	61,4	51,1	58,5
Erneuerbare Energien	14,2	14,7	15,5	19,1	22,2	26,3	32,0	38,1	39,1	41,0	45,0

(58) The share of domestic hard coal has diminished to an even greater extent. In the year 2000, subsidized hard coal accounted for 36.2 million tce of primary energy consumption. In 2010, it accounted for only 13.3 m tce (a 63% reduction). Today, subsidized domestic coal covers only 3% of domestic energy requirements (down from 7% in 2000).

(59) The share of hard coal in the electricity production mix has also gone down from 43.3 m tce in 2000 to 33.9 m tce in 2010 (a 22% reduction). Domestic hard coal has followed the same trend, exhibiting a 9.7% reduction between 2000 and 2007. This trend further accelerated after the 2007 decision to phase out hard coal subsidies and mining, with a decrease of further 4.2 percentage points over the following 3 years.

(60) CO2 emissions linked to hard coal were correspondingly reduced. It is estimated that emissions linked to domestic hard coal went down by 54% between 2000 and 2010, mainly because of the closure of mines but also because of energy efficiency gains.



3.6.4 German environmental provisions in respect of coal mining activities go beyond EU standards

(61) Germany points out that national environmental rules applying to hard coal mining regulate aspects for which there are no equivalent rules in EU law, or they further specify obligations which are mentioned in EU law in a generic way. The Law on Mining (*Bundesberggesetz* or *BBergG*) is the main legislative text regulating mining activities, but other laws are also applicable.

(62) Germany quotes the following examples of legislative provisions:

Examples of additional environmental protection measures to be taken by RAG	Legal basis Germany
Soil protection Drawing up a landscape maintenance study as part of the measures on the final condition and rehabilitation of open-cast sites and slag heaps	Soil protection law
Geographic information systems (GIS) for environmental impact studies (EISs) “Extraction in hard coal mining”. The basis for the scoping deadlines in the EIA procedure for the individual mines and for the	EIA Act, nature conservation law

FFH impact studies to evaluate the impact on habitats and species in FFH and bird protection areas	
Planning permission decisions in the currently applicable general operating plans with an EIA Establishing the actual impact of mining and the required counter-measures as part of continuous monitoring of the environmental impact during extraction, retrospective checks on the effectiveness of counter-measures, possible imposition of additional requirements	BBergG, Mining EIA Regulation
Measures on the final condition and rehabilitation of open-cast sites Drawing up a landscape maintenance study. Soil cleaning, also by covering over local soil contamination, sealing off soil pollution affecting the groundwater or soil processing measures	Soil protection law, BBergG
Slag heap management Drawing up a landscape maintenance study as part of the measures on the final condition and rehabilitation of slag heaps	Soil protection law, BBergG
Mine gas extraction and utilisation	EEG, energy plan
Subsequent rise in mine water levels following the termination of mining Numerical modelling as the basis for assessing the impact in an operating plan	Water law, BBergG

(63) More generally, Germany maintains that its rules on liability for environmental damage are stricter than the rules contained in Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage[10] in that there is no limitation of liability (*Kostenfreistellung*) for environmental damage caused by authorized activities (such as mining), and mining operators may face claims for damages in civil actions.

3.6.5 Mine gas utilization

(64) As of 2000, Germany started the exploitation of mine gas, a mixture of gases which occurs naturally in coal production sites and contains a high proportion of methane. Mine gas has a high global warming potential. Therefore, supporting mine gas utilization contributes to the efforts to reduce the release of greenhouse gases. Besides climate protection effects, using mine gas to produce energy leads to primary energy savings, as this gas would otherwise simply be released into the atmosphere.

(65) The exploitation of mine gas is not viable without public incentives. Germany encourages the utilization of mine gas through a support mechanism included in the Renewable Energies Act (EEG). The operators of plants that exclusively use renewable energy or mine gas to generate electricity receive a fixed payment per kilowatt hour of electricity produced from the grid operator on a sliding scale depending on the output of the plant.

(66) The use of mine gas for the production of heat and electricity reduced methane emissions from coalmining into the atmosphere by 76% between 2000 and 2009. In the forthcoming restructuring of mining operations, the number of mobile district heating plant modules will be selected in such a way that the mine gas utilization rate can be maintained at a high level

[10] OJ L 143, 30.4.2004, p. 56–75

(until the end of hard coal mining and beyond). Mine gas exploitation is not operated by RAG AG.

3.6.6 Subsequent use of mining infrastructure

(67) Germany's government intends to promote the subsequent use of mining infrastructure, in particular for the production of renewable energies. Projects in the pipeline include:

- Wind energy plants on spoil heaps;
- Biomass production on brownfields;
- Solar panels on brownfields, spoil heap slopes and buildings;
- Geothermal energy from deep shafts;
- Generation of heat from mine water;
- Energy storage by means of pumped storage power plants on spoil heaps and underground;
- Generation and storage of heat in spoil heap mass or mine workings;
- Algae production in connection with mine water

(68) Germany has also provided examples of the first projects which have already been implemented.

(69) These projects are implemented by companies other than RAG,

Notification of annual aid for 2011 under Article 7.4 of the Council Decision

(70) The notification submitted by Germany for the year 2011 provides detailed cost figures for each production unit, broken down by cost item. The annual aid amounts correspond exactly to those indicated in the closure plan. Germany intends to grant the following amounts of aid to the coal industry:

Type of aid	**RAG AG Million EUR**
Aid ceiling	1 956,00
Of which:	
Production aid pursuant to Article 3[11]	1 150,00
Aid for exceptional costs pursuant to Article 4	806,00
TOTAL	**1 965,00**

(71) The Federal State will provide 1 512 million EUR, the Land Nord Rhein-Westphalia will provide 444 million EUR.

(72) According to Germany, the revenue capping system would again result in underfinancing for RAG AG in 2011, since world market prices have increased and sales of hard coal bring higher revenues. Therefore, a higher cap has been established, meaning that RAG AG will be entitled to retain the additional revenues to offset a higher proportion of its losses. This treatment of additional revenues will result in lower aid payments to the undertaking.

[11] The offsetting of losses incurred in supplying the power generation and steel industries (*Absatzförderung*) is assimilated to production costs.

4. ASSESSMENT OF THE MEASURE

4.1. EXISTENCE OF STATE AID

(73) A measure constitutes State aid within the meaning of Article 107(1) TFEU if the following conditions are cumulatively fulfilled: the measure (a) confers an economic advantage to the beneficiary; (b) is granted by the State or through State resources and is imputable to the State; (c) is selective; (d) has an impact on intra-community trade and is liable to distort competition within the EU.

Status of RAG AG and RAG Foundation as undertakings

(74) State aid rules apply only to undertakings. The beneficiaries of the measures are RAG AG and its owner RAG Foundation. It is clear that RAG AG is an undertaking in that it is involved in the extraction of coal for subsequent sale, which is an economic activity

(75) As regards the status of undertaking of RAG Foundation, the Commission recalls that, in its preliminary ruling of 10 January 2006 in case *Cassa di Risparmio di Firenze*[12] (paras 107-118 and 125) the Court stated that "*the mere fact of holding shares, even controlling shareholdings, is insufficient to characterize as economic an activity of the entity holding those shares, when it gives rise only to the exercise of the rights attached to the status of shareholder or member, as well as, if appropriate, the receipt of dividends, which are merely the fruits of the ownership of an asset. On the other hand, an entity which, owning controlling shareholdings in a company, actually exercises that control by involving itself directly or indirectly in the management thereof, must be regarded as taking part in the economic activity carried on by the controlled undertaking and must therefore itself, in that respect, be regarded as an undertaking within the meaning of Article 87.1 EC*."

(76) In the case at hand, RAG Foundation is directly involved in the management of its businesses RAG AG and Evonik Industries, and does not confine itself to enjoying the fruits of the ownership of an asset, at least at this stage It should therefore be considered an undertaking for the purpose of applying Article 107.1 TFEU.

(77) A distinction should be made between the subsidies to be paid to RAG AG to cover production cost, closure cost and certain inherited liabilities on one hand, and the mechanism put in place for the financing of eternal liabilities as of 2019.

Subsidies for production aid, closure costs and inherited liabilities

Presence of an economic advantage

(78) RAG Foundation's mining division RAG AG will receive subsidies to offset its operating losses compared to world prices of imported coal (production aid), to cover closure costs and to finance certain inherited liabilities stemming from the permanent closure of the coalmines (to the exclusion of eternal liabilities). These financial transfers constitute an economic advantage.

Involvement of State resources and imputability to the State

(79) Production aid, closure costs and certain inherited liabilities will be financed from the Federal State budget pursuant to the *Steinkohlefinanzierungsgesetz*. The *Länder* will provide a

[12] Preliminary ruling of the ECJ in case C-222/04 Ministero dell'Economia e delle Finanze v. Cassa di Risparmio di Firenze, ECR [2006] p. I-00289

financial contribution towards these costs. Therefore, these subsidies will be provided through State resources.

(80) As the measure is based on a set of German legislative acts, it is imputable to the State.

Selectivity

(81) Since RAG AG (and indirectly its owner RAG Foundation) are the sole beneficiaries of the measure, the subsidies are granted selectively.

Impact on competition and intra-EU trade

(82) The market for hard coal is fully open to competition. Therefore, subsidies designed to improve the competitive position of German hard coal produced by RAG AG compared to other EU producers are liable to affect intra-EU trade and distort competition.

Financing of eternal liabilities as of 2019

(83) As of 2019, eternal liabilities will be financed by RAG Foundation using its own capital. The former shareholders of RAG AG received only a symbolic amount of 1 euro for the transfer of their shares in RAG AG to the Foundation. According to the estimates made by the independent business consultant KPMG, RAG Foundation has sufficient capital to cover the costs of facing the relevant liabilities.

(84) However, in the *Erblastenvertrag*, the *Länder* and the Federal State have agreed to step in and finance these liabilities if the capital of RAG Foundation proves insufficient.

(85) In their letter dated 14 October 2011, the German authorities clarified that the State will step in only if and when RAG Foundation's capital is entirely exhausted. Therefore, RAG Foundation will have to divest all its assets before the State intervenes to ensure that the relevant works are carried out. In these circumstances, RAG Foundation would *de facto* be unable to carry out any economic activity. The Commission has already considered that a guarantee which ensures payment of liabilities of an undertaking only after the undertaking is bankrupt and wound up does not provide a benefit to the undertaking in question.[13]

(86) Furthermore, even in the event that, thanks to the financial intervention of the State, the Foundation continued to exist in order to manage the eternal liabilities stemming from coalmining are honoured, this in itself would not constitute an economic activity, as confirmed by the Commission's case-practice in similar cases (see, in particular, cases N 45/2004 and N110/2004 on State aid to the Czech coal industry) which is based on the relevant jurisprudence of the EU Courts case-law[14].

(87) The Commission considers that, in the light of the conditions under which the State would take over liability for these costs (exhaustion of RAG Foundation's capital), the commitment enshrined in the Erblastenvertrag should rather be seen as an intervention by the State on grounds of public security, as a matter of public order. The State would merely step in to ensure the continued financing of eternal liabilities in the public interest, notably to prevent environmental damage.

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[13] Commission decision of 11 February 2009 in Case C55/2007, Crown Guarantee to BT, recital 37. While such a guarantee may provide benefits to other beneficiaries, this is a question outside the scope of the present decision, which concerns exclusively the aid scheme notified by Germany.

[14] See, *inter alia,* Case C-343/95, *Calì,* [1997] ECR I-1547, and Case T-128/98 *Aéroports de Paris,* [2000] ECR II-3929, § 108.

(88) Therefore, the "last resort" mechanism contained in the Erblastenvertrag does not constitute State aid caught by Article 107(1) TFEU, to the extent that RAG Foundation does not exercise any economic activity at the time the State steps in to finance eternal liabilities once the Foundation's capital has been exhausted.

Conclusions on the presence of aid

(89) On the basis of this analysis, the Commission concludes that the closure plan notified by Germany involves the grant of State aid within the meaning of Article 107.1 of the TFEU as concerns the aid granted to cover production costs, closure costs and costs of certain inherited liabilities. The mechanism laid down in the *Erblastenvertrag* for financing eternal liabilities (in the event that the capital of the RAG Foundation is exhausted and this entity ceases any economic activity) does not constitute State aid caught by Article 107(1) TFEU.

4.2 LEGALITY OF THE AID

(90) The coal mines closure plan as such was notified in 2007 and implemented by Germany according to schedule. However, each year until 2010, Germany also submitted separate notifications of annual aid to the coal sector, which were authorized by the Commission. The present decision therefore only covers public support to be granted from 2011 onwards, although the measures are part of a wider plan already in the course of implementation. Since the aid covered by the present decision has not yet been put into effect, it can be concluded that Germany has complied with the obligation, laid down in Article 108(3) of the TFEU, to notify State aid to the Commission at the planning stage, and the aid is lawful.

4.3 COMPATIBILITY OF THE AID

(91) In derogation from the general prohibition of State aid laid down in Article 107(1) TFEU, aid may be declared compatible if it qualifies for one of the exceptions enumerated in the Treaty.

(92) The Coal Decision[15], adopted on the basis of Article 107(3) (e) of the TFEU, spells out the conditions under which State aid granted to facilitate the closure of uncompetitive coal mines can be declared compatible with the internal market.

(93) According to Article 2, paragraph 2 of the Coal Decision, "*aid shall cover 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*". The production aid Germany intends to grant concern hard coal used domestically for fuelling power plants and in the steel industry. Therefore, this criterion is complied with.

Information on the elements of the closure plan (pursuant to article 7.2 of the Coal Decision)

(94) Germany plans to grant closure aid in the context of a closure plan of the units concerned. As defined in Article 1 .c) of the Coal Decision, the closure plan drawn up by the Member State must provide for measures culminating in the definitive closure of coal production units. Recital 5 of the Coal Decision further recalls that the closure plan accompanies an orderly winding down of activities with a view to irrevocable closure. The closure plan submitted by Germany includes the legislative and other measures adopted by Germany described at points 18-19 and ff. including also the financial measures planned to accompany the definitive and irrevocable closure of the units concerned, thus leading to an orderly winding down of activities of such units at the planned dates.

[15] See footnote 3.

(95) Moreover, Article 7.2 of the Coal Decision specifies the elements which a closure plan must contain at least to enable its authorization, notably:

a. *Identification of the coal production units;*
b. *Real or estimated production costs for each coal production unit per coal year;*
c. *Estimated coal production, per coal year, of coal production units forming the subject of a closure plan;*
d. *The estimated amount of closure aid per coal year.*

(96) Germany has submitted all the relevant data required for the assessment of the closure plan (see in particular the tables in the Annex to the present decision).

Production aid

(97) According to Article 3.1 of the Coal Decision, closure aid intended to cover current production losses of coal production units may be considered compatible if a set of conditions are cumulatively met:

a) *the operation of the coal production units concerned are part of a closure plan the deadline of which does not extend beyond 31 December 2018*;

(98) The production aid Germany intends to grant is indeed part of a closure plan which started being implemented already in 2007 and foresees the definitive closure of all German hard coal mines by December 2018.

b) the coal production units concerned must be closed definitively in accordance with the closure plan.

(99) Germany has confirmed that the closure of the mines will be permanent, and has submitted a schedule for the decommissioning of each mine (see point (24) above).

c) *the aid notified must not exceed the difference between the foreseeable production costs and the foreseeable revenue for a coal year. The aid actually paid must be subject to annual correction, based on the actual costs and revenue, at the latest by the end of the coal production year following the year for which the aid for granted.*

(100) Germany will continue to calculate the amount of production aid payable to RAG AG using the BAFA price system, which was accepted by the Commission as not leading to overcompensation already in its decision on the 2005 restructuring plan (see point (41) above). The revenue capping system described in point (44) is designed to *reduce* payments to RAG AG, while the flexibility clause acts as a safeguard in case of excessive underfinancing for RAG AG. The Commission has already accepted this mechanism (see, for example, the decision on State aid to German coalmining for the year 2008)[16].

(101) Since the requirements imposed by the Council Decision are identical to those laid down in Regulation 1407/2002 (see point 4b thereof), there is no reason for the Commission to reassess the mechanism or change its assessment.

(102) The Commission is satisfied that the price calculated by BAFA for hard coal imported from third countries reflects the world market price for hard coal. In any event, payments to RAG AG are to be readjusted in the framework of an ex-post re-evaluation which is based on real prices prevailing in the year considered. Therefore, any overcompensation of RAG AG can be ruled out.

[16] Case N 631/2007.

d) *the amount of aid per tonne coal equivalent must not cause prices for Union coal at utilisation point to be lower than those for coal of similar quality from third countries.*

(103) The BAFA system described above ensures that prices of German hard coal are not lower than import prices from third countries for hard coal of similar quality. This was consistently recognized by the Commission in its decisions on annual aid to coalmining since 2007.

e) The coal production units concerned must have been in activity on 31 December 2009.

(104) Production aid will be granted by Germany only to mines which were still in operation in 2011, i.e. the mines enumerated in the table in point (24).

f) 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.

(105) Production aid granted by Germany will be scaled down as follows:

	2011	**2013**	**2015**	**2016**	**2017**	**2018**
Production aid (Mio EUR)	1.150	862	690	460	287	287
		-25%	-40%	-60%	-75%	-75%

The degressivity criterion prescribed by the Coal Decision is therefore complied with.

g*) the overall amount of closure aid to the coal industry of a Member State must not exceed, for any year after 2010, the amount of aid granted by that Member State and authorized by the Commission in accordance with Articles 4 and 5 of Regulation (EC No 1407/2002 for the year 2010;*

(106) In 2010, Germany granted 1.398 m EUR to the coalmining industry in accordance with Article 5 of the Regulation EC 1407/2002 (Coal Regulation)[17]. The amounts of production aid planned until 2018 are consistently lower than the amount granted in 2010. Therefore, this condition is also met.

h) 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.

(107) In assessing the environmental mitigation plan submitted by Germany, the Commission has taken into account the fact that the coal mines closure plan started being implemented already in 2007 and was preceded by a restructuring plan in 2005 which involved an extensive downscaling of production

(108) In Germany, exploitation of coal is part of an energy policy which lays particular emphasis on renewable energies. Germany is achieving its mandatory EU targets for renewable energies faster than prescribed by EU legislation (see point (48) above). Renewable energies are set to

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17 See Commission Decision C(2009) 0432 of 18 December 2009 in case N 592/09 "Germany - State aid to the coal industry".

become the main component of the energy mix, gradually replacing conventional sources of energy. Subsidized coal currently covers only 3% of German energy requirements.

(109) This rapid development of renewable energies is accompanied by a sizeable reduction not only of subsidized coal production but also of the share of both domestic and imported coal in the German energy mix (see points (57) and (58)). The downward trend for imported coal is particularly significant, because it indicates that the coal production capacities closed down in Germany are not being replaced by imported coal. Therefore, the closure of the mines has led and will continue to lead to the partial replacement of coal as energy source for electricity generation. This replacement trend provides clear environmental benefits in terms of lower CO2 emissions stemming from coal consumption.

(110) Germany is set to improve energy efficiency and further reduce CO2 emissions linked to coal (over and above the emission reductions resulting from the closure of the mines) through the continued promotion of co-generation and of research programmes aiming to develop highly energy-efficient power plants (see points (50) (51) and (52) above). The Coal Decision explicitly quotes energy efficiency initiatives as examples of possible mitigation measures which Member States may include in their plans.

(111) Germany is also taking concrete steps for the introduction of CCS technology, in particular by financing research and development programmes as well as demonstration projects (see points (53) to (55) above). Carbon capture and storage is explicitly mentioned in the Coal Decision as an element which can be included in an environmental mitigation plan.

(112) Germany will also continue to promote the exploitation of mine gas, which leads to a reduction in methane emissions into the atmosphere. Harnessing mine gas therefore effectively mitigates the environmental effects of coalmining.

(113) Germany is also promoting through financial incentives the re-use of decommissioned mining infrastructure for the production of renewable energies, as described in point (67). The Coal Decision mentions initiatives involving renewable energies as examples of measures which can be included in a mitigation plan. The Commission notes that these German measures are directly related to the mines still active in coal production to be closed down.

(114) Germany has provided information on its environmental rules applicable to coalmining and designed to minimize its impact on the natural environment. The Commission does not dispose of sufficient information to conclude as to whether these provisions can be considered to go beyond the mere implementation of the relevant mandatory EU rules, and therefore to improve on EU standards within the meaning of the Guidelines on State aid for environmental protection. However, the Commission notes that the German mitigation plan aims at achieving a high level of environmental protection in connection with coalmining, and takes this aspect into account in its assessment of Germany's environmental mitigation plan. However, it is to be noted that this decision does not prejudge the Commission's assessment regarding compliance with the relevant environmental legislation.

(115) In the light of the foregoing, the Commission considers that the environmental mitigation plan submitted by Germany meets the condition laid down in Article 3(1) h) of the Coal Decision.

(116) It should be noted that some of the measures referred to by Germany may involve the grant of State aid. The acceptance of these measures as part of the environmental mitigation plan for the purpose of authorizing aid to coalmining in application of the Coal Decision cannot be construed as a clearance of such measures under Articles 107 and 108 TFEU. It remains Germany's responsibility to ensure that measures liable to constitute State aid are duly notified to the Commission pursuant to Article 108(3) TFEU.

(117) This assessment concerns only the acceptability of the environmental mitigation plan.

Conclusions on the compatibility of the closure plan

(118) The assessment above demonstrates that all the substantive criteria of the Coal Decision regarding production aid to be granted under the closure plan are complied with. The notified closure plan can therefore be declared compatible with the internal market.

Aid to cover exceptional costs

(119) According to Article 4.1 of the Coal Decision, State aid granted to coalmines to cover the costs arising from the closure of coal production units and which are not related to current production may be considered compatible with the internal market provided the amount paid does not exceed such costs.

(120) Annex I to the Coal Decision enumerates the eligible costs for this type of aid. The Decision's notion of exceptional costs covers a variety of cost items which Germany has grouped under the headings of closure costs (*Stilllegungsaufwendungen*, see point (30)), inherited liabilities (*Altlasten*, see point (31)) and eternal liabilities (*Ewigkeitslasten*, see point (32) above).

(121) All the costs towards which Germany intends to grant aid under these headings are mentioned as eligible in the Annex to the Coal Decision, and only documented costs will be subsidized (according to the system of ex-post checks of actual costs incurred).

- Social welfare benefits resulting from the pensioning off of workers before they reach retirement age: point 1 a) of the Annex;
- Pensions/allowances outside the statutory system:point 1 c) of the Annex
- Cost covered by undertakings for the readaptation of workers: point d) of the Annex
- free coal: point 1 e) of the Annex;
- costs resulting from administrative, legal or tax provisions: point 1 f) of the Annex
- technical closure costs, including dismantling of mining equipment, filling of pits, decontamination of land and other measures foreseen in the Federal Mining Act (*Bundesberggesetz*), underground safety work, mine water management, cleaning of underground water, polder measures: points 1 f), g) and i) of the Annex
- Mining damage by mines which have been closed or which are to be closed: point 1h) of the Annex
- Costs related to the rehabilitation of former coal mining sites (water industry associations/own pumping costs: point 1 i) of the Annex
- Costs of surface recultivation: point 1m) of the Annex
- costs and provisions made by several undertakings (e.g. increase in social security contributions and pension costs for employees who have left the Community organizations): point 2 a) of the Annex.

(122) Aid towards exceptional costs (closure aid and aid for inherited liabilities) will continue to be needed also after the cessation of production in 2018. However, the aid covering the period after the closure of the mines will be granted in its entirety at the moment the measure is implemented for a pre-determined amount (EUR 3.136 million) and a fixed duration (until 2029). Payment of this aid will take place in annual instalments. In these circumstances, the aid should be considered granted in its entirety before the expiry of the Coal Decision (in 2027) and can therefore be authorized on its basis.

(123) Germany has confirmed that no aid will be granted towards costs resulting from non-compliance with environmental legislation, such as:

- Directive 2006/21/EC on Mining Waste,
- Directive 2004/35/EC on damage to land or water caused by mining waste activity (Environmental Liability Directive - ELD);
- The Framework Directive 2000/60/EC establishing a framework for Community action in the field of water policy;
- The Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora
- The Directive 85/337/EEC - amended with Directive 97/11/EC, Directive 2003/35/EC and Directive 2009/31/EC on the environmental impact assessment.

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

Cumulation

(125) Germany has confirmed that aid to hard coal is not cumulable with other State aid within the meaning of Article 107.1 TFEU or with EU financing for the same eligible costs.

Separation of accounts

(126) All aid received by RAG will be shown in the profit-and-loss accounts as a separate item of revenue distinct from turnover, as required by Article 6 of the Coal Decision.

Conclusions on the compatibility of aid towards exceptional costs

(127) The assessment above demonstrate that the planned aid towards exceptional costs is in line with the provisions of the Coal Decision and can therefore be declared compatible with the internal market.

Information on aid in the light of Article 7.4 of the Coal Decision

(128) Germany has submitted, for the year 2011, all details relevant to the calculation of the foreseeable production costs and their relationship to the closure plan, as well as details of exceptional costs towards which aid will be granted. The figures coincide with those indicated in the closure plan for the year 2011. These figures are estimates, and Germany shall inform the Commission of the amount and of the calculation of the aid actually paid during the coal year 2011.

(129) The aid notified by Germany for the year 2011 is in line with the closure plan and can therefore be authorized.

(130) The Commission notes that the information submitted by Germany in the context of the notification of the closure plan is very detailed. In particular, Germany has provided detailed cost estimates for each production unit, broken down by individual cost items, for each year covered by the closure plan.

(131) The Commission takes the view that the information provided by Germany satisfies also the requirements of Article 7.4 of the Council Decision for the entire period covered by the closure plan.

(132) The Commission has therefore concluded that both the closure plan and the aid to be granted each year on the basis of the plan can be authorized in the present decision.

(133) Germany will need to submit separate annual notifications where there is a discrepancy between the annual measures and the approved closure plan. It shall duly inform the Commission of the amount and of the calculation of the aid actually paid each year until the end of the closure plan, as laid down in Article 7.5 of the Coal Decision.

CONCLUSION

(134) On the basis of the foregoing, the Commission has decided not to raise objections against the notified measure since the subsidies towards production costs and exceptional costs fulfil the conditions to be considered compatible with the internal market pursuant to Article 107(3)(e) of the TFEU.. The mechanism laid down in the *Erblastenvertrag* for the last-resort coverage of environmental liabilities does not constitute State aid caught by Article 107(1) TFEU.

(135) The Commission reminds the German authorities that, in accordance with Article 108(3) of the TFEU, plans to refinance, alter or change this scheme have to be notified to the Commission pursuant to Commission Regulation (EC) No 794/2004[18]. Moreover, notifications pursuant to Article 7(3) of Council Decision 2010/787/EU must be submitted if the closure plan is amended. Pursuant to Article 7(4) thereof, notifications must also be submitted if the aid Germany plans to grant to the coal industry during a coal year is higher than the amounts authorised in the present decision or if the details relevant to the calculation of the foreseeable production costs planned to be aided in the closure plan differ from those indicated in the present notification.

(136) According to Article 3.3 of the Coal Decision, if the coal production units to which aid is granted are not closed at the date fixed in the closure plan as authorised by the Commission, Germany shall recover all aid granted in respect of the whole period covered by the closure plan.

(137) If this letter contains confidential information which should not be published, please inform the Commission within fifteen working days from 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_de.htm

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

European Commission
Directorate-General of Competition
State Aid Greffe
B-1049 BRUSSELS
Fax nº: 00-32-2-296 1242

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President

ANNEX

[18] 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.

Aid to cover exceptional costs pursuant to Article 4 of Council Decision 2010/787/EU - Annex to the closure plan for the phasing-out of subsidised German coal mining by the end of 2018

- EUR million -	2011	2012	2013	2014	2015	2016	2017	2018	Total 2011-18
1. Costs incurred and cost provisions made by undertakings which have closed or are closing coal production units a) Social welfare benefits resulting from the pensioning-off of workers before they reach statutory retirement age	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
b) Other exceptional expenditure on workers who have lost or who lose their jobs	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
c) Pensions/allowances outside the statutory system	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
d) The cost covered by undertakings for the readaptation of workers	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
b) Free coal to workers who have lost or who lose their jobs, or the monetary equivalent	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
f) Costs resulting from administrative, legal or tax provisions Professional and trade association for the mining industry Advance costs of closure (removal of timbering, blocking up and damming, sealing of shafts, etc.) Costs resulting from the premature abandonment of mines	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
g) Additional underground safety work, after closure Subsequent costs of closure (removal of timbering, blocking up and damming, sealing of shafts, etc.) Filling of shafts, stabilising of shafts that are no longer in use	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
h) Mining damage by mines which have been closed or which are to be closed	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
i) Costs related to the rehabilitation of former coal mining sites Water industry associations/own pumping costs Pumping of mine water Processing costs of mine rehabilitation (closed mines)	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
j) Costs to cover former miners' health insurance	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
k) Costs related to the cancelling or modification of ongoing contracts (up to 6 months)	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
l) Exceptional intrinsic depreciation	[…]		[…]	[…]	[…]	[…]	[…]	[…]	[…]
m) Costs of surface recultivation									

2. Costs incurred and cost provisions made by several undertakings										
a) Social security costs as a result of a drop in the number of contributors Pension expenditure for employees who have left the Community organisations	[…]		[…]	[…]	[…]	[…]	[…]	[…]		[…]
Total inherited liabilities	**568**	**524**	**656**	**546**	**589**	**530**	**649**	**650**		4 712
Total closure liabilities	**238**	**109**	**243**	**242**	**224**	**235**	**246**	**154**		**1 691**
Total aid pursuant to Article 4	**806**	**633**	**899**	**788**	**813**	**765**	**895**	**804**		**6 403**

Note: Totals may differ due to rounding

Annex to the closure plan for the phasing-out of subsidised German coal mining by the end of 2018
RAG Aktiengesellschaft (including RAG Anthrazit Ibbenbüren GmbH)

		No	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**Total 2011-18**
Output	1 000 tce	**1**	12 418	11 319	8 350	8 050	6 950	4 576	4 176	4 050		59 889
Productivity	tce/ year/	**2**	1 173	1 164	1 023	1 104	1 182	1 353	1 260	1 333		
Personnel (annual average)												
Underground[1]	n	**3**	10 590	9 721	8 164	7 292	5 878	3 383	3 315	3 038		
Total[1]	n	**4**	18 739	17 229	14 560	12 745	10 552	6 789	6 530	5 310		
Total costs	€/tce	**5**	210	206	240	233	245	276	293	299		**237**
Total costs	€ million	**6**	2 603	2 335	2 001	1 874	1 701	1 262	1 225	1 209		14 211
Inherited	€/tce	**7**	46	46	79	68	85	116	155	160		79
Production costs[2]	€/tce	**8**	**164**	**160**	**161**	**165**	**160**	**160**	**138**	**138**		**159**
Production costs[2]	€ million	**9**	2 035	1 811	1 345	1 328	1 112	732	576	559		9 499
Revenue	€ million	**10**	571	521	459	443	382	252	230	223		3 080
Revenue	€/tce	**11**	**46**	**46**	**55**	**55**	**55**	**55**	**55**	**55**		**51**
Aid required	€/tce	**12**	**118**	**114**	**106**	**110**	**105**	**105**	**83**	**83**		**107**
(pursuant to Article 3)	€ million	**13**	**1 464**	**1 290**	**885**	**886**	**729**	**480**	**347**	**336**		**6 418**

1) In accordance with the EU Directive on the Statistical Office of the EC (incl. mining employers)
2) Costs relating to current output (without inherited liabilities)

	Financial plan												
													Total
Aid			**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**		**2011-18**
- pursuant to Article 3	€ million	**14**	**1 150**	**1 150**	**862**	**861**	**690**	**460**	**287**	**287**			**5 747**
- pursuant to Article 4 inherited liabilities	€ million	**15**	568	524	656	546	589	530	649	650	2 121		4 712
- pursuant to Article 4 costs of closure	€ million	**16**	238	109	243	242	224	235	246	154	1 015		1 691
- pursuant to Article 4 total	€ million	**17**	**806**	**633**	**899**	**788**	**813**	**765**	**895**	**804**	**3 136**		**6 403**
- total (State aid)	€ million	**18**	**1 956**	**1 783**	**1 761**	**1 649**	**1 503**	**1 225**	**1 182**	**1 091**	**3 136**		**12 150**
- Plus contribution by RAG AG	€ million	**19**	170	170	32	32	32	32	32	32	93		532
Total capped resources[3]	€ million	**20**	**2 126**	**1 953**	**1 793**	**1 681**	**1 535**	**1 257**	**1 214**	**1 123**	**3 229**		**12 682**

3) Funds pursuant to grant notices/German Hard Coal Financing Act [*Steinkohlefinanzierungsgesetz*]/framework agreement

Information on individual mines

Mine		WS								
Year		1	2011	2012	2013	2014	2015	2016	2017	2018
Production	’000 tce	2	[…]	[…]	[…]					
Employees underground	n	3	[…]	[…]	[…]					
Productivity	tce/empl. u.g.	4	[…]	[…]	[…]					
Total employees	n	5	[…]	[…]	[…]					
Labour costs	€/tce	6	[…]	[…]	[…]					
Material costs	€/tce	8	[…]	[…]	[…]					
Depreciation	€/tce	9	[…]	[…]	[…]					
Interest costs	€/tce	10	[…]	[…]	[…]					
Transport costs	€/tce	11	[…]	[…]	[…]					
General company costs	€/tce	12	[…]	[…]	[…]					
Other costs	€/tce	13	[…]	[…]	[…]					
Production costs for mine	€/tce	20	[…]	[…]	[…]					
Inherited liabilities for mine	€/tce	21	[…]	[…]	[…]					
Total costs for mine	€/tce	22	[…]	[…]	[…]					

Mine		PH								
Year		1	2011	2012	2013	2014	2015	2016	2017	2018
Production	’000 tce	2	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Employees underground	n	3	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Productivity	tce/empl. u.g.	4	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total employees	n	5	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Labour costs	€/tce	6	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Material costs	€/tce	8	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Depreciation	€/tce	9	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Interest costs	€/tce	10	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Transport costs	€/tce	11	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
General company costs	€/tce	12	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Other costs	€/tce	13	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Production costs for mine	€/tce	20	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Inherited liabilities for mine	€/tce	21	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total costs for mine	€/tce	22	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]

Mine		AV								
Year		1	2011	2012	2013	2014	2015	2016	2017	2018
Production	’000 tce	2	[…] [	[…]	[…]	[…]	[…]			
Employees underground	n	3	[…] [	[…]	[…]	[…]	[…]			
Productivity	tce/empl. u.g.	4	[…] [	[…]	[…]	[…]	[…]			
Total employees	n	5	[…] [	[…]	[…]	[…]	[…]			
Labour costs	€/tce	6	[…] [	[…]	[…]	[…]	[…]			
Material costs	€/tce	8	[…] [	[…]	[…]	[…]	[…]			
Depreciation	€/tce	9	[…] [	[…]	[…]	[…]	[…]			
Interest costs	€/tce	10	[…] [	[…]	[…]	[…]	[…]			
Transport costs	€/tce	11	[…] [	[…]	[…]	[…]	[…]			
General company costs	€/tce	12	[…] [	[…]	[…]	[…]	[…]			
Other costs	€/tce	13	[…] [	[…]	[…]	[…]	[…]			
Production costs for mine	€/tce	20	[…] [	[…]	[…]	[…]	[…]			
Inherited liabilities for mine	€/tce	21	[…] [	[…]	[…]	[…]	[…]			
Total costs for mine	€/tce	22	[…] [	[…]	[…]	[…]	[…]			

Mine		SA								
Year		1	2011	2012	2013	2014	2015	2016	2017	2018
Production	’000 tce	2	[…] [	[…]	[…]					
Employees underground	n	3	[…] [	[…]	[…]					
Productivity	tce/empl. u.g.	4	[…] [	[…]	[…]					
Total employees	n	5	[…] [	[…]	[…]					
Labour costs	€/tce	6	[…] [	[…]	[…]					
Material costs	€/tce	8	[…] [	[…]	[…]					
Depreciation	€/tce	9	[…] [	[…]	[…]					
Interest costs	€/tce	10	[…] [	[…]	[…]					
Transport costs	€/tce	11	[…] [	[…]	[…]					
General company costs	€/tce	12	[…] [	[…]	[…]					
Other costs	€/tce	13	[…] [	[…]	[…]					
Production costs for mine	€/tce	20	[…] [	[…]	[…]					
Inherited liabilities for mine	€/tce	21	[…] [	[…]	[…]					
Total costs for mine	€/tce	22	[…] [	[…]	[…]					

Information on individual mines

Mine		IB								
Year		1	2011	2012	2013	2014	2015	2016	2017	2018
Production	’000 tce	2	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Employees underground	n	3	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Productivity	tce/empl. u.g.	4	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total employees	n	5	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Labour costs	€/tce	6	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Material costs	€/tce	8	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Depreciation	€/tce	9	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Interest costs	€/tce	10	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Transport costs	€/tce	11	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
General company costs	€/tce	12	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Other costs	€/tce	13	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Production costs for mine	€/tce	20	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Inherited liabilities for mine	€/tce	21	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total costs for mine	€/tce	22	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Mine	Totals for all mines									
Year		1	2011	2012	2013	2014	2015	2016	2017	2018
Production	’000 tce	2	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Employees underground	n	3	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Productivity	tce/empl. u.g.	4	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total employees	n	5	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Labour costs	€/tce	6	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Material costs	€/tce	8	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Depreciation	€/tce	9	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Interest costs	€/tce	10	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Transport costs	€/tce	11	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
General company costs	€/tce	12	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Other costs	€/tce	13	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Production costs for mine	€/tce	20	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Inherited liabilities for mine	€/tce	21	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
	€ million	21a	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total costs for mine	€/tce	22	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Mine	Inherited liabilities across									
Inherited liabilities across	€ million		472	427	569	466	519	467	587	599
Mine	Total									
Production	’000 tce	2	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Employees underground	n	3	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Productivity	tce/empl. u.g.	4	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total employees	n	5	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Labour costs	€/tce	6	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Material costs	€/tce	8	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Depreciation	€/tce	9	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Interest costs	€/tce	10	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Transport costs	€/tce	11	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
General company costs	€/tce	12	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Other costs	€/tce	13	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Production costs for mine	€/tce	20	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total inherited liabilities	€/tce	21	[…] [	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Total inherited liabilities	€ million	21a	568	524	656	546	589	530	649	650
Total costs for mine	€/tce	22	210	206	240	233	245	276	293	298

Totals may differ due to rounding