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<u>SUMMARY OF THE IMPACT ASSESSMENT</u>

Accompanying document to the

Proposal for a

COUNCIL REGULATION

on State aid to facilitate the closure of uncompetitive coal mines

{COM(2010) 372 final}
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1. INTRODUCTION

Aid to the EU hard coal industry is regulated by a sector-specific legal instrument: Council Regulation (EC) No 1407/2002 of 23 July 2002 *on State aid to the coal industry* (the "Coal Regulation").

It applies to hard coal only. Other types of coal, such as ortho-lignite, are covered by the general State aid rules of the EU.

2. PROBLEM DEFINITION

2.1. Likely closure of coal mines in several Member States

The Coal Regulation expires on 31 December 2010. In the absence of a new legal framework allowing for certain specific types of State aid to the coal industry, Member States could grant aid only within the limits foreseen by general State aid rules applicable to all sectors.

Compared to the Coal Regulation, the general State aid rules significantly reduce the possibilities for State aid to the coal industry, especially but not only with regard to production aid. However, according to a recent study[1], some Member States are facing very high production costs compared to current and projected world market prices and therefore have an economically uncompetitive production of hard coal today and most likely in the future: especially Germany, Romania and Spain stand out. But also the coal mining industry in Hungary and Slovakia may become uncompetitive. The coal mines of these countries risk closure after the expiry of the Coal Regulation.

2.2. The social impact of mine closures

Under present policies, about 27 000 mine workers will still be employed in Germany and Spain in 2010, but might loose their jobs in the absence of production aid. In Romania, Hungary and Slovakia, a further 15 000 mine workers' jobs may be threatened by the end of subsidies. When taking into account jobs in related industries, **up to 100 000 jobs – 42 000 jobs in the coal industry and more than 55 000 jobs in related industries - may be at stake**.

While the jobs lost usually have a limited impact on EU-wide and national unemployment figures, their **impact on specific coal-mining regions** may be very significant, especially in Germany, Spain and Romania. The **immediate closure** of the uncompetitive mines would **overburden the regional labour markets with a flood of redundant mine workers**, which cannot rapidly enough be re-employed in other industries and therefore risk becoming long-term unemployed.

2.3. The environmental impact of mine closures

A closure of coal mines **stops the negative impact on the immediate environment of the mines**, i.e. the visual and biodiversity impact on the landscape, the impact on ground water

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1 An evaluation of the needs for State aid to the coal industry, Ecorys, December 2008, study prepared for the European Commission, see http://ec.europa.eu/energy/coal/consultations/2009_07_15_en.htm

and soil subsidence in underground mining areas and the impact through mining waste. But closure of mines also necessitates cleaning-up and rehabilitation of the mining sites and its financing must be ensured.

With regard to the more global aspect of greenhouse gas emissions, the impact of mine closures is uncertain. Although coal mining releases methane, a powerful greenhouse gas, methane capture technologies are highly developed in some coal-mining Member States. Furthermore, as greenhouse gas emissions are a global as opposed to local problem, the uncertainty increases when the emissions from the burning of the coal during the energy generation are taken into account.

Indeed, in coal-fired power stations**, indigenous coal will most likely be replaced by imported coal**. It follows that the overall impact on greenhouse gas emissions depends on the emissions from coal mining in third countries and from the transport of the coal to the EU. The impact on the overall energy mix of the EU is limited, at least in the short to medium term.

2.4. Marginal impact on the security of energy supply on the EU level

During the public consultation carried out in view of this impact assessment, the stakeholders of the coal industry have argued that subsidised coal is essential for ensuring the security of supply as having coal mines in Europe increases the geographic diversity of the energy sources and reduces the import dependency.

However, **the small contribution of subsidised hard coal to the overall EU energy mix strongly limits the capacity of such subsidies to compensate for supply disruptions**. Subsidised coal serves for only 5.1% of the electricity production in the EU. When taking into account only the aid to cover production losses, this figure is reduced to 1.4% (even if this figure may be higher for individual Member States).

In addition, **the likelihood of disruptions in the supply of imported hard coal seems to be rather limited as the world coal market has shown greater stability than the markets for other energy sources**. Hard coal can be imported from a diversity of exporting countries. The world trade volume in hard coal has been increasing on average by 7% per year since the year 2000. Strong capacity expansion in several countries, such as Indonesia and Russia, indicates that global trade can be expected to continue growing rapidly in the future. In view of the low proportion of electricity generated from subsidised coal, it is doubtful whether an additional State aid instrument would be useful to address security of supply concerns.

As for short-term bottlenecks, studies indicate that stock-piling imported coal is more efficient to assure security of supply than subsidizing a domestic hard coal production.

3. OBJECTIVES

The broader, horizontal objectives of the Commission with regard to State aid and to coal can be derived from the **Strategic Energy Review**[2] - as endorsed by the European Council and

[2] Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and the Committee of the Regions, Second Strategic Energy Review, An EU Energy Security and Solidarity Action Plan, 13.11.2008, COM(2008) 781 final

the Council of Ministers -, the **State aid action plan**[3] and the **Environment Action Programme 2002-2012**[4]: the Commission wishes to apply horizontal State aid rules in as many sectors as possible and with regard to energy policy favours a move towards renewable energy sources and an environmentally sustainable use of indigenous energy sources.

Indefinite State support for coal mining is not in line with the Commission's broad policy objectives, especially when it counteracts efforts to raise competitiveness or to move to renewable energy sources, even if its impact on competition is rather limited[5]. But at the same time, the closure of uncompetitive mines may have consequences on a social and environmental level which need to be addressed.

The Commission defines the policy objective which the present assessment addresses as to **minimize the possible adverse effects of mine closures that may follow a phasing-out of subsidies, especially with regard to their social and environmental aspects, while minimising distortions of competition on the internal market.**

4. POLICY OPTIONS

The following five policy options have been assessed:

(1) Option 1: the baseline scenario

Under the baseline scenario, the Commission will not propose a new sector-specific legal instrument applicable after the expiry of the Coal Regulation. Only general State aid rules will apply to the hard coal sector from 2011.

(2) option 2: Commission Guidelines

Under option 2, the Commission adopts guidelines based on Article 107(3)(c) TFEU, which would be similar to those adopted in the shipbuilding and steel sectors and would allow Member States to grant aid limited to closure aid in the form of aid to cover payments by coal mine undertakings to workers made redundant or accepting early retirement due to mine closures, the costs of counselling such workers and the costs of vocational retraining. It may also cover costs to finish ongoing contracts (for a maximum of 6 months) or the costs related to cancelling such contracts, whatever of both is lower. Moreover, it may cover expenditure incurred for the immediate cleaning and rehabilitation of the production sites.

These Guidelines would expire at the end of 2013 as the aid measures should only concern coal mines closing in the context of the expiry of the Coal Regulation.

(3) Option 3: Council Regulation allowing time-limited operating aid (closure aid)

Under option 3, the Commission would propose a Council Regulation on the basis of Article 107(3)(e) TFEU. The Regulation would allow Member States to grant clearly degressive

[3] COM(2005) 107 final, available on-line under http://ec.europa.eu/comm/competition/state_aid/others/action_plan/saap_en.pdf .

[4] Decision No 1600/2002/EC if the European Parliament and of the Council laying down the Sixth Community Environment Action Programme, OJ L242, 10.9.2002. p.1 – see Article 5(2)

[5] It is one of the conditions of the current Coal Regulation that there is no impact of subsidised coal on electricity prices (see Article 4(c) and € of the Coal Regulation and Annex 3 therein).

operating aid aimed at covering current production losses as long as it accompanies an orderly winding-down of activities in the context of a well-defined mine closure plan (concerning only mines already existing today). This would be a gradual phasing-out of operating aid over a maximum period of 10 years and at the latest in 2020 and with a degressivity of at least 10% per year.

(4) Option 4 : Council Regulation allowing aid to cover exceptional costs (inherited social and environmental liabilities)

Under option 4, the Commission would propose a Council Regulation on the basis of Article 107(3)(e) TFEU. This Regulation would allow Member States to grant aid for the social and environmental costs linked to the closure of coal mines, such as social welfare benefits and costs related to the rehabilitation of the former coal mining sites, as defined in the Annex of the current Coal Regulation.

(5) Option 5: the combination of options 3 and 4

Under option 5, the Commission would propose a Council Regulation on the basis of Article 107(3)(e) TFEU that allows Member States to grant both, closure aid (as in option 3) and aid to cover exceptional costs (as in option 4).

(6) Option 6: prolongation by 10 years of the current Coal Regulation

In line with the favoured option of most stakeholders from the coal sector, under option 6, the Commission would propose to the Council to prolong Council Regulation (EC) No 1407/2002 - as it stands today - by a further 10 years, i.e. till the end of 2020. This would differ from option 5 by the following characteristics:

- Production aid could be authorized on the basis of Article 5(3) if the operation of the concerned production units forms part of a plan for accessing coal reserves; hence, there would be no conditionality with regard to the closure of these mines;
- Production aid would need to be degressive so as to result in a significant reduction, but no particular rate of reduction would be imposed;
- Initial investment aid up to 30% of the total investment cost could be granted.

5. ANALYSIS OF IMPACTS

5.1. Option 1: the baseline scenario - general State aid rules

The baseline scenario has already been described in section 2. The other options are assessed in comparison with this baseline.

5.2. Option 2: Commission Guidelines

The impact of option 1 is not fundamentally different from option 2. Insofar as Member States grant aid as allowed under option 2, it will lead to the same production shortfall and the same number of jobs lost. The difference lies in the possibility given by option 2 to organise a mine closure in an orderly way and even to delay it for a few months in order to finish ongoing contracts. It helps to better organise the social aspects of the closure with more direct support to the workers concerned, in the form of retraining, counselling, etc. (that goes beyond what is foreseen by statutory rights). The financing of the environmental liabilities will be better covered while the mine is in the process of closing.

5.3. Option 3: production aid

Insofar as Member States intend to grant it, by covering operating losses, production aid has the ability to keep uncompetitive mines open. It would not save permanent jobs, but it would allow a gradual reduction of the work force, giving the time to take account of the workforce's age structure (early retirement and retirement), of "natural outflows" (not replacing leaving workers) and of its qualification (retraining workers to allow employment in other activities). It allows reducing the production of an uncompetitive mine by minimizing the number of direct lay-offs and by maximizing accompanying measures allowing the work force's redeployment in other activities.

The direct environmental negative impact of mining will go on as long as production continues, but the impact on greenhouse gas emissions from coal use remains uncertain in the light of the extensive substitution by imported coal. The gradual closure may however facilitate preventive measures to protect the surface landscape.

Experience with economic and regional reconversion has shown that the labour market can more easily absorb the laid-off work force if the lay-offs are spread over time. It allows implementing more easily counselling and retraining programmes and avoids that a great share of the former coal miners slip into long-term unemployment.

5.4. Option 4: aid to cover exceptional cost (inherited liabilities)

This option allows Member State to ensure the financing of the liabilities of a social nature (e.g. retraining, pensions, etc.) and an environmental nature (e.g. clean-up and rehabilitation), for example in the context of the gradual closure of coal mines.

Such aid may allow the mining company not to divert resources from other, potentially competitive mining sites to the mines to be closed.

5.5. Option 5: combination of options 3 and 4

In the case of a gradual close-down of coal mines, aid for inherited liabilities is likely to be needed at the same time as other types of aid, mainly operating aid.

The impact in terms of production and jobs would be very similar to option 3, but under this option 5, it would be possible to better ensure that environmental and social inherited liabilities are taken care of during the phasing-out period.

5.6. Option 6: prolongation by 10 years of the current Coal Regulation

Under the simple prolongation of the Regulation the type of aid currently granted could be extended. The option could allow Member States to deviate from the policy objective by simply continuing to provide production aid to uncompetitive mines without a clear commitment for closure. It follows that the same mining undertakings could still be uncompetitive at the new expiry date of the Regulation in 10 years. The underlying problem of non-competitiveness would not be solved, but just delayed.

With regard to investment aid, as could be authorized under this option, it cannot contribute to the policy objectives at hand, i.e. as an accompanying measure of mine closures. Indeed, investment aid rather promotes the development of new activities or the increase of efficiency, neither of which is relevant for accompanying the closure of a coal mine.

6. COMPARING THE OPTIONS

The assessment gives a contrasted picture of the impact of the various policy options:

From an **economic point of view**, option 2 (Guidelines) seems to be preferable to the baseline scenario in terms of mitigating the direct economic impact on the most concerned regions and industries.

From a **social point of view**, option 5 offers the best possibilities to cushion the negative impact of the mine closures, especially given the geographical concentration of this impact.

From an **environmental point of view**, the results are uncertain. Although the immediate environment of the mines would certainly benefit from an immediate or almost immediate stop of production (options 1, 2 and 4), the picture is uncertain with regard to global greenhouse gas emissions when the emissions from the burning of coal by electricity producers are taken into account. This uncertainty results from the high substitution rate of domestic coal by imported coal. Although this would not be a 100% substitution, the difference between the policy options would depend upon the modalities of the national policies with regard to favouring the switch to other energy sources.

All in all, **options 2 and 5 stand out as the most adequate to attain the policy objectives**. The choice for one of these two options depends on the weight that policymakers attach to the economic aspects on the one hand and the social aspects on the other hand.

Note that the various options assessed have been compared under the assumption that the concerned Member States would indeed grant aid as allowed under the respective options. Sector-specific State aid rules only provide the possibility - not an obligation - for State aid; the impact assessment cannot prejudge on the decisions that Member States will take with regard to State aid.