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**Opinion No. 400**

**Title**                      **Impact Assessment on: Aftermath of the expiry of Regulation 1407/2002 on state aid to the coal industry (RESUBMISSION)**

**(draft version of 2 December 2009)**

**Lead DG**                      **TREN**

**1) Impact Assessment Board Opinion**

**(A) Context**

Since the expiry of the ECSC Treaty, the legal framework for the authorization of aid to the coal sector has been set by the Council Regulation 1407/2002. This regulation is set to expire on 31st December 2010. From that date, state support to the hard coal industry would be governed by the general EC Treaty rules on State aid unless a further specific policy instrument is adopted.

**(B) Positive aspects**

The report has provided a fuller analysis of social problems related to coal mine closures and analysed the continuation of the Coal Regulation as a full option (including the lessons from its evaluation). It has explained to what extent the social problems identified could be mitigated by general state aid instruments and – if mines are closed down – by non state aid instruments.

**(C) Main recommendations for improvements**

*The recommendations below are listed in order of descending importance. Some more technical comments will be transmitted directly to the author DG.*

**General recommendation:** While the revised report has followed many of the Board's recommendations and provides greater clarity on the problems to be addressed and options for action, some further improvements are necessary. First, given that the report states that intra-EU trade in coal is limited, this fact should be incorporated consistently when assessing impacts on trade distortions and comparing the options. Secondly, the report needs to provide more complete information on the options for action, including the degree to which they are supported by Member States and compatible with existing plans for the sector. Finally, the report should explain why environmental problems could not be

**mitigated without any sector-specific state aid. In addition, given that the report indicates that budgetary impacts of the immediate and gradual closures of mines are similar, this should be reflected consistently in the comparison of options.**

- (1) Make clear that the focus of this initiative is on social and environmental problems rather than on the internal market and competition.** Assuming that the report, as is made clear in section 7 (on the overall comparison of options), concludes that the impact on the common market (through distortions) is very limited given the limited nature of intra-EU trade in hard coal, this conclusion should be consistently reflected in the assessment of economic impacts in section 6.3. This section still suggests that there could be important impacts on distortions (see section 6.3.5) and distinguishes between different levels of the distortions for different options without clarifying the limited nature of these distortions in absolute terms (see section 6.3.8).
- (2) Explain more fully the content of the options.** While the report has provided more complete information on the proposed options for action, it should - as requested in the first Board opinion - explain the potential magnitude of aid allowed under different options, discuss the relevance of the "one time last time" principle and the timescale and conditions for option 4 (aid to cover exceptional costs). The report should also explain more systematically if the options are compatible with Member States' plans for continued support for their mines beyond 2010.
- (3) Explain to what extent the different social and environmental problems could be mitigated without any sector-specific state aid.** Although the report has explained why social problems could not be sufficiently mitigated without sector-specific aid, this question should also be addressed with respect to environmental problems (e.g. the role of financial guarantees required under Directive 2006/21/EC). While the report has explained that the budgetary impact of the immediate closure of mines (options 1 and 2) and the gradual closure (options 3, 4, 5, 6) would likely be similar, this fact should be consistently reflected in section 7 on the comparison of options. Currently, this section states that immediate closure of mines is the most favourable option in terms of the impact on the allocation of public resources.

**(D) Procedure and presentation**

It seems that all procedural requirements have been complied with. The executive summary should respect the 10-page limit.

**2) IAB scrutiny process**

Reference number	2009/TREN/047
Author DG	TREN
External expertise used	No
Date of Board Meeting	Written procedure
Date of adoption of Opinion	<b>18 DEC. 2009</b> The present opinion concerns a resubmitted draft IA report. The first opinion was issued on 26 October 2009.