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(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 July 1973

on Article 20 of Italian Law No 1101 of 1 December 1971 on the restructuring, reorganization and conversion of the textile industry

(Only the Italian text is authentic)

(73/274/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) and (3) thereof;

Having regard to the comments of those concerned;

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Whereas in the letter from its Permanent Representative of 24 April 1969 the Italian Government notified the Commission of a draft law on the restructuring, reorganization and conversion of the textile industry; whereas this draft became Law No 1101 of 1 December 1971;

Whereas Article 20 of that law contains a new provision for aid which was not included in the text of the draft communicated to the Commission;

Whereas the aid consists of a reduction in the social charges pertaining to family allowances for the benefit of the textile and garment-making industry and small crafts for a period of 3 years; whereas the reduction in the rate of contributions is from 15 % to 10 %;

Whereas the aid referred to has been repeatedly examined by the representatives of the Member States and has also been the subject of bilateral examination by the Commission and the representatives of Italy; whereas in view of the serious likelihood that certain of the proposed provisions of the draft law might be incompatible with the common market, the Commission had initiated on 3 December 1969 in relation to the draft law as a whole the examination procedure laid down in the first subparagraph of Article 93 (2) of the EEC Treaty; whereas under this procedure the Commission took a partial decision on 27 May 1970, whilst reserving its right to take further action upon receiving all the information necessary for assessing the merits of the proposed provisions;

Whereas the Commission has therefore kept open the procedure which it initiated under Article 93 (2) for the purpose of examining the aid measure provided for in Article 20 of Law No 1101, and whereas, in accordance with that procedure, it has given notice to all interested parties to submit their comments;

Whereas a reduction in one sector of certain social charges constitutes an aid within the meaning of Article 92 (1) of the EEC Treaty;

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Whereas aids to promote the restructuring and the modernization of Italian textile undertakings cannot be considered compatible with the common market unless they are intended as aids 'to facilitate the development of certain economic activities' within the meaning of Article 92 (3) (c) of the EEC Treaty and

unless they 'do not adversely affect trading conditions to an extent contrary to the common interest';

Whereas the Italian authorities have pointed out in support of the measures that its purpose is to offset the large gap between contributions and allowances in the industry in question, because of the large number of married women employed in that industry; that the measure is also intended to lighten the financial burden of the undertakings benefiting from it, during the period of restructuring the effects of which on the capital position would only be felt gradually; that the measure is also intended to reduce social charges, which are considerably higher in Italy than in the other Member States;

Whereas, even if the general conditions under which undertakings carry out their activities do vary from one country of the Community to the other, a Member State cannot, however, isolate one particular factor such as social charges from these general conditions, and compensate through aids for the additional costs which, because of this factor, its undertakings have to incur by comparison with their competitors in other Member States;

Whereas aids of this kind which take the form of a partial reduction of social charges constitute an aid of a conservative nature which is not such as to facilitate the 'development' within the meaning of Article 92 (3) (c) of the EEC Treaty of the undertakings benefiting from it since it will not induce those undertakings which have difficulties of a structural nature to carry out the structural changes which would enable them to solve those problems;

Whereas, moreover, the aid is granted to all undertakings in the textile industry without distinguishing between those which have structural difficulties and those which do not;

Whereas, in addition, the aid is such as to jeopardize the principles notified by the Commission to Member States on 30 July 1971 whereby aids to the textile industry are to be granted within a Community framework;

Whereas the aid is such as to affect competition and trade directly, because it has a direct effect on manufacturing costs and, consequently, on the competitiveness of the undertakings, and whereas the very strong competition and the large volume of trade in textiles within the Community, as well as the difficulties of adaptation now facing the whole of the Community textile industry, are factors which do not allow aid of this kind to be tolerated;

Whereas, consequently, the Commission has no grounds for exempting the measure in question from the provisions relating to the incompatibility of aids laid down in Article 92 (1) of the EEC Treaty by allowing it to benefit from the exception provided for in Article 92 (3) (c) of the EEC Treaty; whereas, in addition, this measure cannot be covered by the exception provided in Article 92 (3) (b) of the EEC Treaty; whereas this measure is envisaged for a period as long as three years, and only concerns the textile and garment making industries; whereas, moreover, various interventions and aids of a general nature are at present available in Italy to remedy short-term economic problems;

Whereas a decision concerning the particular point of the reduction of social charges as laid down in Article 20 of Law 1101, does not conclude the Commission's examination of that law under Article 93 (3) of the EEC Treaty, since the Commission has not yet been informed of the actual criteria of selection which the inter-Ministerial Committee set up under Article 5 of the law will adopt for the purpose of granting the other advantages provided for in the law, and which must be notified to the Commission according to the aforementioned Article of the Treaty;

Whereas this Decision cannot be considered a final decision within the meaning of the last sentence of Article 93 (3) of the EEC Treaty, as would allow a Member State to put into effect such of the proposed aid measures as are not covered by this Decision;

HAS ADOPTED THIS DECISION:

Article 1

The Italian Republic shall abolish the temporary and partial reduction of social charges pertaining to family allowances provided for in Article 20 of Law No 1101 of 1 December 1971 for the benefit of all textile industrial and small craft undertakings.

Article 2

This decision is addressed to the Italian Republic.

Done at Brussels, 25 July 1973.

For the Commission

The President

François-Xavier ORTOLI