COMMISSION DECISION

of 17 December 1973

on para-fiscal taxes financing the 'Technical Centres' for leather and for the clock and watch-making industry

(Only the French text is authentic)

(74/8/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having called upon interested parties to submit their comments;

Whereas a para-fiscal tax was introduced in France on 21 September 1966, by Decree No 66-717, on the sale of watches of all sizes and of parts either produced in France or imported; whereas the proceeds of the tax, estimated in 1970 at FF 2 million, are allocated to the 'Technical Centre' for the clock and watch-making industry which is responsible for carrying out research work, standardization with a view to the technical development and control of the sector;

Whereas a similar system to that introduced for watches was introduced for the hides, skins and leather industry by Decree No 68-791 of 5 September 1968, as amended by Decree No 70-151 of 20 February 1970; whereas, pursuant to those decrees, a para-fiscal tax ranging from 0·15 % to 0·62 % to be allocated to the 'Technical Centre' for leather is levied on the sale of finished hides, skins and leather and on products in which finished hides, skins and leather are incorporated, whether produced in France or imported; whereas revenue from the tax amounted to approximately FF 9·3 million in 1971; whereas the objectives of the 'Technical Centre' for the leather industry are similar to those pursued in the case of the clock and watch-making industry and relate to research, technical assistance and standardization of quality which are necessary for the French hides, skins and leather industry;

Whereas the Commission has examined, in the case of both the systems referred to above, the effect of public intervention in the form of aid and the method of financing that aid, and whereas it considers that if the effects of the aid systems, bearing in mind the aims of the 'Technical Centres', be brought under the conditions laid down in the provision for a derogation contained in Article 92 (3c) of the EEC Treaty, and could therefore be considered compatible with the common market, on condition, however, that the method of financing is modified and that the para-fiscal taxes financing these systems are no longer levied on products imported from the Member States;

Whereas in respect of Judgment No 47/69 of 25 June 1970 from the Court of Justice of the European Communities on aid to the textile sector in France, financed by a para-fiscal tax working in a similar way to those introduced for the 'Technical Centres' referred to above, the Court stated in its judgment that it considered the aid system to be incompatible with the provisions of the EEC Treaty on account of its method of financing and regardless of the amount of the tax;

Whereas in its judgment the Court of Justice stated it considered such systems to be incompatible with the common market, even if the Research Institutes in the various sectors were to make the results of their research work available to interested parties in the relevant sectors in the other Member States; whereas making the facilities and findings of the Research Institutes available would, in fact, not necessarily imply that a true sharing of these services, of equal benefit to all, since even if equal treatment were ensured in respect of standardization, French undertakings would be given an advantage in practice, in the nature of things;

Whereas the Commission, in Letter No 71-20030 of 6 January 1971, requested the Governments of France and of the other Member States to examine and modify similar systems which might be in force in their countries, in view of the Decree of the Court referred to above; whereas the French Government, in particular in Letter No 71-12581 of 14 October 1971, informed the Commission that it did not consider it necessary to modify the aid system for the clock and watch-making and the hides, skins and leather industries; whereas the main reason for such an attitude was that, because of their exchanges of information with similar institutes in the other Member States, the French Government considers the work of the French 'Technical Centres' to be equally beneficial to the relevant industries in the other Member States;

Whereas on 15 September 1972 [1] the Commission therefore initiated the procedure laid down in Article 93 (2), first subparagraph, of the EEC Treaty in respect of the aid system for the clock and watch-making and the hides, skins and leather industries, and whereas, in this connection, it has called upon the French Government, the other Member States and any other parties which might be interested to submit their comments;

Whereas in a letter of 25 October 1972, the French Government sent the Commission its comments in which it stressed once again:

(a) that the work of the 'Centres' is available to any interested parties in the other Member States;

(b) that exchanges of information take place between those 'Centres' and the undertakings or institutes in these fields in the other Member States;

(c) that the French Government therefore does not consider it necessary to modify the aid systems in question;

Whereas the majority of the Member States and some other interested parties other than the Member States have sent the Commission their comments which show that they consider:

— that on account of the method of financing them, the aid systems in force in France distort competition to the disadvantage of similar industries in the Member States other than France;

— that such systems involving taxation of imports impose an additional burden on Community producers exporting to France, who receive nothing in exchange;

Whereas the clock and watch-making industry sector — and the shoe-making sector which processes the products of the hides, skins and leather industry — also receive other aids granted by the 'Comité interrégional de la montre' and by the 'Comité de développement de l'Industrie de la Chaussure'; whereas these complementary systems are intended to provide support in commercial and structural respects and as regards promotion of these industries, the effects of which are added to those of the activities of the 'Technical Centres';

Whereas the clock and watch-making and the hides, skins and leather industries in the Member States other than France have available to them for the research work necessary for the pursuit of their activities — either within their own undertakings or within ad hoc institutes — in the first instance, research centres financed by national resources;

Whereas in one Member State there is a Research Institute for the hides, skins and leather industry whose resources are obtained in part from an aid system financed by receipts from taxes on imports; whereas the Commission has initiated the procedure laid down in Article 169, first subparagraph, of the EEC Treaty, against this aid system,

HAS ADOPTED THIS DECISION:

Article 1

The Republic of France shall modify before 28 February 1974 the system in force in France providing for aid from the 'Centre technique de l'industrie horlogère' for the clock and watch-making industry, so that products of that industry imported from the other Member States shall no longer be subject to the parafiscal tax introduced by Decree No 66-717 of 21 September 1966 on the sale of watches of all sizes and of separate parts.

Article 2

The Republic of France shall also modify before 28 February 1974 the system in force in France providing for aid from the 'Centre Technique du cuir' for the hides, skins and leather industry, so that these products and products in which these materials are incorporated and which are imported from the other Member States shall no longer be subject to the parafiscal tax introduced by Decree No 68-791 of 5 September 1968 on the sale of the products referred to above.

Article 3

This Decision is addressed to the Republic of France.

Done at Brussels, 17 December 1973.

For the Commission

The President

François-Xavier ORTOLI

[1] See Letter No 72-27824 of 15 September 1972 from the Commission.