II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 April 1983

under Article 93 (2) of the EEC Treaty, on a proposal to grant aid to an undertaking in the textile and clothing sector (undertaking No 111)

(Only the Dutch and French texts are authentic)

(83/468/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) thereof,

Having invited comments from interested parties as required by that Article,

Whereas :

I

By letter dated 17 September 1982 the Belgian Government notified the Commission of its intention to award aid to an undertaking in the carpet industry, a sector considered to be 'highly competitive' in Belgium.

The undertaking, which employs 256 people, would use the aid, from the Belgian textile and clothing sector aid scheme, to raise its output by 4,3 %. Some 57,8 % of its output was exported to other Member States in 1982 and 14,6 % to countries outside the Community.

The aid, totalling Bfrs 158,7 million, would mainly be spent on investment in replacement machinery and the purchase of new plant, expenditure which under normal circumstances the firm would have to meet itself.

On 20 December 1982 the Commission initiated the procedure provided for under the first subparagraph of Article 93 (2) of the EEC Treaty in respect of the proposed aid, on the ground that it would affect trade between Member States to an extent contrary to the common interest and would therefore be incompatible with the common market.

The Commission also believed that the aid did not satisfy the conditions laid down in the Belgian textile and clothing industry aid scheme, which the Commission had approved on 18 November 1981 and which had been in effect in Belgium since 1 January 1982.

II

Replying to the opening of the Article 93 procedure for the first time on 28 January 1983, the Belgian Government failed to adduce any new evidence or arguments which might have led the Commission to revise its initial finding.

In a further letter dated 23 March 1983, the Government said it was prepared to reduce the aid by about Bfrs 40 million and the undertaking to cut its production capacity by 18 % over 18 months.

This proposal would still have left the undertaking with the bulk of the aid, some Bfrs 118 million, and would not have altered the fact that it was to be used for investment, such as building alterations, purchase of boilers and materials handling systems, and improvements in production processes, which is normally paid for by the firm concerned and cannot be described as restructuring expenditure.

Furthermore, the proposed 18 % reduction in capacity over 18 months would not have involved any cut in actual output and the obsolete machinery taken out of service would have been replaced by new machinery capable of maintaining output and indeed slightly increasing it, by 4,3 %.

The three Member States, two trade associations and one individual firm from the sector that submitted comments under the procedure laid down in Article 93 (2) of the EEC Treaty pointed out that Belgian exports of carpets to other EEC countries were steadily rising and that any further aid to firms in the sector, which was very competitive as it was, would have an immediate effect on competition.

The figures the Commission has on recent trade flows in the carpet and floor coverings sector also point to a steady and quite large increase in the volume of Belgian exports to other EEC countries — of the order of 10 % in 1982 — and show that about 90 % of Belgian output is exported, two-thirds of it to other EEC countries.

III

The proposed aid is likely to affect trade between Member States and to distort competition by favouring the undertaking in question or production of the goods in question. It therefore falls within Article 92 (1) of the EEC Treaty.

The Treaty declares aid as set out in Article 92 (1) of the Treaty to be incompatible with the common market. The exceptions provided for by Article 92 (3) are intended for cases in which the aid is pursuing objectives which are in the general Community interest and not just that of the beneficiary. The conditions attached to the exceptions must be applied strictly when the Commission scrutinizes schemes of regional or sectoral aid or particular cases of the application of general aid schemes. In particular, a case may not be deemed to fall within the scope of one of the exceptions unless the Commission is sure that it will genuinely advance the objectives stated in the exception clause and that the aid recipient would be unable to achieve the same result by his own efforts under normal market conditions.

To exempt an aid proposal without insisting on adequate redeeming features of this nature would be to allow trade between the Member States to be affected and competition to be distorted without the Community receiving any benefit in return whilst certain Member States derive undue advantages.

In applying the above principles in its scrutiny of individual aid cases the Commission must be satisfied that the case does have specific redeeming features such that grant of the aid is necessary to achieve one of the objectives listed in Article 92 (3). When there is no evidence of this, and especially where the investment would go ahead in an unchanged form in any case, it is clear that the aid would not advance any of the objectives set out in the exception clauses but would merely serve to boost the financial position of the undertaking in question.

In the present case there do not appear to be any such redeeming features in the proposal to aid this particular undertaking. The firm has already gone ahead with part of the investment on its own.

The Belgian textile and clothing industry aid scheme was approved by the Commission on 18 November 1981 on condition that, as soon as it entered into force, the firms in the industry would no longer be granted aid under any other selective, regional or general scheme.

For individual cases of aid under this scheme to be regarded as falling within the exception provided for by Article 92 (3) (c), they would first of all have to meet all the conditions laid down by the scheme as it was approved by the Commission. The most important of these requirements are the undertaking of restructuring to restore the firm to viability and changes in capacity and output which the aid is to help finance and they apply particularly where the firm in question belongs to a sector of the industry that is sensitive or is quite competitive already.

In a modernization programme such as that concerned in the present case in the carpet industry, all the investment involved, be it building alterations or purchase of new cutting machinery or materials handling equipment, is directly or indirectly intended to improve the firm's production capacity and would normally be paid for by the firm itself.

The channelling of aid to a restructuring operation of this nature does not therefore appear to accord with the conditions of the Belgian textile and clothing sector aid scheme, especially as the sector concerned, the carpet and floor coverings industry, is highly competitive.

The aid would also help to raise by 4,3 % the output of an undertaking which sells the bulk of its output within the Community (57,8 % in other Member States and 27,6 % in Belgium) and would therefore affect trading conditions to an extent contrary to the common interest.

The Belgian Government has accordingly failed to show — and the Commission to confirm — that the proposal would meet all the conditions that would need to be satisfied, in the context of the national textile and clothing industry aid scheme, for an aid proposal to be regarded as falling within the exception provided for in Article 92 (3) (c) of the EEC Treaty.

Nor is it possible to regard the proposed aid as falling within the scope of the exceptions provided for by subparagraphs (a) and (b) of Article 92 (3), because the standard of living in the area concerned is not abnormally low and there is no serious underemployment, and because the aid would not promote the execution of an important project of common European interest or remedy a serious disturbance in the Belgian economy,

HAS ADOPTED THIS DECISION :

Article 1

The aid which the Belgian Government has proposed to grant to an undertaking in the carpet and floor coverings sector is incompatible with the common market within the meaning of Article 92 of the EEC Treaty. The Belgian Government shall therefore refrain from granting the aid.

Article 2

Belgium shall inform the Commission, within two months of the date of notification of this Decision, of the steps it has taken to comply therewith.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 27 April 1983.

For the Commission

Frans ANDRIESSEN

Member of the Commission