II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 20 July 1983

under Article 93 (2) of the EEC Treaty, on a proposal of the Belgian Government to aid an undertaking (No 156) in the textile and clothing industry

(Only the Dutch and French texts are authentic)

(83/507/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 given notice, in accordance with the above-mentioned provision, to the parties concerned to submit their comments and having regard to those comments,

Whereas :

I

By letter dated 6 December 1982 the Belgian Government informed the Commission of a plan to aid a firm involved in carpet manufacturing, a sector of the Belgian textile and clothing industry that is regarded as highly competitive.

The aid, of Bfrs 144 900 000, was to be awarded by the Belgian Government under the textile and clothing industry aid scheme to a firm with a staff of 576. The majority would go on investment in new plant and machinery — some of it replacement investment — to boost the quality of the firm's products.

The Commission opened the procedure provided for in Article 93 (2) of the EEC Treaty in respect of the plan and, by letter dated 28 January 1983, gave the Belgian Government notice to submit its comments.

The Commission felt that the planned award did not fulfil the requirements of the industry aid scheme, which had been approved by the Commission on 18 November 1981 and had been in operation since 1 January 1982.

II

The Belgian Government did not reply to the Commission's letter of formal notice or supply any other information after the opening of the Article 93 (2) procedure.

Three other Member States and two trade associations replied to the Commission's invitation to comment. They pointed out, in particular, that Belgian carpet exports to other EEC countries were on the increase and that any aid given to a firm in the industry, which was already highly competitive, would have an immediate effect on competition.

III

The proposed aid award is liable to affect trade between Member States and to distort competition

within the meaning of Article 92 (1) of the EEC Treaty by favouring the firm in question or production of its type of goods.

Article 92 (1) lays down the general principle that aid having the features there described is incompatible with the common market. The exceptions from this principle defined in Article 92 (3) specify objectives in the Community interest transcending the interests of the aid recipient. These exceptions must be construed strictly when any regional or industry aid scheme or any individual award under a general aid scheme is scrutinized. In particular, they may be applied only when the Commission is satisfied that the free play of market forces alone, without the aid, would not induce the prospective aid recipient to adopt a course of action contributing to attainment of one of the said objectives.

To apply the exceptions to cases not involving such a general benefit in return for the individual benefit conferred by the aid would be to give unfair advantages to certain Member States and allow trading conditions between Member States to be affected and competition to be distorted without any justification on grounds of Community interest.

In applying these principles in its scrutiny of individual awards under general aid schemes, the Commission must satisfy itself that the recipient is contributing a compensating benefit justifying the aid, in the sense that the aid is necessary in order to help achieve one of the objectives set out in Article 92 (3). Where this cannot be demonstrated, and especially where the investment would be carried out in any case, it is clear that the aid would not contribute to attainment of the objectives specified in the exceptions but would merely serve to bolster the financial position of the recipient.

The recipient in the present case cannot be said to be contributing such a compensating benefit.

The Belgian Government has been unable to give, or the Commission to discover, any justification for a finding that the planned aid falls within one of the categories of exceptions in Article 92 (3).

With regard to the exceptions granted by points (a) and (c) of Article 92 (3) for aids that promote or facilitate the development of certain areas, the prospective recipient is not located in an area where the standard of living is abnormally low or where there is serious unemployment within the meaning of point (a) and the award does not appear likely to facilitate the development of certain economic areas within the meaning of point (c).

As far as the exceptions in point (b) are concerned, the investment project does not have the features of a project of common European interest or of a project likely to remedy a serious disturbance in economy of a Member State, as would be required for these exceptions to be applicable.

The Belgian textile and clothing industry aid scheme was approved by the Commission on 18 November 1981. Since its introduction, Belgian firms in the industry have been barred from aid under any other specific, regional or general scheme.

To qualify for application of the exception in Article 92 (3) (c), individual aid awards under this scheme must meet all the requirements of the scheme as approved by the Commission. These include the requirement, especially where the prospective recipient belongs to a sector of the industry that is sensitive or competitive, that the recipient be undertaking restructuring to regain viability or be cutting excess capacity with the help of the aid.

The Belgian Government has been unable to demonstrate, or the Commission to confirm, that the proposed award meets all the requirements within the context of the Belgian industry aid scheme which would qualify it for application of the exception in Article 92 (3) (c).

Some 75 % of the investment to be undertaken by the firm under its modernization programme will be for improving its production facilities and would normally be borne by the firm itself.

The information available to the Commission as to recent trade trends for carpets and floor coverings indicates a marked, steady increase in exports from Belgium to the other Member States. In 1982 this growth was of the order of 10 %. Belgian firms in this sector export around 90 % of their output, two-thirds of it to other EEC countries.

The prospective aid recipient will increase its output of tufted carpet by about 4 %. A large proportion of this output is sold in the Community: 21,3 % in Belgium and 55,4 % in other Member States. Hence, the planned award will clearly affect trading conditions to an extent contrary to the common interest.

The firm's programme does not therefore fulfil the conditions of the industry aid scheme in force in Belgium justifying the grant of aid, especially in view of the extremely competitive position of the carpet and floor-coverings sector.

In view of the above, the aid that the Belgian Government plans to award to this firm does not fulfil the conditions necessary for application of one of the exceptions provided for in Article 92 (3) of the EEC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The Belgian Government shall not proceed with the award of aid to undertaking No 156 in the carpet and floor-coverings sector.

Article 2

The Belgian Government shall inform the Commission, within two months of the notification of this Decision, of the measures it has taken to comply therewith.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 20 July 1983.

For the Commission

Frans ANDRIESSEN

Member of the Commission