II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 June 1984

on the proposal by the French Government to grant regional aid to a textile undertaking at La Chapelle-Saint-Luc, Aube, France

(Only the French text is authentic)

(84/428/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 to the parties concerned to submit their comments, in accordance with the above provision, and having regard to those comments,

Whereas :

By telex dated 13 January 1983 the French Government notified the Commission of its intention to award a regional development grant to a textile firm at la Chapelle-Saint-Luc in the department of Aube. La Chapelle-Saint-Luc is not in the areas designated as eligible for regional development grants by French Decree No 76-325 of 14 April 1976 (1). However, the Decree allows a discretion to award grants outside the designated areas to industrial projects which help to alleviate particularly severe local employment problems.

In the present case a grant of FF 948 000 (about 139 500 ECU) was proposed by the French Government towards a project costing a total of FF 31 600 000 (about 4 650 000 ECU), a ratio of grant to investment costs of 3 % gross.

The project, which relates to the production of adult knitwear, would create 125 jobs at La Chapelle-Saint-Luc.

The Commission assessed the aid proposal in accordance with Article 93 (3) of the Treaty. One of the main issues it took up with the French Government was the economic and social justification for exercising the discretion to award regional development grants outside the designated areas in favour of La Chapelle-Saint Luc.

On 24 January 1983 the Commission asked the French authorities by telex whether other State aid was proposed for the project and requested further details both of the project itself and the area. The French Government replied on 4 March 1983.

On the basis of this assessment and the social and economic arguments presented by the French Government, the Commission did not consider that the proposed aid was eligible for application of the exception provided for in Article 92 (3) (c) and, by letter dated 20 April 1983, therefore opened the procedure laid down in Article 93 (2) in respect of the proposal.

The French Government's comments, submitted principally in a telex dated 1 July 1983, did not contain any new facts causing the Commission to modify its view of the proposal, in particular as regards the social and economic situation in the La Chapelle-Saint-Luc area.

(1) Journal Officiel de la République Française, 15. 4. 1976.

The three Member States which replied to the invitation to comment supported the Commission's position under the Article 93 (2) procedure.

The aid which the French Government proposes to grant to firm X at La Chapelle-Saint-Luc is likely to affect trade between Member States and threatens to distort competition within the meaning of Article 92 (1) of the EEC Treaty by favouring firm X or production of its goods.

Article 92 (1) provides that aid having the features there described is in principle incompatible with the common market. The exceptions provided for in Article 92 (3) (a) and (c) — the only ones potentially applicable in the case since it concerns regional aid — specify objectives in the Community interest transcending the interests of the aid recipient. These exceptions must be construed narrowly 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, without the aid, market forces alone would be insufficient to guide the recipients towards patterns of behaviour that would serve one of the said objectives.

To apply the exceptions to aid not serving such an objective 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 the principles set out above in its scrutiny of regional aid schemes, the Commission must satisfy itself that the regions concerned are suffering from problems which are serious enough, on a Community-wide comparison, to warrant the grant of aid at the level proposed, such that the aid is necessary to ensure attainment of the objectives set out in Article 92 (3) (a) or (c). Where this cannot be demonstrated, it is evident that the aid does not serve the objectives specified in the exception clauses, but does little more than further the private interests of the recipient.

The first resolution of the representatives of the Governments of the Member States, meeting within the Council on 20 October 1971, on general regional aid schemes [1], adopted following a communication from the Commission, recognized that regional aid, when it is adequate and judiciously applied, forms one of the essential instruments of regional development and enables the Member States to follow regional policies aimed at more balanced growth as between the various regions of the same country and of the Community. In accordance with the above and with the current principles of coordination of regional aid schemes, which are intended to reduce the danger of an escalation of aid levels the Commission must, when assessing, the compatibility of regional aid with Article 92 (3) (a) and (c), take account both of the social and economic situation in the regions concerned in comparison with the rest of the Community and of any serious disparities existing between regions in the same country.

A detailed social and economic analysis of the La Chapelle-Saint-Luc area shows that the exception provided for in Article 92 (3) (a) cannot be applied in this case since the area is not one where the standard of living is abnormally low or where there is serious underemployment. This was not disputed by the French Government either in its original notification or in its comments following the opening of the Article 93 (2) procedure. Only the exception provided for in Article 92 (3) (c) for aid to facilitate the development of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, can therefore be considered in this case.

To determine whether the aid the French Government was proposing to grant to firm X could be considered to fall within this exception, the Commission applied the principles outlined above : after seeing how the area stood in relation to the Community as a whole by comparing GDP and the employment situation in the area with the Community averages, the Commission then looked for disparities between the area and other areas in the country which might warrant the grant of regional aid. For this purpose, the Commission took a number of indicators of economic development and the employment situation, in particular taxable income, the level of unemployment, employment patterns, the structure of industry and demographic factors.

The results of the analysis of industrial structure established that the area has a satisfactory spread of industries, though with a slight preponderance of secondary production.

[1] OJ No C 111, 4. 11. 1971, p. 1.

The analysis of the other regional indicators in comparison with their levels in the rest of France also showed that the situation of the area is satisfactory by national standards and that the area does not display any severe structural problems.

In its comments submitted on 1 July 1983, the French Government indicated that it stood by its proposal in all particulars as notified to the Commission.

The comments made by third parties did not contain any new facts giving ground to revise the assessment of the situation of the La Chapelle-Saint-Luc area resulting from the Commission's social and economic analysis described above.

It is concluded that the aid proposed by the French Government in this case does not fulfil the conditions necessary for application of one of the exceptions provided for in Article 92 (3) of the Treaty,

HAS ADOPTED THIS DECISION :

Article 1

The French Republic may not proceed with the proposed award of a regional development grant for investment being undertaken by firm X at La Chapelle-Saint-Luc, involving the setting up of a textile production unit, notified to the Commission by telex on 13 January 1983.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 27 June 1984.

For the Commission

Étienne DAVIGNON

Vice-President