II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 May 1984

on the extension until 30 June 1983 of the regional aid supplement provided for in Article 2 (b) of the Belgian Economic Expansion Act of 30 December 1970

(Only the French and Dutch texts are authentic)

(84/472/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 (1) in accordance with the abovementioned provision, and having regard to those comments,

Whereas :

I

Article 2 (b) of the Belgian Economic Expansion Act of 30 December 1970 introduced a 'regional aid supplement' in the form of an extra two percentage points of interest subsidy above the basic rate of interest subsidy available for investment in development areas. The supplement could be granted in development areas 'whenever the level of economic activity makes this desirable'.

By letter dated 19 November 1981 informing the Belgian Government that it has decided to open the procedure provided for in Article 93 (2) of the EEC Treaty in respect of certain provisions of the Economic Expansion Act of 30 December 1970, the Commission advised the Government that the award of such aid of an anti-cyclical nature on a regional basis could only be justified in relation to Articles 92 *et seq.* of the Treaty where the difficulties resulting from cyclical fluctuations in economic activity in a Member State were more severe in the assisted areas than in the rest of the country.

On 8 September 1982 the Commission informed the Belgian Government by letter that, in view of the Government's assurances that the legislation was shortly to be amended, it has decided on 2 September to allow the supplement to continue to be granted under certain conditions in all Belgian development areas until 31 December 1982 at the latest.

On 23 November 1982 the Belgian Government nevertheless notified to the Commission by letter, in accordance with Article 93 (3) of the Treaty, a proposal to further extend the regional aid supplement in all Belgian development areas until 30 June 1983.

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The extension proposal failed to produce any economic or social data to show that any or all of the Belgian development areas had been harder hit by the downturn in economic activity than the rest of the country.

The transitional period allowed for 1982 expired on 31 December 1982. It had been made clear that this would be the final date for ending the scheme.

(1) OJ No C 122, 7. 5. 1983, p. 4.

On 26 January 1983 the Commission therefore informed the Belgian Government by letter that it had decided to reopen the Article 93 (2) procedure, with suspensive effect, against the proposal to extend the regional aid supplement until 30 June 1983, and gave the Government notice to submit its comments.

III

The Belgian Government submitted its comments by letter dated 30 May 1983 and enlarged upon them in subsequent talks with the Commission.

In its comments the Belgian Government produced statistics on recent employment and unemployment trends in certain Belgian provinces and arrondissements (administrative districts) from which it concluded that the depressed level of economic activity had had a more severe effect in particular regions than in the rest of the country. However, it did not specify which these regions were, and also expressed reservations about the significance of the indicators it had used. It did not identify any development areas which it considered had been harder hit by the downturn in economic activity than the rest of the country, but on the contrary stood by its original proposal to grant the regional aid supplement in all the Belgian development areas.

The Commission's decision of 2 September 1982 allowing the continuance of the regional aid supplement, under certain conditions, in all the development areas for a transitional period ending not later than 31 December 1982 had not provided for an extension of this period. The amendment of the legislation announced by the Belgian Government, which had induced the Commission to allow this final transitional period for phasing out the supplement, had not been forthcoming.

Under the reopened Article 93 (2) procedure one other Member State besides Belgium submitted comments. It considered that regional aid, whose purpose was to reduce structural disparities between regions, should not be used to deal with general problems resulting from a low level of economic activity.

IV

The regional aid supplement introduced for certain regions by Article 2 (b) of the Economic Expansion Act of 30 December 1970 is likely to affect trade between Member States and to distort or threaten to distort competition within the meaning of Article 92 (1) of the EEC Treaty by favouring certain undertakings or the production of certain goods.

Article 92 (1) of the Treaty provides that aid answering the criteria it contains is, in principle, incompatible with the common market.

The exceptions from this principle provided for in subparagraphs (a) and (c) of Article 92 (3) — the only ones potentially applicable to regional aid — permit aid where it is intended to deal with structural disparities between regions.

Article 2 (b) of the Belgian Economic Expansion Act of 30 December 1970 provides for a regional aid supplement on the ground of fluctuations in the level of economic activity. Aid of this nature cannot be considered for application of the exceptions in subparagraphs (a) or (c) of Article 92 (3) unless it can be shown that the fluctuations in economic activity have had the effect of increasing the structural disparities in some or all of a Member State's assisted areas.

An analysis of the statistics produced by the Belgian Government does not indicate that recent trends in the level of economic activity have helped increase structural disparities in some or all of the Belgian development areas,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Belgium may not implement the proposal which it notified to the Commission by letter dated 23 November 1982 to extend from 1 January to 30 June 1983 the regional aid supplement provided for in Article 2 (b) of the Economic Expansion Act of 30 December 1970.

Article 2

The Kingdom of Belgium shall inform the Commission within one month of the date of 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, 16 May 1984.

For the Commission

Frans ANDRIESSEN

Member of the Commission