II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 12 September 1984

on the Belgian Government's proposal to prolong the textile and clothing industry aid scheme

(Only the Dutch and French texts are authentic)

(84/564/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 as provided for in the said Article 93, and having regard to those comments,

Whereas :

I

By letter dated 2 December 1983, the Belgian Government notified the Commission, pursuant to Article 93 (3) of the EEC Treaty, of its intention to grant aid to the textile and clothing industry under a sectoral aid system during 1984.

By telex of 22 December 1983 additional information, in particular as to the total aid budget and the implementing rules, was requested from the Belgian authorities. This information was provided by letter of 28 December 1983.

Under the proposed aid system, which would replace and extend previous programmes which had been in force in 1982 and 1983, investments for the extension, modernization and conversion of textile and clothing companies would be eligible for subsidies covering up to 7 % of the interest on loans advanced on market terms for 75 % of total investment cost and with a duration of five years or cash grants equivalent to the above interest subsidy, if the investment were undertaken with the firm's own funds. The total budget earmarked for the scheme was Bfrs 1 300 million.

Following an initial scrutiny, the Commission considered that the aim of restructuring the companies in question, cited by the Belgian Government as the reason for the proposed aid, had largely been achieved after Belgium had provided assistance in the two previous years. The Commission also considered that the companies' economic development — being particularly favourable in comparison to the trends experienced by its Community counterparts — had led to a situation where a prolongation for a third year of the aid systems which existed previously would not promote a development which is in the interest of the Community.

In addition, the Commission took the view that the programme notified by the Belgian Government did not meet certain conditions and criteria defined in respect of aids to the textile and clothing industry.

Therefore, the Commission considered that the programme notified to it would be likely to affect trade between Member States and would, thus, be incompatible with the common market, particularly in a situation where the textile and clothing industry in most Member States is faced with serious difficulties.

Consequently, the Commission initiated the procedure provided for in the first subparagraph of Article 93 (2) of the Treaty and, by letter of 13 February 1984, gave the Belgian Government notice to submit its comments.

II

The Belgian Government, in submitting its comments under the procedure provided for in Article 93 (2) by letter of 2 March 1984, modified its proposal and merely requested a prolongation of the 1983 aid programme in favour of the textile and clothing industry with a total budget of Bfrs 1 000 million.

In its comments, however, the Belgian Government did not refer to the majority of the objections raised by the Commission and, in particular, did not give any economic justification for the proposed prolongation, which the Commission had requested in view of the recent positive development in the industry and the success of the companies concerned.

By letter of 12 July 1984, the Belgian Government supplemented its previous comments by requesting authorization for a total budget of Bfrs 1 800 million.

The comments of four other Member States and three federations of firms in the sector, submitted to the Commission under the Article 93 (2) procedure, supported the Commission's view and expressed grave concern about the proposed support measures. They emphasized that the aid programme would be liable to distort competition in the EC by giving unfair advantages to the recipients in competition with other EC textile and clothing manufacturers. Furthermore, they highlighted the positive development of the Belgian textile and clothing industry during recent years, on the basis of which they considered that further aids would not be justified.

III

In textiles and clothing, an industry which is in a difficult situation in most Member States, in which competition is very keen and where there is a high volume of trade between Member States, the aid programme proposed by the Belgian Government is likely to affect trade and distort or threaten to distort competition between Member States by favouring the Belgian textile and clothing industry within the meaning of Article 92 (1) of the Treaty.

Article 92 (1) lays down the principle that aid having the features there described is incompatible with the common market. The exceptions from this principle set out in Article 92 (3) 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 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 contributing to 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 these principles in its scrutiny of aid schemes, the Commission must satisfy itself that the aid is justified by the contribution the recipients are making to attainment of one of the objectives set out in Article 92 (3) and is necessary to that end. Where this cannot be demonstrated, and especially where the aided investment would take place in any case, it is clear that the aid does not contribute to attainment of the objectives specified in the exceptions but merely serves to bolster the financial position of the recipient firms.

In this case the aid scheme does not demonstrate the existence of such compensating contribution on the part of the recipient firms.

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

With regard to the exemptions provided for in points (a) and (c) of Article 92 (3) relating to aids intended to promote or facilitate the development of certain areas, it must be observed that the standard of living in Belgium is not abnormally low and that there is no serious under-employment within the meaning of the exemption specified in point (a); and because of its scope, namely the firms in a given economic sector, irrespective of where they are located, the aid scheme is not intended for the development of certain areas as provided for in the exemption under point (c).

As regards the exemptions provided for in point (b) of Article 92 (3), it is evident that the scheme in question is not intended to promote the execution of an important project of common European interest, or to remedy a serious disturbance in the Belgian economy. Although the economy of Belgium faces social and economic difficulties these are not the most serious in the Community. In this situation the danger of an escalation of State aids is most immediate and any State aid is most likely to affect trade between Member States.

With regard to the exemptions provided for in point (c) of Article 92 (3) in favour of 'aid to facilitate the development of certain economic activities', examination of the effects produced by the two previous sectoral aid schemes of 1982 and 1983 shows that both programmes have had very positive results in that the recent development and present situation of the Belgian textile and clothing industry, particularly in comparison with its Community counterparts, are extraordinarily favourable and impressive. Textile and clothing production in Belgium increased while the decline recorded in most other Member States during the last few years continued. Other economic indicators, such as the degree of equipment utilization, the length of activity guaranteed by the order books, turnover, exports and, particularly, investment underline the favourable economic situation of the Belgian textile and clothing industry. At the same time, the long-lasting negative trend in employment has been arrested and even partly been reversed, and, furthermore, the Belgian share of total Community production has risen.

It has therefore to be concluded that the assistance granted under the two previous aid programmes has largely achieved its objective of restructuring the Belgian textile and clothing industry and apparently has provided it with the level of competitiveness required to ensure economic success and viability on the international textile and clothing market.

Under these circumstances, further aids in favour of the Belgian textile and clothing industry would only be in the Belgian national interest instead of promoting a development which is in the interest of the Community.

Furthermore, the proposed aid programme would, by artificially lowering the investment costs of companies in the sector concerned, weaken the competitive position of other textile and clothing producers in the Community and would, therefore, have the effect of distorting competition and depressing prices, to the detriment and at the price of possible withdrawal from the market of producers which have hitherto survived owing to restructuring, productivity and quality improvements undertaken from their own resources. Moreover, it should be noted that the production of the Belgian textile and clothing industry for which the aid is intended is mainly exported to the other Member States, in a situation where demand is at best stagnant, so that it is therefore very unlikely that trading conditions would remain unaffected.

Consequently, the aid proposal in question, in view of the absence of any compensatory justification in the Community interest and in an industry in which, moreover, competition within the Community is very keen, is likely to affect trade to an extent contrary to the common interest. Accordingly, it does not meet the conditions necessary to benefit from one of the derogations of Article 92 (3) of the EEC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Belgium shall refrain from implementing its proposal, notified to the Commission by letter of 2 December 1983 and modified by letters of 2 March and 12 July 1984 in the course of the procedure under Article 93 (2) of the EEC Treaty, to grant aid to the textile and clothing industry under a sectoral aid scheme during 1984.

Article 2

Belgium shall inform the Commission within two months of the date of notification of this Decision of the measures taken to comply therewith.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 12 September 1984.

For the Commission

Frans ANDRIESSEN

Member of the Commission