II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 January 2001

on the State aid which the United Kingdom is planning to implement for Nissan Motor Manufacturing (UK) Ltd

(notified under document number C(2001) 164)

(Only the English text is authentic)

(Text with EEA relevance)

(2001/398/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [1],

Having called on interested parties to submit their comments pursuant to those provisions,

Whereas:

Procedure

(1) By letter dated 25 July 2000, the United Kingdom notified the proposed aid to the Commission, pursuant to Article 88(3) of the Treaty. A pre-notification meeting was held between the United Kingdom authorities, representatives of Nissan, Renault and the Commission's services on 19 July 2000.

(2) On 20 September 2000, the Commission decided to initiate the procedure laid down in Article 88(2) of the Treaty in respect of the aid. The United Kingdom was informed of this decision by letter dated 29 September 2000.

(3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* [2]. The Commission called on interested parties to submit their comments.

(4) The Commission received no comments from interested parties.

(5) By letter dated 25 October 2000, the United Kingdom submitted its comments and provided information, which it considered necessary to assess the aid. Following a visit by Commission representatives on 8 and 9 November 2000 on site in Sunderland and Flins (France), the Commission raised additional questions, which were answered by the United Kingdom in a letter dated 23 November 2000.

Detailed description of the proposed aid

(6) The recipient of the aid would be Nissan Motor Manufacturing (UK) Ltd (hereinafter referred to as 'NMUK'). The NMUK plant is situated in Sunderland. NMUK is wholly owned by Nissan Motor Co.,Ltd (Japan) (hereinafter referred to as 'Nissan Motor'). The turnover of NMUK in 1999 was GBP 1 813,5 million and the net profit GBP 8,3 million. NMUK's Sunderland plant produced 271 000 vehicles (157 000 Micra and 114 000 Primera) in 1999.

(7) Renault has taken a 36,8 % equity stake in Nissan Motor, a 22,5 % in Nissan Diesel and 100 % of the capital of Nissan's European sales financial subsidiaries. Renault and Nissan signed an alliance agreement on 27 March 1999, involving the joint development of platforms, a global joint purchasing policy, joint development and use of engines and gearboxes as well as close cooperation in other areas.

[1] OJ L 83, 27.3.1999, p. 1.

[2] OJ C 310, 28.10.2000, p. 6.

(8) The aid in question is regional investment aid leading to the transformation of the Nissan plant in Sunderland, in order to introduce the new Micra to replace the current model. The new Micra will comprise a three and five-door hatchback as well as another derivative. It will be built on a common Nissan-Renault platform developed to replace the current Nissan Micra, March and Cube as well as the Renault Clio and Twingo.

(9) The new Micra will compete in the B segment against models such as the Ford Ka, Fiat Punto, VW Polo, Toyota Yaris and Citroen Saxo.

(10) The project is to run from January 2001 until March 2005. According to the United Kingdom authorities, no decision as to the site of production has yet been taken by Nissan and the final decision is planned to be taken in January 2001. Production is planned to start in January 2003. The total amount of investment amounts to GBP 315,8 million, of which GBP 211,8 million is eligible. The net present value of the eligible investments is GBP 193,2 million. These investments consist of machinery and equipment (GBP 155,3 million) and supplier tooling (GBP 38 million). The aid of GBP 40 million (net present value: GBP 36 million) would be provided as Regional Selective Assistance. The aid intensity is 18,62 % gross grant equivalent (gge).

(11) Sunderland was recognised by the Commission as a regionally assisted area for the purposes of Article 87(3)(c) of the Treaty under the Regional Aid map ([1]) for the period 2000 to 2006, with a regional ceiling of 20 % net grant equivalent (nge).

(12) The cost-benefit analysis comparing the costs and benefits of the chosen location in Sunderland with those of the stated alternative location in Flins, France, results in a net cost handicap of GBP 62,8 million for the location in Sunderland in comparison with the location in Flins. Consequently, the handicap intensity of the project is 32,48 %.

(13) In its decision to initiate the procedure laid down in Article 88(2) in respect of the planned regional aid, the Commission raised doubts mainly as to the necessity of the aid, the eligibility of costs, several hypotheses used by the United Kingdom authorities in the cost benefit analysis and the effects on production capacity.

Comments from interested parties

(14) The Commission received no comments from third parties.

Comments from the United Kingdom

(15) The United Kingdom submitted to the Commission by letter dated 25 October 2000 its comments on the opening of procedure. By letter dated 23 November 2000, the United Kingdom provided further information. These comments have been taken into account.

([1]) OJ C 272, 23.9.2000, p. 43.

(16) Firstly, the United Kingdom explained the character and objectives of the Renault-Nissan Alliance. A key objective of the Alliance is to globally reduce the number of main passenger car platforms and to increase the average volume produced on each platform. Whenever either company is considering the location of a new model investment project, it can take into consideration the full available capacity of the alliance partners in reaching its location decision. Other investment projects, taking advantage of this strategy, are mentioned.

(17) Secondly, with regard to the issue of mobility, the United Kingdom referred to past two-model profitability and viability with production volumes similar to or lower than those envisaged in the case of a shift of the Micra production to Flins. According to the United Kingdom, the decisions to produce the Almera (until 2005) and new Primera (from 2002 until 2007) at Sunderland have already been taken, and production of these models is assured regardless of the decision concerning the Micra. In addition, there will be further opportunities for NMUK to win future model investment in competition with other plants across the alliance.

(18) Thirdly, the United Kingdom pointed out that all elements of the project investment relate to transformation since they involve a complete dismantling of existing Micra bodywork and final assembly lines. The original vendor tooling estimates included in the notification for both locations have been modified to take into account the more advanced planning of the project.

(19) The United Kingdom also expressed its views and provided more detailed information with regard to a number of assumptions and cost factors applied in the cost-benefit-analysis.

(20) Finally, the United Kingdom stated that the total capacity of the Nissan-Renault alliance before and after the investment for the Member States and central and east European countries would be unchanged as a result of the investment.

Assessment of the aid

(21) The measure notified by the United Kingdom constitutes State aid within the meaning of Article 87(1) of the Treaty. It would be financed by the State or through State resources. Furthermore, as it constitutes a significant proportion of the funding of the project, the aid is liable to distort competition in the Community by giving NMUK an edge over competitors not receiving aid. Finally, there is extensive trade between Member States in the automobile market.

(22) The aid in question is intended for an undertaking which manufactures and assembles cars. That undertaking is therefore part of the motor vehicle industry within the meaning of the Community framework for State aid to the motor vehicle industry [1] (hereinafter 'the Guidelines on State aid to the motor vehicle industry').

(23) The proposed aid is to be granted under the Regional Selective Assistance scheme, which was adapted by the United Kingdom to the Guidelines on national regional aid [2], after the Commission proposed appropriate measures in accordance with Article 88(1) of the Treaty [3].

(24) The Guidelines on State aid to the motor vehicle industry specify that, in accordance with Article 88(3) of the Treaty, aid which the public authorities plan to grant to an individual project under an authorised aid scheme for a firm operating in the motor vehicle industry must be notified before being granted if either the total cost of the project is equal to EUR 50 million, or the total gross aid for the project, whether State aid or aid from Community instruments, is equal to EUR 5 million.

(25) Both the total cost of the project and the amount of aid exceed the notification threshold. Thus, in notifying the proposed aid for NMUK, the United Kingdom has complied with the requirements of Article 88(3) of the Treaty.

(26) Article 87(2) of the Treaty specifies certain types of aid that are compatible with the Treaty. In view of the character and purpose of the aid, and the geographic location of the investment, Article 87(2)(a), (b) and (c) are not applicable. Article 87(3) specifies other forms of aid, which may be regarded as compatible with the common market. Compatibility must be assessed from the standpoint of the Community as a whole and not in a purely domestic context. In order to maintain the proper functioning of the common market and having regard to the principle in Article 3(g) of the Treaty, the exceptions in Article 87(3) must be construed narrowly. With regard to the exceptions in Article 87(3)(b) and (d), it is clear that the aid in question is not intended for a project of common European interest or to remedy a serious disturbance in the United Kingdom economy or to promote culture and heritage conservation. As regards the exceptions in Article 87(3)(a) and (c), the Commission notes that the plant is located in the region of Sunderland, which qualifies for assistance under point (c).

(27) In order to decide whether the planned regional aid is compatible with the common market, the Commission must check whether the conditions specified in the Guidelines on State aid to the motor vehicle industry have been met.

(28) To authorise aid under those Guidelines, the Commission, after checking that the region in question is eligible for aid under Community law, establishes whether the investor could have chosen an alternative site for its project, so as to demonstrate the need for the aid, with particular reference to the mobility of the project. Under the new regional map in the United Kingdom, the Sunderland car plant is located in an area assisted under Article 87(3)(c) with a regional aid ceiling of 20 % nge for large firms.

(29) Taking into account the ownership structure of the Nissan-Renault alliance and the technical characteristics of the particular project in question, the Commission considers that the two companies Nissan and Renault can be considered as a single business unit for the purpose of analysing the necessity and proportionality requirement in this case.

(30) The Commission has studied the geographic mobility of the project. As for the viability of the Sunderland plant in case of a shift of the Micra production to Flins, the United Kingdom confirmed that decisions to produce the Almera (until 2005) and the new Primera (until 2007) have already been taken, and production of these models in Sunderland is assured, regardless of the Micra decision. For this scenario, the depreciation charges relating to the residual book value of past long-life investments attributable to the Micra have been allocated to the remaining production in Sunderland and have been taken into account in the cost-benefit analysis. The Commission considers that the plant in Flins is a viable alternative to Sunderland. This has been confirmed by a visit on site in Flins and technical documents provided by the United Kingdom. In addition, the United Kingdom submitted documents showing Nissan's genuine intention to consider producing the Micra model in Flins. Thus, the project is mobile in character and can therefore be considered eligible for regional aid, since the aid is necessary in attracting the investment to the assisted region.

(31) Regional aid intended for modernisation and rationalisation, which is generally not mobile, is not authorised in the motor vehicle sector. However, a transformation, involving a radical change in production structures on the existing site could be eligible for regional aid. On the basis of the layouts provided by the United Kingdom and the visit on site, the Commission considers the investments in the context of the launch of the new Micra model as a transformation, involving a radical change in production structures.

[1] OJ C 279, 15.9.1997, p. 1.
[2] OJ C 74, 10.3.1998, p. 9.
[3] Commission letter dated 19 July 2000.

(32) The Commission has, together with its external automotive expert, evaluated the notified cost-benefit analysis with a view to ascertaining the extent to which the proposed regional aid is in proportion to the regional problems it seeks to solve. The exchange rate used in the cost-benefit analysis is usually the exchange rate at the time of the location decision. If the time of the location decision is not verifiable or if no decision has yet been taken, as in the present case, the applicable rate is the rate at the time of notification. The in-depth analysis of the cost-benefit analysis has made it possible to clarify the elements which were raised in the decision to initiate the procedure. Taking into account the additional information received from the United Kingdom following the opening of procedure, the cost benefit analysis was modified with respect to a number of elements.

(33) The original vendor tooling estimates included in the notification for both locations have been modified to take into account the more advanced planning of the project. The effect on the cost-benefit analysis (in net present value terms) is to increase the eligible investment amount by GBP 7,9 million to GBP 193,2 million, to increase the investment cost handicap by GBP 1,6 million and to reduce the other handicap by GBP 0,3 million.

(34) The Commission considers that the labour cost handicap of Sunderland in the original cost benefit analysis submission in respect of management and other salaried employees was overstated. The cost benefit analysis was modified accordingly, with the effect (in net present value terms) of reducing the labour cost handicap of Sunderland by GBP 17,7 million.

(35) Those modifications produce different cost-benefit results from those initially notified by the United Kingdom. The initially notified handicap intensity of Sunderland, of 42,71 %, was reduced to 32,48 %. The revised aid intensity is 18,62 % gge, compared to 19,41 gge % initially.

(36) The Commission has considered the question of a 'top-up', which is an increase in the permissible aid intensity intended as a further incentive to the investor to invest in the region in question. Such top-ups are authorised on condition that the investment does not increase the capacity problems facing the motor vehicle industry. In this particular case, the results of the cost-benefit analysis obviate the need for such an examination.

Conclusion

(37) The aid intensity of the project is less than both the disadvantage identified by the cost-benefit analysis and the regional aid ceiling. The regional aid that the United Kingdom plans to grant for NMUK is therefore compatible with the common market pursuant to Article 87(3)(c) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which the United Kingdom is planning to grant to Nissan Motor Manufacturing (UK) Ltd for its plant in Sunderland, amounting to a maximum of GBP 40 million, with an aid intensity of 18,62 % gross grant equivalent, is compatible with the common market within the meaning of Article 87(3)(c) of the Treaty.

Implementation of the aid is accordingly authorised.

Article 2

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 17 January 2001.

For the Commission

Mario MONTI

Member of the Commission