II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION
of 12 July 2000
on State aid which Italy plans to grant to Fiat Auto SpA for its Mirafiori Carrozzeria plant

(notified under document number C(2000) 2450)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2001/47/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 invited interested parties to submit their comments in accordance with the abovementioned provisions [1],

Whereas:

I. PROCEDURE

Between October and December 1997 Italy notified the Commission, pursuant to Article 88(3) of the Treaty, of six proposals to grant State Aid to Fiat Auto SpA, one of which (registered under N 728/97 on 29 October 1997) concerned investments in Fiat Mirafiori Carrozzeria an automobile assembly plant at Mirafiori, Turin. Requests for further information and a number of reminders were sent to the Italian authorities to elicit the data required for a Commission decision. On 23 April 1998 a meeting was held with representatives of the Italian authorities to clarify the various aspects of the examination of the case. Partial replies to the questions raised by the Commission were supplied by the Italian authorities in a letter of 20 November 1998.

The Commission then informed Italy [2] of its decision of 3 February 1999 to initiate the procedure provided for in Article 88(2) of the Treaty in respect of the proposed aid measures, allowing Italy one month to supply all the documents, information and data required to assess the compatibility of the aid with the common market. In the absence of any reply, the Commission would reach a decision on the basis of the information in its possession.

The decision to initiate the procedure was published in the *Official Journal of the European Communities* [3], and interested parties were invited by the Commission to submit comments. No comments were received.

[1] OJ C 120, 1.5.1999 and OJ C 288, 9.10.1999.
[2] By letter of 9 March 1999, reference number SG(99)D/1742.
[3] OJ C 120, 1.5.1999.

Representatives of the Commission went to Mirafiori on 24 February 1999 to discuss, among other matters, the Mirafiori Carrozzeria plan.

On 9 April 1999 the Italian authorities requested an extension of the deadline for replying and on 16 April they sent a letter to the Commission containing the information they considered necessary to complete its examination of the case.

Further examination of the Mirafiori Carrozzeria case served to strengthen the Commission's initial doubts, particularly as regards the need for the planned aid. The Commission therefore informed Italy [1] of its Decision of 26 May 1999 to widen the procedure initiated on 3 February, allowing the Italian authorities one month in which to supply the documents, information and data required to assess the compatibility of the aid with the common market. In the absence of any reply, the Commission would reach a decision on the basis of the information in its possession.

The decision to widen the procedure was published in the *Official Journal of the European Communities* [2], and interested parties were invited by the Commission to submit comments. No comments were received.

II. DETAILED DESCRIPTION OF THE AID — GROUNDS FOR INITIATING THE ARTICLE 88(2) PROCEDURE

The aid notified would be granted to Fiat Auto SpA, a subsidiary of Fiat SpA. The Fiat group operates in the automobile sector through three companies: Fiat Auto for cars, Iveco for industrial vehicles and Magneti Marelli for parts.

Fiat has plants in Italy, Poland, Turkey and South America. In 1998 it sold some 2,4 million vehicles [3] of the Alfa Romeo, Ferrari, Fiat, Lancia and Maserati makes, of which 38 % in Italy, 29 % in the rest of Europe and 33 % in the rest of the world.

The notified investment, totalling ITL 643 billion (EUR 332 million), is at Mirafiori (Turin). In March 1995 the area of Mirafiori was designated an assisted area under Article 87(3)(c) of the Treaty. The maximum aid intensity in force at the time and up to 1999 was then 10 % net grant equivalent (nge) for large firms.

Mirafiori Carrozzeria produces various cars: in 1994, at the start of the project, it made 411 800 Uno, Thema, Croma, Panda and Punto cars; in 1999, on completion of the investment, it produced 357 800 Punto/Model 188 [4], Marea and Multipla vehicles.

The notified project originally concerned, from 1994 to 1999, improvements to the management and organisation of the plant producing the new cars (the Marea, Model 188 and Multipla). Also, as the urban location of the plant imposed major production and logistical constraints, the investments were intended to improve working conditions, save energy and improve environmental protection.

Lastly, the investments safeguarded a number of jobs in an area suffering from industrial decline.

Under the scheme provided for by Law No 488 of 19 December 1992, already approved, regional aid was granted totalling ITL 8,7 billion (EUR 4 million) (present value). The discounted aid intensity was assessed at 2 %.

The Italian authorities then decided to alter the terms of the notification. In their reply of 20 November 1998 to further questions sent by the Commission in November 1997, they stated that the intensity of the regional aid (2,01 %) obviated the need for a cost-benefit analysis as the proposed aid could be authorised as aid to innovative investment. They then provided a description of the innovative investments, totalling ITL 51,1 billion nominal (present value ITL 33,7 billion), broken down into six subprojects for the Multipla and Marea. The letter also described but did not quantify other innovations, defined as 'complementary marginals'.

Provision was then made for aid totalling ITL 8,13 billion discounted and with an intensity of 24,1 % gross grant equivalent under the scheme provided for in Law No 488 of 19 December 1992, already approved.

[1] By letter of 14 June 1999.
[2] OJ C 288, 9.10.1999.
[3] *Source:* Fiat, facts and figures 1999.
[4] Which replaced the Punto.

The letter from the Italian authorities of 20 November 1998 stated that the investment project was mobile in view of the financially advantageous possibility of extensively reducing capacity at Mirafiori and concentrating a large proportion of the investments at Bielsko-Biala in Poland. Only the part of the project relating to the Multipla would be kept at the Turin factory, but at Rivalta and not Mirafiori, for an equivalent cost.

On 3 February 1999, the Commission decided to initiate proceedings under Article 88(2) of the EC Treaty as the information in its possession was still incomplete and a number of doubts concerning the compatibility of the aid had emerged during its examination of the case, namely:

(i) the Commission could not assess the innovative nature of the processes notified and questioned the fixing of the reference date for the examination of the alleged innovations and the practical consequences of fixing that date;

(ii) it was not possible to calculate the aid intensity for the subprojects regarded as innovative;

(iii) the aid intensity considerably exceeded the maximum rate authorised by the Commission in cases of investment aid for innovative purposes; it also seemed that Fiat Auto was not incurring a sufficient degree of risk to justify an aid intensity of 10 %.

It later emerged that Mirafiori Carrozzeria was not in an assisted area before March 1995. The project, however, started in 1994 and was preceded by feasibility and location studies probably carried out in 1993. The decision to invest at Mirafiori must therefore have been taken a priori in 1993/94 at the latest, when the plant was not located in an assisted area. The Commission, in its Decision to widen the procedure, therefore expressed serious doubts as to whether the investor may, in deciding to finance the project in question, have taken account of the prospect of obtaining regional aid. Consequently, the aid was not in its view needed to carry out the investment in question at Mirafiori.

Furthermore, both in the Decision to initiate proceedings and in the supplementary Decision, the Commission formally required Italy to supply within one month all the information required to assess the compatibility of the measures in question. Otherwise the Commission would adopt a decision on the basis of the data in its possession.

III. **COMMENTS BY ITALY**

On 9 April 1999 the Italian authorities requested an extension of the deadline in order to prepare their reply to the Decision of 3 February 1999, and on 16 April they sent a letter to the Commission containing additional information for the examination of the Mirafiori Carrozzeria case.

The Italian Government stressed above all what it saw as the failure of the study carried out by the Commission to reflect the economic reality of the decision on plant location, in particular as regards the mobility and performance of the cost-benefit analysis. The comments made in this context go beyond the specific case of Mirafiori Carrozzeria and include all of the six Fiat cases referred to above.

As far as the assembly plants are concerned [1], Italy noted that Fiat had in particular drawn up a coherent investment programme for the period 1993 to 1998 after considering two scenarios: carrying out the investments concerned giving preference either to the Italian plants or to its Polish plants (maximising transfers of production to Tichy and Bielsko-Biala). The diagrams attached to the letter of 16 April 1999 illustrate the capacity allocations to each plant according to the scenario under consideration. Various analyses carried out by Fiat showed that setting up a plant in Poland to produce Fiat and Alfa Romeo segment B, C and D vehicles would have been more profitable than the option finally chosen by Fiat, which limits Polish production to segment A vehicles only. Given the same or a slightly higher investment, the higher profitability would chiefly have resulted from the reduced labour costs and lower transport costs to the outlet markets [2], as well as lower component costs, as the market of local Fiat suppliers, already well organised, would have expanded still further.

[1] Cassino, Mirafiori Carrozzeria, Pomigliano and Rivalta for the purposes of this Decision.
[2] The markets of central Europe (Belgium, France, Germany, the Netherlands, etc.) and of eastern Europe.

The Italian authorities pointed out that Fiat could have achieved the workforce reduction necessary for relocating production to Poland through staff turnover, in particular by deciding not to replace the many workers that were due to retire, given the shape of the age pyramid at the various plants belonging to the group. On the other hand, a fall in employment in areas of Italy in industrial decline or in the south of the country would have been seen as a negative consequence, even by Fiat.

The regional aid initially planned would not have been sufficient to offset the additional costs entailed by the decision to carry out this investment in Italy, but it was undoubtedly a factor in the final decision.

The Italian Government therefore believed that the Cassino, Mirafiori Carrozzeria, Pomigliano and Rivalta projects were mobile.

With regard to the Mirafiori Carrozzeria project, the mobility was evident from the general explanations given above. The Italian authorities added that, in the context of the very strong ties between the Rivalta and the Mirafiori plants that have created a highly integrated complex which the Italians refer to as the 'Rivalta-Mirafiori area', the real choice facing Fiat was, for the Marea only, either to allocate 400 cars/day to Mirafiori and 200 cars a day to Rivalta, or to allocate 300 cars a day to Mirafiori and the equivalent [1] of 300 cars a day to Bielsko-Biala. No further details were supplied concerning the mobility of the Punto/Model 188 and the Multipla.

Secondly, Law No 488/92 did not allow aid to be granted, in the six cases concerned, to a single horizontal aid programme, requiring instead that grant applications be separated. As the first two invitations to tender used to determine the projects eligible for aid concerned six separate locations, Fiat submitted six separate applications for aid. The six cases were therefore notified to the Commission separately. Another difficulty with examining the cases was due to the fact that the projects were notified on two separate occasions, in October 1997 and December 1997. That is why the Commission applied two different sets of guidelines for aid to the motor vehicle industry. The first set requires the comparator site used for the cost-benefit analysis to be located in a non-assisted region of the Community; the second allows the reference site to be located in the EEA or the countries of central and eastern Europe.

This artificial distinction did not reflect the economic reality of the investments. It overlooked the interdependence of the different production plants and the resulting synergies. The Italian authorities therefore considered it extremely difficult to apply the two cost-benefit analysis methods separately, as required by the Commission, since this would not be consistent with the integrated nature of the investment programme and the resulting financial calculations. The cost-benefit analyses should have been examined as a whole by the Commission.

The letter of 16 April 1999 provided detailed data on the basis of which cost-benefit analyses could have been carried out for the Mirafiori Carrozzeria, Rivalta, Cassino and Pomigliano plants, in comparison with Bielsko-Biala, in a context of optimum allocation of production between Italy and Poland. More specifically, the costs of the Mirafiori Carrozzeria and Poland projects were compared on the basis of the mobility hypothesis explained above. The investments, worth a total of ITL 643 billion, were carried out according to the following timetable:

(in billion ITL)

	1994	1995	1996	1997	1998	1999	Total
Mobile investment	11	51	46	45	73	4	230
Non-mobile investment	0	95	60	50	190	18	413
Total	11	146	106	95	263	22	643

Thirdly, the Italian authorities stated that the investments in question can also be subdivided into two other categories:

(i) innovative investments, amounting to a nominal ITL 80 billion, and

(ii) technological investments, eligible for regional aid, amounting to a nominal ITL 563 billion.

[1] i.e. 280 cars/day in Poland, which has more working days than Italy.

The innovative investments comprise three subcategories, the aid intensity varying according to the degree of innovation:

(in billion ITL)

Subject	Amount	Aid intensity
Variable-section underframes	19	10 %
Multipla process	50	10 %
Other innovations	11	5 %
Total	80	9,3 %

The Italian Government noted that the reference date for assessing the innovative nature of the 'variable-section' and 'Multipla' projects should be 1995, which is when the investments in question began.

This was the first time that these projects had been carried out in Europe by a car manufacturer, with the assistance of a component supplier (EMARC).

With regard to the technological investments, Italy points out that the proposed regional aid intensity, in addition to the innovative investment aid, would be only 1 %, or 10 % of the regional ceiling of 10 %. It was therefore unnecessary to draw up a cost-benefit analysis.

The notified aid would therefore be as follows:

(in billion ITL)

	Eligible investment	Aid intensity	Aid investment
Aid to innovative investment	80	9,3 %	7,45
Regional aid	563	1 %	5,63
Total			13,08

Fourthly, Italy generally points out the specific terms for implementing Law No 488/92, particularly as regards the retroactive conditions for eligibility of the investment.

In reply to the Commission's Decision of 26 May 1999 to extend the investigation, on 20 July 1999 Italy sent a letter giving detailed information on two main aspects: the events leading up to adoption of the new aid scheme and the link with implementation of the aid in question, and compliance with the formal criteria in the applications for aid.

IV. **ASSESSMENT OF THE AID**

The measure notified by the Italian authorities for Fiat Auto 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 financing of the project, the aid is liable to distort competition in the Community by giving Fiat Auto an edge over competitors not receiving aid. Lastly, there is extensive trade between Member States in the motor vehicle market.

The aid in question would be granted under the approved scheme provided for in Law No 488/92 and is intended for a company engaged in the manufacture and assembly of motor vehicles. Accordingly, aid proposals must be examined under the relevant Community framework for State aid to the motor vehicle industry. The Italian Government notified the case on 28 October 1997. The notification was registered by

the Commission on 29 October 1997. The relevant framework is therefore the one published in *Official Journal of the European Communities* No C 123 of 18 May 1989 [1], as confirmed by the framework which entered into force on 1 January 1998; the latter states that cases notified before 1 November 1997 but which have not yet been declared compatible by the Commission, or are the subject of proceedings under Article 88(2) of the Treaty initiated before that date, will be examined on the basis of the preceding framework, which entered into force on 1 January 1996 for two years. Italy did not challenge this assessment in the course of the procedure.

The Commission also notes that the aid would be granted under an approved scheme, and that the cost of the project exceeds EUR 7 million. The Italian authorities have therefore complied with the notification requirement. However, the Commission deplores the considerable delay between the signing, on 20 November 1996, of the Ministerial Decree providing for the aid in question and the date on which it was officially notified, i.e. the end of October 1997.

Article 87(2) of the Treaty specifies certain types of aid that are compatible with the Treaty. In view of the nature 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. Their compatibility with the Treaty 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 3g 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 Italian economy or to promote culture and heritage conservation. As regards the exceptions in Article 87(3)(a) and (c), only subparagraph (c) could be relevant as Mirafiori is located in an area assisted under Article 87(3)(c) but not under Article 87(3)(a).

To determine whether the proposed regional aid measures are compatible with the common market under the exemption provided for in Article 87(3)(c) of the Treaty, the Commission must therefore check compliance with the conditions specified in the Community framework for State aid to the motor vehicle industry.

The Commission checks that aid granted is proportional to the gravity of the problems it is designed to resolve and is necessary to the execution of the project. Compliance with both the proportionality and necessity criteria [2] is essential if the Commission is to authorise State aid in the motor vehicle sector.

It is necessary, in this general context, to analyse the regional aid projects and the innovative investment aid.

Regional aid

While the proportionality of regional aid is usually assessed by means of a cost-benefit analysis, in the present case the Commission can limit its assessment to the necessity test alone.

When initiating the procedure, the Commission took note of the particular events which led to the authorisation of the Italian scheme under Law No 488/92. In keeping with the decisions it had already taken on 18 November 1997 [3], 30 September 1998 [4] and 7 April 1998 [5], the Commission acknowledged that particular circumstances surrounding the adoption of Law No 488/92 could explain the long delays between the launch of the project, the start of mass production of the vehicles concerned, the application for aid in 1996 and the notification in October 1997. However, examination of the necessity for the aid to the siting of the project at Mirafiori cannot be restricted to consideration of such factors; the Commission must also check whether the regional aid was indeed taken into account in the financial analyses, in particular the location study, with a view to the selection by Fiat of the Mirafiori site.

[1] As amended by OJ L 231, 3.9.1994 and OJ C 284, 28.10.1995.
[2] See in this connection paragraph 17 of the Court's judgment in Case 730/79 *Philip Morris* [1980] ECR 2671.
[3] OJ C 70, 6.3.1998, p. 7.
[4] OJ C 409, 30.12.1998, p. 7 and OJ C 384, 12.12.1998, p. 20.
[5] OJ C 240, 31.7.1998, p. 3.

The Commission also has to check whether the evidence supplied by Italy in support of its claims is sufficient in the context of a narrow interpretation of the exemptions provided for by Article 87(3) and having due regard to the formal requirements to supply information of 3 February and 26 May 1999.

The letter of 16 April 1999 from the Italian authorities states that the programme for the Marea, Multipla and the (new) Punto started on 31 May 1994. Furthermore, according to the information in the Commission's possession, spending under the global programme started in May 1994, while pre-production of the Marea (the only vehicle which could be affected by the alleged mobility and hence the only vehicle for which regional aid could be authorised) began in August 1995.

The letter from the Italian authorities of 20 July 1999 states that the machinery was ordered in March/April 1994, with deliveries beginning in the second half of 1994. It was also confirmed that the location study which allegedly led Fiat to choose Mirafiori was carried out in 1993 and 1994.

The Commission notes that Mirafiori was not located in an assisted area until March 1995, when the Mirafiori municipality became an assisted area under Article 87(3)(c). Furthermore, as confirmed in the letter of 20 July 1999, Italy submitted an initial proposal for the areas to be classed as assisted areas under Article 87(3)(c) only in September 1994.

The Commission therefore concludes that the decision to invest in the Marea-Multipla-Punto programme was taken at a time when the Mirafiori plant was not located in an assisted area.

This assessment is not affected by Mirafiori's location in an Objective 2 area or by the alleged possibility of transferring the machinery from one site to another during the initial phases of the project.

The start of pre-production of the Marea, which, according to information supplied by the Italian authorities, took place in 1995, confirms moreover that a significant part of the investment needed to produce the Marea was carried out in the period before the decision on assisted-area status was taken. The Commission has not, however, received any breakdown of investment by type of vehicle.

Accordingly, it is extremely unlikely that Fiat actually took account of the possibility of obtaining regional aid with a view to the financing of its Mirafiori project. Nor have the Italian authorities supplied any evidence to allay such doubts.

Even if Fiat had included the possibility of receiving regional aid as one of its reasons, it implicitly accepted the risk of the aid being withheld, since the Commission's prior authorisation was required in accordance with the Community framework for State aid to the motor vehicle industry.

Moreover, at the time when Fiat decided to carry out the investment and therefore took account of the possibility of obtaining State aid to help finance the project at Mirafiori, Commission policy was to require a cost-benefit analysis (CBA) based on a comparison between the plant in question and an alternative site in a non-assisted region of the Community where Fiat could very probably have located the investment. The Italian authorities and Fiat were familiar with this methodology at the time since they had, for example, already handled the Fiat Mezzogiorno case [1]. The Commission does not have any information on the choice of comparator plant, but the most likely alternative would have been a plant located in central or northern Italy. The Commission's experience shows that a CBA drawn up on the basis of such an assumption would have made it difficult, if not impossible, to identify handicaps for Mirafiori justifying the authorisation of regional aid. Again, the Italian authorities have not supplied proof that Fiat effectively took regional aid into account in its decision to carry out the investment at Mirafiori.

The Commission points out, incidentally, that reference to an alternative plant in Poland (Bielsko-Biala), as called for by Italy in the case in point, became possible only after the entry into force of the new framework for State aid to the motor vehicle industry in January 1998, some four years after the investment decision was taken.

[1] OJ C 37, 11.2.1993, p. 15.

Lastly, the Commission considers that a Member State and an undertaking cannot legitimately rely on a given region being classed as eligible for assistance under Article 87(3)(c) until the Commission has taken a decision to that end.

For this reason, the Commission finds that the Italian Government has not demonstrated that Fiat actually took the granting of regional aid into consideration in its calculations as a necessary criterion for selecting the Mirafiori site. The notified regional aid is not therefore necessary in order to achieve the objectives of Article 87(3)(c), in this case the aim of facilitating the development of certain economic areas.

Secondly, in order to demonstrate the necessity for regional aid, the Commission's practice under the framework in force is to check that the aid recipient has an economically viable alternative as regards the location of its project or parts of its project. If no other industrial site, whether new or already in existence, was capable of receiving the investment in question within the group, the firm would be compelled to carry out its project in the sole plant available, even in the absence of aid.

The information supplied by Italy on this subject, despite the many requests for further details, is still inadequate. The Commission was given only a very brief explanation stating that Fiat's choice had been between the Polish plants and the Rivalta/Mirafiori complex and claiming that the Polish alternative would have had significant advantages over Italy, especially in terms of labour costs.

The Commission takes the view that at the time the investment decision was taken, in 1993 to 1994, the real advantages of locating the project in Poland were not as obvious as the Italian authorities currently maintain. For example, the industrial risk was not negligible, at a time when Fiat Auto Poland was undergoing intensive reorganisation. The networks of local parts suppliers were not as developed as they are today and it was not certain that new suppliers would become established; furthermore, in their analysis of the mobility of the project, the Italian authorities pass over the important advantages in terms of flexibility (one of Fiat's strategic objectives) to be gained from establishing and maintaining the RivaltalMirafiori complex.

Thus the Italian authorities were able to provide the Commission with only very fragmentary information on the real prospects for producing the Marea in optimum conditions according to the following alternative: 400 cars/day at Mirafiori and 200 cars/day at Rivalta or 300 cars/day at Mirafiori and an equivalent of 300 cars/day at Bielsko-Biala. No satisfactory reasons were given for the production rates chosen for each plant; virtually no information was given concerning Fiat's actual plans to move the investment in question to Poland.

The Commission therefore considers that Italy has not demonstrated, even theoretically, that the project is mobile. The notified regional aid is not therefore necessary to attain the objectives of Article 87(3)(c), namely, to facilitate the development of certain economic areas.

Thirdly, the Commission notes, incidentally, that difficulties also arise regarding the proportionality of the regional aid.

Italy considers on the one hand that the investments regarded as eligible total ITL 563 billion and, on the other, that a cost-benefit analysis is not necessary in the present case because the intensity of the regional aid envisaged would be 1 %, i.e. 10 % of the regional ceiling of 10 %. Nominal aid of ITL 5,63 billion could therefore be authorised.

The Commission's policy under the relevant framework is to consider that all assisted regions suffer from minimum structural handicaps. Thus an aid intensity of 10 % [1], of the regional ceiling may be regarded as the minimum compensation for the handicaps facing an investor in an assisted area; no cost-benefit analysis is therefore needed to assess the net handicaps of the project in the region in question. However, the Commission notes that an aid intensity is by definition calculated with regard to the amount of the eligible investment. In the motor vehicle industry, only mobile investments can be regarded as eligible. Yet Italy acknowledges that only ITL 230 billion constitute mobile investments. With regard to the proposed aid of ITL 5,63 billion, the corresponding intensity would thus be 2,4 %. The Commission also considers that Italy has not provided any clarification in support of its claims concerning the value of the mobile investments. It cannot therefore be ruled out that the actual amount is even lower than the amount proposed, as a result of which the aid intensity would be still higher.

[1] See the Ford Bridgend case (N 781/96), OJ C 139, 6.5.1997, p. 4.

Furthermore, the information sent by the Italian Government does not allow a sufficiently exact cost-benefit analysis to be made. Thus, for example, the necessary investments in Poland are not explained in sufficient detail.

For these reasons, even if the necessity for the aid had been demonstrated (which it has not), and in view of the official requests for information sent in the case in question, the Commission was not able to check that the regional aid in question complied with the proportionality criterion.

Conclusion

The regional aid which the Italian authorities plan to grant to Fiat Mirafiori Carrozzeria, totalling ITL 5,63 billion, is not necessary in order to achieve the objectives referred to in Article 87(3)(c), namely to facilitate the development of certain economic activities or areas. Nor is there any evidence of its proportionality. The regional aid in question is therefore incompatible with the common market.

Innovative investment aid

The fact that regional aid is not needed in order to locate the project in an assisted area does not mean that aid is not required in order to facilitate the introduction of industrial innovation in the motor vehicle sector.

On the basis of the relevant framework, the Commission takes a firm position with regard to aid to modernisation and innovation. In particular, proposals to grant aid for innovation are examined to determine whether they effectively concern the introduction at Community level of truly and substantially innovative products or processes.

The Commission therefore asked its experts to analyse the technical content of the projects regarded as innovative by the Italian authorities and to compare them with the state of the art in the European motor vehicle industry at the time the investment decision was taken and the machinery manufactured.

The experts concluded that the production of variable-section underframes and the Multipla process were innovative, chiefly because no aluminium components are used. Indeed, the investments continue even at the present time to be highly innovative. They also considered that the two projects involve an element of industrial risk which justifies a gross aid intensity of 10 %.

On the other hand, following an in-depth examination, the other investments presented by Italy cannot be defined as innovative within the meaning of the relevant framework. Furthermore, they involve only a very minor degree of risk.

This results in the following table:

(in billion ITL)

Subject	Amount presented	Innovative investment	Aid intensity	Compatible aid
Variable-section under-frames	19	19	10 %	1,9
Multipla process	50	50	10 %	5,0
Other innovations	11	0	0 %	0
Total	80	69	10 %	6,9

The aid which Italy proposes to grant for the production of variable-section underframes and the Multipla process contributed to Fiat's decision to invest in innovation. A gross intensity of 10 % is in proportion with the objective pursued.

Conclusion

Accordingly, aid for innovation with a gross intensity of 10 % for investments not exceeding ITL 69 billion nominal relating to the production of variable-section underframes and the Multipla process is compatible with the common market.

Other aid

Other aid objectives mentioned at one point by the Italian Government, such as environmental protection, have never been explained in detail, despite the formal requests to provide information issued by the Commission. The Commission has consequently been unable to examine the presence of aid for any environmental protection measures,

HAS ADOPTED THIS DECISION:

Article 1

The aid to innovation, for investments worth a nominal ITL 69 billion, which the Italian Government plans to grant to Fiat Mirafiori Carrozzeria, is compatible with the common market within the meaning of Article 87(3)(c) up to a maximum gross intensity of 10 %.

Implementation of the aid is accordingly authorised.

Article 2

Any additional State aid that the Italian Republic plans to grant to Fiat for its investment project at Mirafiori Carrozzeria is incompatible with the common market.

Article 3

The Italian Republic shall inform the Commission, within two months of the date of notification of this Decision, of the measures it has taken to comply with it.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 12 July 2000.

For the Commission

Philippe BUSQUIN

Member of the Commission