II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION
of 28 February 2001
on State aid which Italy plans to grant to Fiat Sata SpA at Melfi

(notified under document number C(2001) 683)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2001/489/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], and in particular Article 7(3) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [2] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By letters dated 17 March and 16 April 1999 the Italian authorities notified the Commission of a plan to grant regional aid to Sata SpA for an investment in its car plant at Melfi (Basilicata). The case was registered on 22 March 1999 as notified aid under number N 167/99. On 19 May 1999 the Commission sent the Italian authorities a request for information, to which they replied by letter dated 24 June 1999. A site visit was made to Poland and to Melfi, following which additional information was requested by the Commission by letter dated 27 July 1999. After requesting an extension of the deadline, Italy supplied partial replies by letter dated 11 October 1999.

(2) By letter dated 25 January 2000 [3] the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid.

(3) The Commission Decision to initiate the procedure was published in the *Official Journal of the European Communities* [4]. The Commission called on interested parties to submit their comments.

(4) After a meeting with Commission representatives in Rome on 1 March, by letter dated 18 April 2000, registered on 25 April 2000, Italy submitted its comments and provided information which it considered necessary for assessing the aid.

(5) The Commission did not receive any comments from interested parties.

II. DETAILED DESCRIPTION

(6) The recipient of the aid would be Sata SpA, a wholly owned subsidiary of Fiat Auto SpA. The Fiat group is active in the motor vehicle sector mainly through the following three companies: Fiat Auto for passenger cars, Iveco for commercial vehicles and Magneti Marelli for components. Fiat Auto operates plants in Italy, Poland, Turkey and South America and sells vehicles of the Alfa Romeo, Ferrari, Fiat, Lancia and Maserati makes.

[1] OJ L 83, 27.3.1999, p. 1.
[2] OJ C 110, 15.4.2000, p. 27.
[3] SG 2000 D/100810.
[4] See footnote 3.

(7) At present, the Melfi plant manufactures the segment B vehicles Fiat Punto and Lancia Y and has an overall capacity of 1 600 vehicles/day (two shifts working six days a week) broken down as follows: 1 200 Fiat Punto and 400 Lancia Y models. The notified project, which does not involve any change in capacity, is essentially intended to develop new, flexible bodywork and assembly lines in connection with the launch of the new Punto (given the code name 'model 188' by Fiat). Commercial production of this model began during 1999.

(8) The following investments totalling ITL 436 billion have beeen carried out over the period 1997 to 2000 (in ITL million):

Type of investment	Amount
Project management	308
Building refurbishment	6 150
Machinery	429 450
Total	**435 908**

(9) The Italian authorities asserted that the investment could have been carried out at an alternative site, namely the Fiat group's plant at Tychy in Poland, for a mobile volume of 400 vehicles/day. A cost-benefit analysis was prepared by Italy to compare the cost of manufacturing 1 200 model 188 cars a day at Melfi with that of splitting production between Melfi (800 vehicles/day) and Tychy (400 vehicles/day). This gave, according to the Italian authorities, a handicap for Melfi of 273 %, which would be sufficient to authorise an aid intensity of 15,3 %. The notified aid, granted under Law No 488 of 19 December 1992, takes the form of a regional grant of ITL 78 billion (EUR 40 million).

III. **COMMENTS FROM INTERESTED PARTIES**

(10) The Commission has not received any comments from third parties.

IV. **COMMENTS FROM ITALY**

(11) After requesting an extension of the deadline for submitting comments on the decision to initiate the procedure and following a meeting held on 1 March 2000 between representatives of the Italian authorities, Fiat and the Commission's Competition Directorate-General, Italy submitted its comments by letter dated 18 April 2000, registered by the Commission on 25 April 2000. Those comments have been taken into account.

(12) Firstly, with regard to the question whether aid had been granted to suppliers in the Melfi area, Italy replied that there had been no aid requests under Law No 488/92 in the Basilicata region for projects ascribable to industries linked to Fiat Sata.

(13) Secondly, Italy points out that Fiat does not at present intend to increase its structural capacity in Europe. As a consequence, if it had been decided to produce the model 188 partly in Poland, the production of this model would have been reduced by the same amount at Melfi, without increasing production of the other model produced there, the Lancia Y, which already fully satisfies demand.

(14) Thirdly, Italy explained in greater detail the necessary technical changes to the production structure at the two alternative sites. In the alternative scenario of producing the model 188 partly in Poland, it would have been possible at the Melfi plant to deactivate one production line and transform it, with the adoption of cheaper technological solutions, to reduced production status while continuing production at maximum speed on the other production line. On the other hand, in the chosen alternative of producing all the cars at Melfi, it was necessary to adopt new and more costly technological solutions with a view to minimising disruption of production while carrying out the necessary transformations.

(15) Italy stressed the genuine mobility of the project and submitted further documentation to demonstrate that the investor's real intention of carrying out the investment at the alternative site was in fact taken into consideration at the time.

(16) Lastly, Italy expressed its views and provided further information with regard to assumptions and cost factors applied in the cost-benefit analysis.

V. **ASSESSMENT OF THE AID**

(17) The measure notified by the Italian authorities for Fiat Sata SpA constitute 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 Fiat Sata SpA an edge over competitors not receiving aid. Lastly, there is extensive trade between Member States in the motor vehicle market.

(18) The aid in question is intended for a firm which manufactures and assembles cars. The firm is therefore part of the motor vehicle industry within the meaning of the Community framework on State aid to the motor vehicle industry ([5]) (hereinafter 'the relevant Community guidelines').

(19) The aid in question, notified on 17 March 1999 and 16 April 1999, is to be granted under Law No 488/92, which was approved by the Commission under the new Italian regional aid map on 12 July 2000. Law No 488/92 allows two years' retroactivity as regards eligible investments.

(20) The relevant Community guidelines specify that 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, in accordance with Article 88(3) of the Treaty, be notified before being granted if either of the following thresholds is reached: (i) total cost of the project equalling EUR 50 million, (ii) total gross aid for the project, whether State aid or aid from Community instruments, equalling EUR 5 million.

(21) Both the total cost of the project and the total gross aid exceed the notification thresholds. Thus, in notifying the proposed aid for Fiat Sata SpA, the Italian authorities have complied with the requirements of Article 88(3) of the Treaty.

(22) 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 enshrined 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 the execution of an important 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), the Commission notes that the Melfi plant is located in the region of Basilicata, which qualifies for assistance under Article 87(3)(a).

(23) In order to decide whether the planned regional aid is compatible with the common market under the exception in Article 87(3)(a) of the Treaty, the Commission must check whether the conditions specified in the relevant Community guidelines have been met.

(24) To authorise aid under the 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 special reference to the mobility of the project. Under the new Italian regional map, approved by the Commission on 1 March 2000 for the Article 87(3)(a) regions ([6]), (the Melfi (Basilicata) car plant is located in an assisted area under Article 87(3)(a) in which regional aid may be allowed up to a ceiling of 35 % nge, corresponding to 50,67 % gge, for large firms.

(25) The Commission has, with the help of its external motor industry consultant, studied the geographic mobility of the project. It considers that it is technically possible to produce a volume of 400 vehicles/day at the Tychy plant in Poland, which constitutes a viable alternative. This has been confirmed by a visit to the Polish plant and the documents provided by Italy. Following the initiation of the procedure, Italy submitted additional documentation, dating from before the investments began, showing that Fiat did in fact consider locating part of the production of the model 188 at Tychy. Thus, the project is mobile in character and can therefore be considered eligible for regional aid, since the aid is necessary to attract the investment to the assisted region.

(26) 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 an existing site could be eligible for regional aid. The external expert appointed by the Commission has confirmed that the investments in question concern the radical renovation of an existing plant, involving a total investment of ITL 436 billion, together with the complete renewal of a model. Many transfer lines have been extended in order to make room for and set up new machinery. On the basis of the layouts provided by Italy, the report by the external motor industry experts and the site visit, the Commission considers that the investments in the context of the launch of the new model 188 constitute a transformation.

([5]) OJ C 279, 15.9.1997, p. 1.

([6]) OJ C 175, 24.6.2000, p. 11.

(27) However, the Commission can consider eligible only the costs relating to the mobile aspects of the project. Italy has split the investments into two categories: 'eligible mobile investments', amounting to ITL 149,1 billion, and 'other eligible investments' amounting to ITL 287,0 billion. The Commission considers that the latter are not mobile since they are determined by the fixed share of 800 model 188 vehicles per day that would have been produced at Melfi whatever the option chosen by Fiat. The Commission has therefore regarded as eligible only investments amounting to ITL 149,1 billion, which significantly changes the aid intensity and the regional handicap ratio of the project.

(28) The Commission has, with the help of its external consultant, evaluated the cost-benefit analysis with a view to ascertaining whether the proposed regional aid is in proportion to the regional problems it is intended to solve. Detailed examination of the cost-benefit analysis has made it possible to clarify certain points that were raised when it was decided to initiate the procedure. The relative handicap of the Melfi plant is mainly due to the fact that labour costs are significantly higher in Italy than in Poland. As regards the investment costs, which are slightly higher for the option of producing all 1 200 model 188 cars at Melfi, the different technological solutions that would have been adopted in both cases have been taken into consideration, resulting in a more capital-intensive investment at Melfi than in Poland. Other factors, such as transport costs for spare parts and finished vehicles, were also considered in the analysis. Taking into account the additional information received from Italy following the initiation of the procedure, some aspects of the CBA were modified:

— as regards the set-up costs, in its reply to the opening of the investigation Italy agreed on the need to modify the amount related to these costs and submitted corrected figures. The Commission has taken into account, for the option of shifting part of the production to Poland, a handicap of ITL 2,4 billion, as opposed to the initially notified handicap of ITL 4 billion. Consequently, the handicap for Melfi in the CBA as regards set-up costs was reduced by ITL 1,6 billion

— as regards the inclusion of redundancy costs at Melfi in the CBA, Italy has not included in its CBA any extra costs to cover charges in connection with redundancies as a consequence of a shift of production to Poland. In this respect, Italy refers to the lack of skilled labour with adequate industrial experience in the region. If the number of jobs at the Melfi plant were reduced, workers would be released for automotive suppliers and other industries in the region. Readjustment of the workforce at the Melfi plant would have been easy to achieve both by not making turnover replacements and by enabling workers made redundant at the Melfi plant to be hired by supplier companies in the region. The Commission nevertheless considers that a reduction of 400 cars per day in capacity, and consequently in production, at the Melfi plant resulting from a shift of production to Poland would also have an influence on the level of employment at Fiat suppliers in the Melfi area. Given their dependence on production at the Melfi plant, instead of hiring new workers they too would be obliged to lay off personnel. The Italian authorities have not provided any evidence that dispels the Commission's doubts in this respect. The Commission therefore considers that the CBA has to include redundancy costs in order to assess the comparative disadvantages of Melfi with respect to Poland. The Commission has to take its decision on the basis of the information in its possession, in particular that provided by Italy in response to the decision to initiate the procedure. As the Italian authorities did not quantify this element, the Commission has estimated the redundancy costs that would arise at Melfi as a consequence of a shift of production of 400 model 188 cars to Poland: those costs would amount to ITL 19 415 million. The Commission has included these costs in its assessment of the comparative disadvantages of Melfi with respect to Poland,

— as explained above, the Commission has considered only the costs relating to the mobile aspects of the project, amounting to ITL 149,1 billion, as eligible, which significantly increases both the aid intensity and the regional handicap ratio of the project.

(29) The above modifications introduced in the analysis produce cost-benefit results that differ from those initially notified by Italy. The net present value of the eligible investment is ITL 134,1 billion and that of the aid is ITL 60,0 billion; the aid intensity of the project is therefore 44,7 % gge (compared to the initially notified 15,3 % gge) and the project handicap amounts to ITL 89 366 million, giving a handicap intensity of 66,6 % (compared to the initially notified 27,3 %).

(30) Lastly, the Commission considered the question of a possible 'top-up', which is an increase in the allowable aid intensity intended as a further incentive for 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. However, the results of the cost-benefit analysis obviate the need to include a top-up in this particular case.

VI. **CONCLUSION**

(31) 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 Italy plans to grant Fiat Sata SpA is therefore compatible with the common market under Article 87(3)(a) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Italy plans to grant to Fiat Auto at Melfi, amounting to ITL 78 billion, is compatible with the common market within the meaning of Article 87(3)(a) of the Treaty. Implementation of the aid, amounting to ITL 78 billion, is accordingly authorised.

Article 2

This Decision is addressed to Italy.

Done at Brussels, 28 February 2001.

For the Commission

Mario MONTI

Member of the Commission