COMMISSION DECISION

of 20 December 2001

on the State aid which Belgium is planning to implement for Sidmar NV

(notified under document number C(2001) 4471)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2002/285/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 4(c) thereof,

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

Having regard to Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for state aid to the steel industry [1],

Having called on interested parties to submit their comments pursuant to the abovementioned Decision [2] and having regard to those comments,

Whereas:

I. PROCEDURE

(1) By letter dated 27 November 2000, Belgium, acting in accordance with Article 6(1) of the Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry (hereinafter the 'Steel Aid Code'), notified the Commission of a proposal to grant environmental aid to Sidmar NV (hereinafter 'Sidmar'). By letters dated 19 December 2000, 16 February 2001 and 29 March 2001, the Commission requested further information. The Belgian authorities replied by letters dated 26 January, 15 March and 3 May 2001 respectively.

(2) By letter dated 21 June 2001, the Commission informed Belgium that it had decided to initiate the procedure laid down in Article 6(5) of the Steel Aid Code in respect of the aid for three of the projects and that it had no objections to the aid for the other five projects.

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

(4) Sidmar presented its comments by letter dated 14 September 2001. The Commission forwarded them to Belgium, which was given the opportunity to react. Belgium presented its own comments by letter dated 2 August 2001 and commented on Sidmar's letter by letter dated 31 October 2001.

II. DETAILED DESCRIPTION OF THE AID

(5) The total cost of the three projects in respect of which the Commission initiated the procedure is EUR 5 140 419 and the Belgian authorities proposed to grant aid corresponding to 12 % of the respective costs, amounting in total to EUR 616 851.

(6) One of the three projects, 'centralised reduction of scrap', consisted in replacing the former system of reducing scrap in the place where it is produced by a centralised system in which scrap is reduced in a single location. In contrast to the previous situation, this central location is enclosed and the resulting waste gases are then cleaned via a filter unit. The total cost of the equipment (EUR 2 478 935) was deemed eligible for environmental aid by the Belgian authorities. This includes not only the waste-gas cleaning equipment but also the cutting machinery. The proposed aid for this project amounts to EUR 297 472.

(7) The other two projects, 'sludge treatment at steel plants' and 'sludge treatment at furnaces', consisted of investments in centrifuges to drain the sludge produced at the steel plants and furnaces. Although the projects allow the sludge to be re-used as a raw material, the Belgian authorities did not deduct any savings from

[1] OJ L 338, 28.12.1996, p. 42.
[2] OJ C 234, 18.8.2001, p. 2.
[3] See footnote 2.

investment costs when they calculated the costs eligible for environmental aid. The investment costs amount to EUR 1 545 963 and EUR 1 115 521 respectively and the proposed aid to EUR 185 516 and EUR 133 863 respectively.

III. COMMENTS FROM INTERESTED PARTIES

(8) Sidmar, the aid recipient, is the only interested party to have submitted comments. For all three projects it declared that the reason for the investment was to increase environmental protection. It insisted that the 'centralised reduction of scrap' project was not designed to rationalise production activity. In its view, the investment had not conferred any financial advantage because since its completion in June 2001 the cost per tonne of scrap treated has increased by EUR 4,52, which, Sidmar claims, corresponds to the cost of the new equipment. It concluded that all the equipment, including the cutting machinery (EUR 1 829 454), should be eligible for environmental aid.

(9) The company also stated that the sole purpose of the 'sludge treatment at furnaces' project was to reduce pollution. Chlorine levels in the water had been reduced from 1 059 mg/l in July 1999 to 648 mg/l in June 2001. According to Sidmar, this was because the sludge was previously pumped from the settling tank to a sludge basin with no provision for soil protection, with the result that salinisation took place as the canal water filtered through. Following the investment, the sludge from the settling tank undergoes forced drainage in the new centrifuges. The fact that canal water is no longer pumped to the furnace sludge basins means that further soil contamination is prevented. Sidmar also argued that no additional savings had been made in raw materials because the sludge could be used in both situations: before the investment, after further (internal or external) treatment to ensure that the sludge was totally dry, and after the investment, immediately following centrifugation.

(10) With regard to the 'sludge treatment at steel plants' project too, Sidmar stated that the investment was made solely to reduce pollution. In the past, the canal water-laden sludge was pumped to the ladles of the sintering plants. This enabled the sintering charge to be washed and the steel plant sludge to be recycled as a useful raw material. After the investment, the water-laden sludge undergoes forced drainage in centrifuges and the dried sludge is subsequently brought to pre-bedding, where the sintering charge is prepared. In this way the thickened sludge is also recycled as a useful raw material in the sintering plants. However, in the new situation, the sintering charge is moistened with groundwater, which is low in chlorine, and therefore helps to reduce dioxin emissions from the sintering plant. Dioxin emissions have been reduced from approximately 13 ng TEQ/Nm^3 to approximately 2,5 ng TEQ/Nm^3.

IV. COMMENTS FROM BELGIUM

(11) The Belgian authorities reiterated their position that the investments were made solely for environmental reasons and that all the costs should be considered eligible. They fully endorsed Sidmar's position.

V. ASSESSMENT OF THE AID

Legal basis

(12) Sidmar is a company within the meaning of Article 80 of the ECSC Treaty. Aid granted to it is therefore governed by the Steel Aid Code. The measures notified by Belgium qualify as aid within the meaning of Article 1 of the Steel Aid Code. Article 3 of the Code makes provision for steel companies to receive aid for environmental investments. The conditions which such aid must meet to be deemed compatible with the common market are set out in the Annex to the Steel Aid Code and in the 1994 Community guidelines on state aid for environmental protection ([4]) (hereinafter the 'guidelines').

(13) According to point 3.2.1 of the guidelines, aid ostensibly intended for environmental protection measures but which is in fact for general investment is not covered by the guidelines. The eligible costs must be strictly confined to the extra investment costs necessary to meet environmental objectives.

(14) Sidmar already meets the mandatory standards as regards pollutants, which can be reduced further thanks to the planned investments. The aid must therefore be assessed in the light of the rules on 'aid to encourage firms to contribute to significantly improved environmental protection'. According to the first paragraph of point B of the guidelines, aid for investment that allows significantly higher levels of environmental protection may be authorised up to a maximum of 30 %. The level of aid must be in proportion to the improvement of the environment that is achieved and to the investment necessary for achieving the improvement.

(15) According to the Annex to the Steel Aid Code, in the case of aid to encourage firms to contribute to significantly improved environmental protection, the following conditions apply:

([4]) OJ C 72, 10.3.1994, p. 3.

(a) the Commission will analyse the economic and environmental background of a decision to opt for the replacing of existing plant or equipment. In principle, a decision to undertake new investment which would have been necessary in any event on economic grounds or due to the age of the existing plant or equipment (useful life left equivalent to less than 25 %) will not be eligible for aid;

(b) the investor will have to demonstrate that a clear decision was taken to opt for higher standards which necessitated additional investment;

(c) any advantage in regard to lower production costs will be deducted.

Project 1: Centralised reduction of ferrous scrap

(16) As the Commission acknowledged when it initiated the procedure, this project contributes to important improvements in the environment, with a reduction in dioxin emissions from 50 mg/Nm^3 to 10 mg/Nm^3. However, according to the rules, the eligible costs must be strictly confined to the extra investment costs necessary to meet environmental objectives, and general investment costs not attributable to environmental protection must be excluded. The scrap-reduction operation has, in any case, to be carried out by the company for its production needs. Part of the purchased equipment (cutting torches, cutting table, feeder with gas and electricity for the cutters, manual facility using an oxy-fuel burner) does not in itself provide for any further improvement in the environmental situation. On the contrary, it is simply a new way for the company to carry out production. Even if the company claims that the cost of scrap reduction per tonne is higher at present because of the cost of the new equipment, such higher costs in themselves do not as yet justify production equipment being deemed eligible for environmental aid. The cost of the cutting equipment (EUR 1 829 454) cannot therefore be considered eligible for environmental aid.

(17) On the other hand, the cost of the filter unit and the waste-gas collector (EUR 649 481) can be considered eligible for aid. This equipment does not replace existing equipment and is designed purely to reduce pollution. The reduction achieved in dioxin emissions can be regarded as significant, and so the cost is eligible under the rules governing aid to help firms significantly improve environmental protection.

Project 2: Sludge treatment at furnaces

(18) The Belgian authorities declared initially that the aim of the investments was to process furnace sludge for re-use as a raw material in the production process and that the centrifuges would enable most of the water to be removed and thus contribute directly to recycling the sludge. Now, however, together with Sidmar, they maintain that the only reason for the investment was increased environmental protection since, prior to the investment, the sludge could have been re-used only after appropriate treatment. Nevertheless, the fact is that only after the investment did Sidmar start re-using the sludge. Before, it was dumped and left in the furnace sludge basins, from where it infiltrated and polluted the soil. Ending the practice of dumping the sludge — and the resultant filtration of the chlorine-laden canal water — led to an important reduction in the chlorine content of the water. This has certainly had a positive effect on the environment. However, in order to calculate the expenditure eligible for environmental aid, the cost of the investment must be reduced by the value of the raw materials which the company has started re-using as a result of the investment. In spite of repeated requests, including in the decision to initiate the procedure, to provide further information on the savings made in raw materials and to deduct them from the eligible costs, Belgium has failed to do so. Hence it is not known which part of the investment expenditure (if any) is eligible for aid. It must therefore be concluded that the notified costs (EUR 1 115 521) were not exclusively designed to secure additional environmental protection and are not therefore eligible for environmental aid.

Project 3: Sludge treatment at steel works

(19) In the notification the Belgian authorities made the same declaration as for the previous project, namely that the reason for this investment was to re-use the sludge as a raw material. However, in the course of the procedure they, together with Sidmar, clarified their later position that no savings in raw materials were made because use of the sludge did not increase after the new investment. In contrast to the furnace sludge, which was dumped, sludge from the steel works was pumped, without having to be dried, to the ladles of the sintering plants. That sludge contained chlorine-rich canal water, which contributed to a higher level of dioxin emissions from the sintering plants. With the new centrifuges, the sludge undergoes forced drainage before being loaded and ground water is added instead of canal water. As a result, less chlorine enters the sintering process and less dioxin is emitted. Dioxin emissions have been reduced from 13 ng TEQ/Nm^3 to about 2,5 ng TEQ/Nm^3.

(20) The centrifuges at the steel plants do not affect the production process because after centrifugation the same amount of sludge is pumped to the sintering plant as when the sludge was rich in canal water. We can therefore accept the position of the Belgian authorities and Sidmar that the investment was made for purely

environmental reasons and has no effect on production and that no savings are made on raw materials. The investment does not replace any existing equipment and the reduction in pollution can be considered significant within the meaning of the rules governing aid to help firms significantly improve on environmental standards. The investment of EUR 1 545 963 can therefore be considered eligible for environmental aid.

VI. **CONCLUSION**

(21) In the light of the above, it can be concluded that all the conditions set out in the Steel Aid Code for environmental aid to be deemed compatible have been met as regards part of the notified aid (EUR 263 454). This concerns eligibility and aid intensity, which is below the 30 % ceiling. The aid amount corresponds to part of the notified aid for the 'centralised reduction of scrap' project (EUR 77 938) and to the notified aid for the 'sludge processing at steel plants' project (EUR 185 516).

(22) However, aid to the amount of EUR 353 397 does not meet the conditions to be deemed eligible and compatible with the common market. It concerns the notified aid for the other part of the aforementioned 'centralised reduction of scrap' investment project (EUR 219 534) and the notified aid for the 'sludge processing at furnaces' project (EUR 133 863),

HAS ADOPTED THIS DECISION:

Article 1

The aid which Belgium is planning to implement for the steel company Sidmar, to the amount of EUR 263 454, is compatible with the common market. This amount corresponds to the notified aid for part of the 'centralised reduction of scrap' investment project (EUR 77 938) and to the notified aid for the 'sludge processing at steel plants' investment project (EUR 185 516).

Article 2

The aid which Belgium is planning to grant to the steel company Sidmar, to the amount of EUR 353 397, is incompatible with the common market. This amount corresponds to the notified aid for part of the 'centralised reduction of scrap' investment project (EUR 219 534) and to the notified aid for the 'sludge processing at furnaces' investment project (EUR 133 863).

Accordingly, that part of the aid scheme may not be implemented.

Article 3

Belgium shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 4

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 20 December 2001.

For the Commission

Mario MONTI

Member of the Commission