COMMISSION DECISION

of 6 December 2006

on State aid for research and development implemented by Belgium for Techspace Aero

(notified under document number C(2006) 5799)

(Only the French and Dutch versions are authentic)

(Text with EEA relevance)

(2007/200/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 thereof,

Having regard to the Commission Decision of 22 June 2006 [2] initiating the procedure laid down in Article 88(2) of the EC Treaty in respect of aid C 28/2006 (ex NN 23/2004),

Having called on interested parties to submit their comments pursuant to that Article,

Whereas:

1. PROCEDURE

(1) By letter of 13 February 2004, registered as received by the Commission on 18 February, Belgium notified the Commission of aid for research and development (R & D) to Techspace Aero. By letters of 23 December 2004, 1 July 2005 and 8 March 2006, registered as received by the Commission on 3 January 2005, 5 July 2005 and 13 March 2006 respectively, Belgium provided the Commission with further information.

(2) This notification was sent together with the notification of an aid scheme for research and development in the aircraft industry since the aid in question was granted under that scheme and individual notification was therefore required under point 4.7 of the Community framework on State aid for research and development [3] (R & D framework). This aid scheme has been examined individually as scheme No C 27/2006 (ex NN 22/2004).

(3) By letter of 22 June 2006, the Commission informed Belgium that it had decided to initiate the procedure provided for in Article 88(2) of the EC Treaty in respect of the individual aid granted to Techspace Aero.

(4) By letter dated 11 September 2006, registered as received on the same date, Belgium submitted its comments to the Commission.

(5) By letter of 2 October 2006, the Commission asked Belgium for additional information, which was provided by letters of 23 and 24 November 2006, registered as received on the same dates.

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

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

2. DESCRIPTION OF THE AID

2.1. Beneficiary

(8) Techspace Aero is a Belgian company that specialises in the manufacture of subassemblies for aircraft and spacecraft engines. According to the information on its website, the company is owned by the French group Safran (51 %), by the Walloon region (28,4 %), by the US firm Pratt & Whitney (19 %) and by Société Wallonne d'Investissement (1,6 %). In 2004 it employed 1 230 staff and had a turnover of EUR 271 million.

(9) Techspace Aero specialises in low-pressure compressors. It has taken part in numerous developments of major civil aircraft engines with integrators such as General Electric, Pratt & Whitney and the company SNECMA.

[1] OJ L 83, 27.3.1999, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).
[2] OJ C 196, 19.8.2006, p. 16.
[3] OJ C 45, 17.2.1996, p. 5.
[4] See footnote 2.

2.2. **R & D project for which the aid has been granted**

(10) Techspace Aero is participating in the GP7000 civil aviation engine project. The GP7000 engine is produced by a collaboration between General Electric and Pratt & Whitney. Other European firms, such as MTU (Germany) and SNECMA (France), are also taking part in this project.

(11) Techspace Aero is in charge of developing the low-pressure compressor for the GP7000. The company's total eligible costs for the R & D work for this project amount to […] (*), spread over the period 2002 to 2006. According to the Belgian authorities, the total cost of the project breaks down as follows: […] for industrial research (IR) activities plus […] for pre-competitive development (PCD) activities within the meaning of Annex I to the R & D framework.

(12) The activities classified as IR correspond to the project phases prior to the first engine tests. The PCD activities correspond to the engine test phases. Certification costs are not eligible for aid.

2.3. **Aid arrangements**

(13) Techspace Aero requested the aid for the aforementioned project from the Belgian Government in 2000. It was granted by the authorities on 1 October 2003.

(14) The aid is granted in the form of a repayable advance of a maximum amount of EUR 41 274 000, of which 65 % is for IR costs and 45 % for PCD costs.

(15) The advance is repaid in stages in the form of a contribution per finished component sold based on the importance of the component, plus contributions based on the turnover generated by sales of replacement parts and by repairs. Under the agreement between the Belgian Government and Techspace Aero, the company will not under any circumstances have to pay interest on the amount advanced. Repayments will cease when the principal of the advance has been reimbursed.

(16) According to the scenario described by the Belgian authorities in letters to the Commission and based, among other projections, on projected sales of […] shipsets by 2018, Techspace Aero is to repay the advance in full by 2019.

(*) Business secret.

2.4. **Incentive effect of the aid**

(17) According to the Belgian authorities, Techspace Aero's R & D expenditure increased from […] per annum prior to the launch of the programme to […] per annum in 2005. Similarly, the ratio of R & D expenditure to turnover rose from […] to […].

2.5. **Grounds for initiating the procedure**

(18) In its decision of 22 June 2006 the Commission examined the aid in the light of the R & D framework and raised doubts regarding its compatibility with this framework.

(19) The Commission noted that the aid was granted in the form of an advance repayable on the basis of sales of the product resulting from the research activity. Advances of this kind, repayable in the event of a successful outcome of research activities, are very common in the aircraft industry.

(20) Point 5.6 of the R & D framework makes specific provision for this type of advance. It indicates that the allowable level of aid intensity for such aid instruments (25 % for PCD and 50 % for IR) may be increased based on a case-by-case assessment of the repayment conditions.

(21) Since the entry into force of the R & D framework, the Commission has received notification of numerous cases of aid in the form of advances repayable in the event of a successful outcome. It has developed a body of practice for interpretating point 5.6 of the framework ([5]).

(22) In the cases analysed by the Commission to date, the beneficiary has, in the event of the success of a programme, been required to repay, in addition to the advance principal, interest based on the reference and discount rate set by the Commission for the Member State concerned at the time the aid was granted. For particularly successful programmes, the repayment rates have been even higher.

(23) Under the circumstances, the Commission's practice has been to limit the advance to a maximum of 40 % of eligible costs for PCD activities and 60 % for IR activities. These basic rates may be exceeded by the extra percentage points (bonuses) provided for in point 5.10 of the R & D framework.

([5]) See the cases cited in footnote 4 of the Commission Decision of 22 June 2006 (OJ C 196, 19.8.2006, p. 16).

(24) In the aid scheme in question, however, the Commission notes that the Belgian authorities have applied these maximum levels of 40 % and 60 % (plus a bonus of 5 % in accordance with point 5.10.2 of the R & D framework), whereas the arrangements for repayment of the advance do not envisage payment of any interest, even in the event of the success of the programme.

(25) As indicated in the Commission decision of 22 June 2006, the arrangements for repaying of the aid are considerably more favourable for Techspace Aero than the traditional arrangements for aid beneficiaries in the cases hitherto examined by the Commission. Since they do not have to pay any interest, the beneficiary companies are guaranteed to benefit from the aid whatever the outcome of the project, whereas under traditional repayment arrangements the aid may not be granted at all in the event of a successful outcome (and may even be negative in cases of highly successful projects where the enterprise may enable the government to earn money, including in real terms).

3. COMMENTS FROM BELGIUM

(26) The Belgian authorities have modified the arrangements for granting aid to Techspace Aero by means of an amendment to the contract signed by the parties and sent to the Commission on 24 November 2006. This amendment provides for recovery of part of the aid granted in order to reduce its intensity level to that stipulated by the R & D framework (50 % maximum for IR activities and 25 % maximum for PCD activities, increased by 5 % if the project is carried out in one of the regions covered by Article 87(3)(c)). The Belgian authorities will recover the surplus amount of the aid by 31 March 2007 and will charge interest on this amount at the Commission's reference and discount rate in force at the time the aid was granted. As provided for in the grant agreement, in the event of the success of the project the Belgian authorities will, in addition to this initial recovery, require repayment, free of interest, of the part of the aid kept by the enterprise.

Table

Advance reduced to aid intensity level

Beneficiary	Eligible costs (EUR '000)		Final intensity		Advance paid (EUR '000)	Recovery with interest (EUR '000)	Rate
	IR	PCD	IR	PCD			
Techspace Aero	[…]	[…]	55 %	30 %	34 800	8 397	3,95 %

(27) The advance finally granted to Techspace Aero amounts to EUR 31 978 850, corresponding to an intensity level of […], which is the weighted average of the intensities applicable to the relative costs of IR and PCD activities.

4. ASSESSMENT

4.1. Existence of State aid

(28) The advance was granted by the Belgian Federal Government to a single company. It is repaid only in the event of the success of the product being researched. This makes the advance more advantageous than a loan at market rates. Lastly, Techspace Aero is engaged in an area in which there is significant trade between Member States. It therefore meets the cumulative criteria for determining the existence of State aid as defined in Article 87(1) of the EC Treaty.

4.2. Unlawfulness of State aid

(29) The aid was granted on 1 October 2003, even before it was notified to the Commission and therefore necessarily before it had been approved by the Commission. There is no suspension clause whereby payment of the advance is subject to analysis of the scheme by the Commission in accordance with Community State aid rules. Since the scheme has already been implemented, it must be considered to be unlawful within the meaning of Article 1(b) and (f) of Regulation (EC) No 659/1999.

4.3. **Compatibility of State aid**

(30) Modification of the aid scheme as described in paragraphs 26 and 27 takes away the advantage initially conferred on the beneficiary by reducing the aid intensity to the level stipulated in the R & D framework (50 % for IR activities and 25 % for PCD activities, increased by 5 % if the project is carried out in one of the regions covered by Article 87(3)(c)). In addition to recovery, with interest, of the surplus aid, repayment of the remaining aid goes beyond the requirements of the R & D framework. The aid thus modified is therefore compatible with that framework.

(31) The Belgian authorities undertake to take away the additional advantage temporarily granted to Techspace Aero relative to the beneficiaries of aid in the form of repayable advances in the cases hitherto examined by the Commission.

5. **CONCLUSION**

(32) The Commission notes that Belgium has unlawfully implemented the R & D aid for Techspace Aero in breach of Article 88(3) of the EC Treaty. However, Belgium has adapted State aid granted so as to bring it into line with the Community framework on State aid for research and development,

HAS ADOPTED THIS DECISION:

Article 1

The aid for research and development implemented by Belgium for Techspace Aero for an initial amount of EUR 41 274 000 and modified as described in paragraphs 26 and 27 is compatible with the common market.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 6 December 2006.

For the Commission

Neelie KROES

Member of the Commission