STATE AID

Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning Case C 51/2000 (ex N 491/2000) — Nissan/Micra

(2000/C 310/03)

(Text with EEA relevance)

By means of the letter dated 29 September 2000, reproduced in the authentic language on the pages following this summary, the Commission notified the United Kingdom of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty concerning the abovementioned aid.

Interested parties may submit their comments on the aid in respect of which the Commission is initiating the procedure, within one month of the date of publication of this summary and the following letter, to:

European Commission
Directorate-General for Competition
Directorate H-1
Rue de la Loi/Wetstraat 200
B-1049 Brussels
Fax (32-2) 296 95 79

These comments will be communicated to the United Kingdom. Confidential treatment of the identity of the interested party submitting the comments may be requested in writing, stating the reasons for the request.

SUMMARY

The United Kingdom authorities notified, pursuant to Article 88(3) of the EC Treaty on 25 July 2000, a planned aid in favour of Nissan Motor Manufacturing (UK) Ltd (hereinafter referred to as NMUK). The NMUK plant is situated in Sunderland. NMUK is 100 % owned by Nissan Motor Co. Ltd (Japan). The turnover of NMUK in 1999 was GBP 1 813.5 million and the net profit GBP 8.3 million. The Sunderland plant of NMUK produced 271 000 vehicles (157 000 Micra and 114 000 Primera) in 1999.

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 be built on a common Nissan-Renault platform to replace the current Nissan Micra, March and Cube as well as the Renault Clio and Twingo models.

The project timing is from January 2001 until March 2005. The start of production is planned for January 2003. According to the notification, the total amount of investments amounts to GBP 308.9 million, of which is eligible GBP 203.4 million. The net present value of the eligible investments is GBP 183.3 million. Of the total investment of GBP 308.9 million, GBP 203.4 million would be aided. The aid of GBP 40 million would be provided as regional selective assistance, which is an approved scheme based on the Industrial Development Act 1982. The aid intensity as calculated by the United Kingdom is 19.41 %.

Sunderland was recognised by the Commission as a regionally assisted area in the sense of Article 87(3)(c) of the EC Treaty, under the regional aid map for the period 2000-2006, with a regional ceiling of 20 %.

The Nissan plant in Sunderland is a production plant with a maximum capacity of 500 000 units per year (based on a three-shift system). Without the project, capacity utilisation in Sunderland would be reduced by 220 000 units with the resultant loss of some 1 300 jobs at the plant and significant job losses amongst local suppliers.

The United Kingdom authorities have provided a cost-benefit analysis (hereinafter referred to as CBA) comparing the costs and benefits of the location in Sunderland with those of the indicated alternative location in Flins, France. The CBA indicates a net cost handicap of GBP 79.2 million for the location in Sunderland in comparison with the location in Flins. Consequently, the handicap intensity of the project would be 42.71 %.

The Commission notes that the notified aid is granted through State resources to an individual company favouring it by reducing the costs it would normally have to bear if it wanted to carry out the notified investment project. Moreover, the recipient of the aid, NMUK, is a company manufacturing and selling cars, which is an economic activity involving trade between Member States. Therefore, the aid in question falls within the scope of Article 87(1) of the EC Treaty.

NMUK is active in the motor vehicle industry. Consequently, the aid granted to it shall be assessed according to the Community framework for State aid to the motor vehicle industry (1).

According to point 3(2)(a) of the car framework, in order to demonstrate the necessity for regional aid, the aid recipient must clearly prove that it has an economically viable alternative location for its project. If there were no other industrial site, whether new or in existence, capable of receiving the investment in question within the group, the undertaking would be compelled to carry out its project in the sole plant available, even in the absence of aid.

The UK authorities have asserted that an economically realistic alternative location to Sunderland would be to carry out the investment in the Renault plant in Flins, France. The Commission has doubts, at this stage, whether the two companies Nissan and Renault can be considered as a single business unit for the purpose of the analysis of the mobility requirement. It also has doubts as regards the mobility of the project, mainly relating to the following points:

— possible increase of production costs of the remaining models in Sunderland because fixed costs will have to be spread over a smaller number of units. This could jeopardise the profitability/viability of the plant,

— significant past investments of Nissan into the Micra production might have to be sacrificed in case of a shift of production to Flins.

In addition, the Commission has to verify that the planned project does not include any elements of modernisation, which is completely excluded from all aid. The Commission also has to investigate whether all costs relating to the mobile aspects of the project are eligible.

According to point 3(2)(c) of the car framework, when considering the mobile aspects of a project, the Commission needs to ensure that the planned aid is in proportion to the regional problems it is intended to resolve. For that, a CBA method is used.

A CBA compares, with regard to the mobile elements, the costs which an investor would bear in order to carry out the project in the region in question with those it would bear for an identical project in a different location, which makes it possible to determine the specific handicaps of the assisted region concerned.

The Commission has assessed the information contained in the CBA provided and requires more information relating to the following points:

— additional risk for the image of Nissan in the UK and resulting potential sales losses in case of a transfer of production to France,

— additional investment costs in case the spare capacity in Flins is not sufficient to receive the investment in question and its effect on overall costs,

— costs relating to the down-sizing of the Sunderland plant,

— increased costs per unit resulting from a lower rate of utilisation in Sunderland,

— redundancy costs in Sunderland,

— contractual arrangements if Nissan contracts the new Micra with Renault,

— assumptions on productivity, labour force, components and transport in both locations,

— discounting method used in the CBA.

The Commission has to determine whether the shareholding of Renault in Nissan and the economic cooperation between the two companies would justify it to consider both companies together as a single business unit and relevant group in the sense of the car framework for the purpose of the 'top-up' analysis. The United Kingdom authorities have indicated that the production capacity of the Nissan-Renault group will remain unchanged before and after the project. The Commission has doubts whether this is the case and notes that the production capacity in the central and eastern European countries (CEECs) is not mentioned in the notification.

**TEXT OF THE LETTER**

The Commission wishes to inform the United Kingdom that, having examined the information supplied by your authorities on the aid referred to above, it has decided, in accordance with Article 6 of the procedural Regulation (2), to initiate the procedure laid down in Article 88(2) of the EC Treaty.

**Procedure**

(1) The United Kingdom authorities notified the abovementioned aid proposal to the Commission pursuant to Article 88(3) of the EC Treaty on 25 July 2000 (registered on 26 July 2000). Before this date a pre-notification meeting was held between the United Kingdom authorities, representatives of Nissan, Renault and the Commission’s services. This meeting took place on 19 July 2000.

Detailed description of the aid

(2) 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 100 % owned by Nissan Motor Co. Ltd (Japan). The turnover of NMUK in 1999 was GBP 1 813.5 million and the net profit GBP 8.3 million. The Sunderland plant of NMUK produced 271 000 vehicles (157 000 Micra and 114 000 Primera) in 1999.

(3) 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, a joint development and use of engines and gearboxes as well as close cooperation in other areas. 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 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 to replace the current Nissan Micra, March and Cube as well as the Renault Clio and Twingo.

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

(5) The Project timing is from January 2001 until March 2005. The start of production is planned for January 2003. According to the notification, the total amount of investments amounts to GBP 308.9 million, of which is eligible GBP 203.4 million. The net present value of the eligible investments is GBP 185.3 million. These investments are divided as follows:

| Machinery and equipment | GBP 155.3 million |
| Supplier tooling         | GBP 30.1 million  |
| **Total**                | **GBP 185.3 million** |

(6) Of the total investment of GBP 308.9 million, GBP 203.4 million would be aided. The aid of GBP 40 million (net present value GBP 36 million) would be provided as regional selective assistance, which is an approved scheme based on the Industrial Development Act 1982. The aid intensity as calculated by the United Kingdom authorities is 19.41 %.

(7) Sunderland was recognised by the Commission as a regionally assisted area in the sense of Article 87(3)(c) of the EC Treaty, under the regional aid map for the period 2000-2006, with a regional ceiling of 20 %.

(8) The United Kingdom authorities have provided together with the notification a cost-benefit analysis (hereinafter referred to as CBA) comparing the costs and benefits of the chosen location in Sunderland with those of the indicated alternative location in Flins, France. The CBA indicates a net cost handicap of GBP 79.2 million for the location in Sunderland in comparison with the location in Flins. Consequently, the handicap intensity of the project would be 42.71 %.

(9) According to the information provided by the UK authorities, the Nissan plant in Sunderland is a production plant with a maximum production capacity of 500 000 units per year (based on a three-shift system). Without the project, capacity utilisation in Sunderland would be reduced by 220 000 units with the resultant loss of some 1 300 jobs at the plant and significant job losses amongst local suppliers.

(10) According to the United Kingdom authorities, no decision as to the site of the production has yet been taken by Nissan and the final decision is planned to be taken in January 2001.

Assessment of the aid

(11) According to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market. Pursuant to the established case-law of the European Courts, the criterion of trade being affected is met if the recipient firm carries out an economic activity involving trade between Member States.

(12) The Commission notes that the notified aid is granted through State resources to an individual company favouring it by reducing the costs it would normally have to bear if it wanted to carry out the notified investment project. Moreover, the recipient of the aid NMUK, is a company manufacturing and selling cars, which is an economic activity involving trade between Member States. Therefore, the aid in question falls within the scope of Article 87(1) of the EC Treaty.

(13) NMUK is active in the motor vehicle industry. Consequently, the aid granted to it shall be assessed according to the Community framework for State aid to the motor vehicle industry (1).

(14) According to the Community framework for State aid to the motor vehicle industry (hereinafter referred to as the ‘car framework’), the Commission shall ensure that the aid granted is both proportional to the gravity of the problems it intended to solve and necessary for the realisation of the project. Both tests, proportionality and necessity, must be satisfied if the Commission is to authorise State aid in the motor vehicle industry.

(15) According to point 3(2)(a) of the car framework, in order to demonstrate the necessity for regional aid, the aid recipient must clearly prove that it has an economically viable alternative location for its project. If there were no other industrial site, whether new or in existence, capable of receiving the investment in question within the group, the undertaking would be compelled to carry out its project in the sole plant available, even in the absence of aid.

(16) The existence of a viable alternative defines the mobility of the project; mobility may if necessary be demonstrated by investors on the basis of studies they have carried out in order to identify the final location. That alternative site

need not necessarily always be located in the Community. However, the Commission verifies the likelihood of the alternative, particularly when the relevant markets are considered. Thus, to authorise regional aid, the Commission studies the geographical mobility of the notified project, after checking that the region in question is eligible for aid under Community law. No regional aid may be authorised for a project which is not geographically mobile.

(17) The Commission notes that according to the new regional map in the United Kingdom, the project would be situated in an assisted area pursuant to Article 87(3)(c) of the EC Treaty with a maximum regional ceiling of 20%.

(18) The UK authorities have asserted that a real economically realistic alternative location to Sunderland would be to carry out the investment in the Renault plant in Flins, France, which currently produces the Clio/Twingo. The Commission has to assess whether the two companies Nissan and Renault can be considered as a single business unit for the purpose of the analysis of the necessity and proportionality requirement.

(19) The Commission notes that when assessing the mobility of a project, it tries to take into account all the relevant factors that have or might have influenced a decision to invest in a certain location. Among such factors are, inter alia, the location study, the location of the plant in respect of the main markets and the business rationale of an investment decision. The aim is to assess the situation as a whole.

(20) The Commission notes that the Nissan Revival Plan (NRP), announced by Nissan in October 1999, requires all new Nissan projects to be independently profitable in order to contribute to the overall objective of returning Nissan (globally) to a profitable position. In case of a decision to locate the production of the new Micra in Flins, capacity utilisation in Sunderland would be significantly reduced by 220,000 units. Reducing the rate of utilisation in the Sunderland plant could in turn increase the production cost of the remaining Primera and Almera models because fixed costs will have to be spread over a smaller number of units. This is particularly the case in a highly integrated plant like Sunderland. A decision to shift the Micra production to Flins could thereby jeopardise the profitability and finally the viability of the Sunderland plant. The Commission has doubts as to whether such consequences are truly intended by Nissan.

(21) The Commission notes that a total of GBP 1,724 million was invested in the Sunderland plant during the period 1985-2000. From this amount, GBP 500 million was invested for the production of the Micra (starting in 1992), including the cost of a new building for the production of the Micra. The Commission needs to understand how a decision to sacrifice the previous investments of GBP 500 million should depend on the planned State aid of GBP 40 million.

(22) The Commission points to the fact that it is a widely accepted production principle to locate car plants in major sales regions. The Commission notes that according to the information provided by the United Kingdom, about 30% of the new Micra volume is targeted at the United Kingdom market, which makes the UK market the most important single market for the new model. The Commission also notes the volume of sales of Nissan cars in the UK might be dependent on the fact that it is produced in the UK. The UK authorities stated that NMUK believes that transferring the production of the replacement Micra will have no, or little, impact on sales. The Commission believes that it should be considered to evaluate this factor, which is closely linked to the mobility of the project, in financial terms and to possibly include it in the CBA.

(23) 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. The Commission has to verify that the planned project does not include any elements of modernisation, which is completely excluded from all aid. In addition, the Commission has to investigate whether all costs relating to the mobile aspects of the project are eligible. In this respect the Commission needs to clarify for both locations exactly in which regions the vendor tooling would be located.

(24) According to point 3(2)(c) of the car framework, when considering the mobile aspects of a project, the Commission needs to ensure that the planned aid is in proportion to the regional problems it is intended to resolve. For that, a CBA method is used.

(25) A CBA compares, with regard to the mobile elements, the costs which an investor would bear in order to carry out the project in the region in question with those it would bear for an identical project in a different location, which makes it possible to determine the specific handicaps of the assisted region concerned. The Commission authorises regional aid within the limit of the regional handicaps resulting from the investment in the comparator plant.

(26) The Commission notes that the United Kingdom authorities have provided with their notification of 25 July 2000 a CBA comparing the two locations, Sunderland and Flins. In accordance with point 3(2)(c) of the car framework, operating handicaps are assessed over three years in the CBA since the project in question is an expansion project, not a greenfield site. The time period covered by the submitted CBA is 2003-2005, that is three years from the beginning of production in compliance with point 3(3) of Annex I to the car framework.

(27) The Commission has assessed the information contained in the CBA provided and it notes that further explanations are necessary before it can reach a final decision. This relates to elements used in the CBA, especially with regard to labour costs, transport costs, component costs (including logistics) and ‘other’ costs.

(28) The CBA data as regards total output show about the same numbers in Flins and Sunderland during the first year of production. The Commission will need to assess whether this assumption on the ramp-up time needed to reach full production is plausible.
(29) As regards the consequences to the Sunderland plant in the long run, in the event that the production of the Micra was to be transferred to Flins, the Commission notes that the UK authorities maintain that this would result in a loss of some 1,300 jobs at the plant and significant job losses at local suppliers. In this case the Sunderland plant would be left with production of the Primera and Almera only and it would seem necessary to down-size and rationalise the site to a considerable extent. The Commission considers that all costs relating to this process should be clarified in more detail and taken into account in the CBA.

(30) As regards the redundancy costs, the Commission notes that the information provided by the United Kingdom indicates that the redundancy costs in Sunderland would be GBP 15,370 per head. The Commission believes that redundancy costs should be incorporated in the CBA analysis. More information is needed on how this figure has been calculated and if it corresponds to normal practice as regards major workforce layoffs.

(31) Reducing the rate of utilisation in the Sunderland plant by 220,000 units would increase the production cost of the remaining Primera and Almera models because fixed costs will have to be spread over smaller number of units. The Commission needs more information concerning these costs and a clear justification for not including them in the CBA.

(32) The Commission notes that the location decision will be based on which location demonstrates a cost advantage. If this proves to be the Flins plant, Nissan will contract with Renault to produce the replacement, Micra on their behalf. The Commission needs more information on the basis and price for the invoicing as well as any other relevant contract clauses.

(33) The CBA data show a much higher productivity in Flins, compared to Sunderland. The required hours per vehicle amount to only (.) in Flins compared to (.) in the Sunderland plant. As regards the headcount, the CBA data indicate a significantly higher total number of employees in the Sunderland plant. The Commission raises doubts as to the plausibility of the underlying assumptions and requests information on past productivity figures (hours per car) concerning both plants.

(34) As regards the cost of components in the CBA, the Commission notes that the indicated total component costs per unit in Flins and Sunderland are almost identical. This is despite Sunderland’s currently high degree of vertical integration and a necessary switch from the existing UK-based supply base to a different supply base in Flins.

(35) The Commission notes that according to the information provided by the United Kingdom authorities, the Renault plant in Flins has a capacity of 600,000 units per year. Currently, the Clio/Twingo are produced at Flins with a capacity utilisation at around 74%, with flexibility to adjust volumes between plants in Spain and Slovenia. A shift of production of the Micra from Sunderland to Flins would increase the capacity utilisation in Flins by 220,000 units. The Commission needs to investigate whether the plant in Flins has a sufficiently high spare capacity to receive the investment in question without a need for higher investment, when compared to Sunderland. The historic cycle of the Clio/Twingo models also has to be considered in this context.

(36) The Commission notes that the discounting method used in the CBA by the United Kingdom authorities needs to be analysed in more detail. The exchange rate applied by the Commission in its common practice in the CBA is usually the exchange rate at the time of the location decision.

(37) Consequently, for the reasons explained above, the Commission has doubts about the mobility of the project and thereby the necessity of the aid in question as stipulated in point 3(2)(a) of the car framework. In addition, the Commission has doubts whether all the relevant costs and benefits relating to the two alternative production locations are accurately reflected in the CBA provided by the United Kingdom authorities.

(38) Finally, the Commission in its analysis considers the question of a ‘top-up’, which is an increase in the allowable 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. Aid proposals in support of investments that potentially aggravate the overcapacity problem of the industry can be modulated by reducing the ‘regional handicap ratio’ by up to two points. The Commission has to determine whether the shareholding of Renault in Nissan and the economic cooperation between the two companies would justify it to consider both companies together as a single business unit and relevant group in the sense of the car framework for the purpose of the ‘top-up’ analysis. The United Kingdom authorities have indicated that the production capacity of the Nissan-Renault group will remain unchanged before and after the project. The Commission has doubts whether this is the case and notes that the production capacity in the central and eastern European countries (CEECs) is not mentioned in the notification.

Decision

(39) In the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 88(2) of the EC Treaty, requests the United Kingdom to submit its comments and to provide all such information as may help to assess the aid/measure, within one month of the date of receipt of this letter. It requests the UK authorities to forward a copy of this letter to the potential recipient of the aid immediately.

(40) The Commission wishes to remind the United Kingdom that Article 88(3) of the EC Treaty has suspensory effect, and would draw its attention to Article 14 of Council Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.”

(*) Business secret.