

COMMISSION DECISION

of 1 July 1998

concerning aid which the Region of Friuli Venezia Giulia plans to grant to the steel company Servola SpA*(notified under document number C(1998) 1941)***(Only the Italian text is authentic)****(Text with EEA relevance)**

(1999/226/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry ⁽¹⁾, and in particular Article 6(5) thereof,

Having invited the interested parties to submit their comments, and taking account of those comments ⁽²⁾,

Whereas:

I

By letter of 28 June 1996 the Commission informed the Italian authorities of its decision to initiate proceedings under Article 6(4) of Commission Decision No 3855/91/ECSC (replaced from 1 January 1997 by Commission Decision No 2496/96/ECSC, hereinafter referred to as 'the Steel Aid Code') in respect of part of the aid which the Autonomous Region of Friuli Venezia Giulia planned to grant to the steel undertaking Servola SpA (hereinafter referred to as 'Servola').

From the information available to the Commission, which was based essentially on the statements of the Italian authorities in the documents submitted, the Commission draws the following conclusions.

Under draft Regional Law No 166, approved by the Regional Executive on 22 May 1995, the Autonomous Region of Friuli Venezia Giulia proposed to assist Servola to bring its Trieste plant into line with environmental standards. The assistance took the form of a capital contribution of ITL 8,5 billion towards environmental-protection investments of at least ITL 37,9 billion. The investments were aimed in particular at curbing smoke and dust emissions, reducing noise and improving water recovery.

Having analysed the notified aid and investments, the Commission decided to initiate proceedings under Article 6(4) of Decision No 3855/91/ECSC in view of the fact

that part of the investments, totalling some ITL 10 billion which, according to the information submitted, was for environmental protection in the form of dust control at the plant, precipitation of dust generated at the cast-iron transfer stage and cleaning of the 'torpedoes', related mostly to plants that entered into service in 1991/92.

Because the environmental standards, i.e. the standards which the ITL 10 billion investment was intended to help attain, were adopted only in July 1990, the requirement in Article 3 of the abovementioned Decision that aid may be authorised only if plants entered into service at least two years before the entry into force of the environmental standards in question has not been complied with.

The Commission also had serious doubts as to the compatibility with the common market of another part of the notified investments, totalling some ITL 4 billion, aimed at reducing dust and noise levels by resurfacing roads and yards at the site. It took the view that this type of investment cannot be deemed eligible within the meaning of Article 3 of the Decision as roads and yards at an industrial steelworks do not appear to correspond to the concept of 'plants' as referred to in Article 3.

The Commission decided not to object to the remaining aid totalling ITL 23,94 billion.

II

The Commission invited the Italian Government to submit its comments on the proceedings, and informed other Member States and interested parties by publishing the decision initiating proceedings.

By letter dated 17 October 1996, the Commission received comments from the British Iron and Steel Producers Association (BISPA) which were then forwarded to the Italian authorities by letter of 23 December 1996.

In its letter, BISPA expressed support for the initiation of the proceedings by the Commission. In particular, it considered that no aid could be authorised for plants installed in 1991 or 1992 as the environmental standards had already entered into force in 1990. The aid for

⁽¹⁾ OJ L 338, 28. 12. 1996, p. 42.

⁽²⁾ OJ C 273, 19. 9. 1996, p. 4.

resurfacing roads and yards does not relate to plants as defined in Article 3 of the Steel Aid Code since, according to the interpretation given by the Commission, plant means only machinery and equipment.

BISPA therefore asked the Commission to declare the aid in question incompatible with the common market for coal and steel, pursuant to Article 4(c) of the ECSC Treaty.

III

The Italian Government responded to the initiation of proceedings and the comments from third parties by letter dated 20 October 1997 in which, after first noting the Commission's position, it altered the eligible investments and the aid referred to in the notification, announcing that it would withdraw the aid objected to by the Commission (ITL 14 billion) and requesting approval of ITL 7,2 billion of aid for the other investments not disputed in the decision initiating proceedings.

It is also clear that some of the notified investments will lead to significant improvements in environmental protection, in particular the 'Still' equipment used to clean waste water (NH_3 5 mg/l and H_2S 0,2 mg/l, whereas the current statutory limits in Italy are 15 mg/l for the former and 1 mg/l for the latter). The same is true of the planned primary dust extraction in the sintering plant (25 mg/m³ for dusts and 250 mg/m³ for nitrogen oxides, the statutory limits being 50 mg/m³ and 400 No_x).

The Italian Government therefore requested approval for aid totalling ITL 7,2 billion for the other environmental protection investments, totalling ITL 23,94 billion⁽¹⁾, that had not been objected to in the initiation of proceedings.

The Commission would point out that, whenever a steel undertaking decides to introduce environmental standards that are stricter than required by law, investors must, in order to obtain the additional aid provided for in the Community Guidelines on State aid for environmental protection, demonstrate, *inter alia*, that they have freely decided to comply with the stricter standards, which call for additional investment, and that there is a less costly solution which complies with the minimum environmental protection standards imposed by national law.

In addition, contrary to the calculation method referred to by the Italian authorities according to which the higher level of aid provided for in the Community guidelines is based on the total environmental investment, the

Commission considers that, in view of the said Guidelines, the additional aid is applicable solely to that part of the investment which exceeds the investment needed in order to comply with the minimum environmental standards.

It is clear that, in the present case, the amount of the environmental investment which exceeds the amount needed for compliance with national minimum standards is ITL 17,2 billion. This amount covers, in particular, the dust extraction equipment for the sintering plant, involving a cost of ITL 8 billion rather than ITL 1,5 billion; the ecological equipment for the coking plant, costing ITL 9 billion instead of ITL 2 billion; the ecological equipment for removing dust from the conveyor belts; the coal and ore storage bunkers (an extra ITL 1 billion of investment) and, lastly, the reduction in NH_3 levels in the water used in the production cycle (an extra ITL 800 million of investment).

The chief justification in the present case for the high level of extra investment is due to the fact that the steelworks are located in the centre of Trieste and that Servola therefore invests far more than required by the minimum standards in force.

In view of the foregoing, it must be concluded that, although Servola could have reduced the amount of most of the notified investments and still complied with the environmental standards provided for in Italian law, the proposed aid cannot be approved. The higher level cannot, contrary to the suggestion put forward by the Italian authorities, take account of the total investments, but only that part in excess of the investment required to comply with the minimum standards. Accordingly, the State aid may not exceed a total of ITL 6,171 billion, i.e. ITL 5,160 billion in aid (equal to 30 % of ITL 17,2 billion of investment), plus ITL 1,011 billion in aid (equal to 15 % of the remaining ITL 6,740 billion of investment).

The Commission points out, lastly, that no further aid may be authorised in the present case, in particular aid for small and medium-sized enterprises, in view of the fact that, at 31 December 1997, Servola employed 746 persons.

IV

Having noted the irrevocable decision of the Italian authorities to cancel the aid objected to by the Commission in its decision initiating proceedings, this Decision

⁽¹⁾ Basic plan 37 970
Excluding investment - 14 000
Total = 23 940.

concerns only the remaining State aid proposals, against which, since they are considered compatible with the Community environmental standards in force at the time of the notification, the Commission has decided not to raise any objections,

HAS ADOPTED THIS DECISION:

Article 1

The environmental investment aid which the region of Friuli Venezia Giulia plans to grant to Servola SpA and which may not exceed ITL 6,171 billion gross is compatible with the common market for coal and steel.

Article 2

The Italian Government shall inform the Commission, within two months of the notification of this Decision, of the total aid actually granted to Servola SpA to enable the Commission to verify that the maximum amount has not been exceeded.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 1 July 1998.

For the Commission

Karel VAN MIERT

Member of the Commission