COMMISSION DECISION
of 15 February 2000
on the State aid which Belgium is planning to grant to NV Sidmar

(notified under document number C(2000) 517)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2000/360/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof read in conjunction with Protocol 14,

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 provisions cited above [2] and having regard to those comments,

Whereas:

I. PROCEDURE

(1) By letter dated 21 October 1998, Belgium notified the Commission of aid that the Flemish authorities intended to grant to the steel company NV Sidmar for six investment projects for environmental protection. By letters dated 31 May and 23 June 1999, it provided the Commission with further information.

(2) By letter dated 11 August 1999, the Commission informed Belgium that it had decided to initiate the procedure laid down in Article 6(5) of Decision No 2496/96/ECSC (hereinafter referred to as 'the Steel Aid Code') in respect of the aid.

(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 on the aid.

(4) The Commission received comments from NV Sidmar. It forwarded them to Belgium, which was given the opportunity to react; its comments were received by letter dated 10 December 1999.

II. DETAILED DESCRIPTION OF THE AID

(5) NV Sidmar is a steel producer located in Gent, Belgium, in which Arbed SA, Luxembourg, has a majority holding. It produces ECSC flat products, such as hot-and cold-rolled coils and coated and uncoated sheets. In 1997 it produced 4 137 000 tonnes of liquid steel and had a turnover of BEF 55 814 million. As at 31 December 1997 it employed 6 005 people. The company's installations date from 1966, 1967 and 1972. The new investments consist in adaptations to those installations in order to comply with new environmental standards or significantly improve on them.

(6) The aid proposal consists of a grant of BEF 102 955 200 towards the cost of six investment projects that the company is to carry out in order to improve environmental protection. This amount represents 15 % of the investment costs that the Flemish authorities consider eligible. The total cost of the investments is BEF 953 500 000, broken down as follows:

(BEF)

Dust collection at unloading crane	10 000 000
Treatment of filtrate from blast furnaces	27 000 000
Adjustments to blast furnaces No 4	59 000 000
Optimisation of industrial sewers	78 000 000
Improved dust collection at blast-furnace loading sites	27 500 000
Construction of circular cooler for sintering plant No 2	752 000 000
Total	953 500 000

(7) The purpose of the 'dust collection at unloading crane' project is to reduce the impact of dust on surrounding areas when ships are unloaded. This is not a statutory requirement, but it will significantly improve environmental protection as dust emission will fall from 15 t/year to 2 t/year. The investment has no effect on production and all the costs relate solely to the objective of environmental protection.

(8) The 'treatment of filtrate from blast furnaces' project is aimed at optimising the operation of its existing water-purification system. Given that the company already complies with the requirements governing the discharge of wastewater into the canal even before carrying out

[1] OJ L 338, 28.12.1996, p. 42.
[2] OJ C 280, 2.10.1999, p. 29.
[3] See footnote 2.

this investment, it constitutes an additional effort to reduce the negative impact on the environment, which is significant, from 5 t/year to 2 t/year of zinc discharge. The investment has no effect on production and all the costs relate solely to objective of environmental protection.

(9) The 'adjustments to blast furnace No 4' project consists in the replacement of the present filter, the building of a heavier extraction fan, the replacement of the existing chimney stack and the construction of an emergency chimney. The current rate of chlorine emissions is about 25 mg/Nm³, whereas since 1 January 1999 the standard has been 5 mg/Nm³. The company's objective in carrying out this investment is to purify the flue gases in order to meet and even improve on the standard that is required by law as from 1 January 1999, with an emission rate of 3 mg Cl/Nm³. As regards hydrogen chloride, the current rate of emission is about 50 mg/Nm³, whereas since 1 January 1999 the standard has been 30 mg HCl/Nm³. After the investment, the rate of emission will be only 15 mg/Nm³. The investment has no effect on production and all the costs relate solely to the objective of environmental protection.

(10) The 'optimisation of industrial sewers' project is aimed at further optimising reuse of the company's wastewater and thus reduce its annual water consumption by 9 million m³ (its current annual consumption is 35 million m³). The investment covers the construction of an additional network of pipelines and the placing of two additional pumps. The additional pipelines are needed to return the purified wastewater to the cold-rolling mill and to transport wastewater from the coking plant to the hot-rolling mill's waste pond. Although the level of pollutants in the water will remain the same after the investment, the reduction in volume will reduce the total discharge of pollutants. Gross COD (chemical oxygen demand) discharge will fall from 1 300 tonnes to 1 000 tonnes per year. PAH discharge will fall from 5 kg per year to 4 kg per year and the discharge of heavy metals will also fall in proportion. In addition, the quantity of sewage sludge, which has to be removed via a recognised sewage processor and eventually dumped, will also be reduced by 200 tonnes a year. The investment has no effect on production and all the costs relate solely to the objective of environmental protection.

(11) The 'improved dust collection at the blast-furnace loading sites' project is aimed at reducing dust emissions when the blast furnaces are loaded. The existing plant already includes a ventilation system and filter, with a capacity of 140 000 Nm³ per hour. It will be supplemented by another system with a capacity of 100 000 Nm³ per hour. After collection and purification, the waste gas is discharged via a stack with an output flow of 10 000 Nm³/h. After purification, a residual dust content of no more than 10 mg/Nm³ will be left, which is equal to a residual dust emission of less than 1 tonne a year, as against 30 tonnes a year at present. The investment has no effect on production and the costs relate solely to the objective of environmental protection.

(12) The 'construction of circular cooler for sintering plant No 2' project is aimed at reducing dust emissions from the sintering furnace. The current dust emission level is 151 mg/Nm³, whereas the new standard as from January 1999 is only 50 mg/Nm³. After the investment, dust emissions will be reduced to 20 mg/Nm³ well below the new standard. According to the notification, the project comprises two main components.

(a) **Electrofilter**

The electrofilter is the part of the investment that is aimed directly at reducing dust emissions in compliance with the new legal standard. This part of the investment costs BEF 36 million and the Belgian authorities intend to finance it up to 15 %.

(b) **Energy savings**

The other part of the investment, a new sintering furnace, while contributing to environmental protection, also produces energy savings. The investment saves energy because residual heat is reused and because the sinters are cooled in an energy-efficient way. Since the sinters have already been broken up, air can reach the sinter bed more easily and the contact surface between the sinters and the air coolant is greater, with the result that heat transmission is more effective. The reduced energy requirement for cooling means that the installed power of the cooling ventilator can be reduced to 2 MW compared with the current 5,6 MW. This part of the investment costs BEF 582 million. The Belgian authorities plan to grant BEF 73,44 million, or 15 % of the investment costs they consider eligible for aid, i.e. BEF 486 740 316. This eligible cost is calculated by deducting savings made over two years in investment costs.

(13) The Commission considered that the six projects satisfied the criterion of environmental protection. With the exception of the aid for the 'construction of circular cooler for sintering plant No 2', all the conditions set out in the Community guidelines on State aid for environmental protection [1] and the Steel Aid Code are met. In particular, regarding the first five projects, the aid intensity remains below the admissible ceilings, all the costs relate to environmental protection and the pollution levels are considerably reduced.

[1] OJ C 72, 10.3.1994, p. 3.

(14) However, as regards the abovementioned project, the Commission considers that the notified aid exceeds the limits admissible, the Belgian authorities having defined eligible costs more broadly than allowed by the Community rules, which require that any cost production advantage derived by the company from the investment must be deducted from the costs of the project. Belgium intends to deduct only the savings made over two years instead of the 10 years corresponding to the depreciation period for this investment. To determine all the cost advantages obtained from an investment, the full lifetime of the investment should be taken into account. In the present case, the Belgian authorities stated that the depreciation period/lifetime of the investment was 10 years. If the savings to be made were to be deducted only for two years, the aided investment would give the firm a cost advantage in the remaining eight years which would be incompatible with the Community rules.

(15) The Belgian authorities further stated that, over the 10-year period in question, the firm expected to make energy cost savings of BEF 510 075 887 but that over the same period it would spend an extra amount of BEF 485 533 829 in connection with the investment, broken down as follows:

(BEF)

Interest	71 494 734
Financial charges	173 399 095
Operating costs	188 000 000

Over a 10-year period, the additional costs should be offset against the cost savings brought about by the new investment, so that the firm would make a net saving of only BEF 24 542 000, i.e. the amount to be deducted if the life of the investment were to be taken into account.

(16) The Commission could not agree with this approach and had serious doubts as to the compatibility of the aid to be granted to the project. It therefore decided to initiate the procedure under Article 6(5) of the Steel Aid Code.

III. **COMMENTS FROM INTERESTED PARTIES**

(17) The recipient, Sidmar, was the only interested party to send comments. In a letter dated 29 October 1999, it takes the view that the investment is not an investment in energy saving, as notified by the Belgian authorities, but an investment in compliance with new environmental standards as it cannot be dissociated from the first part of the project, described under 'electrofilter'. It then states that, under the guidelines on State aid for environmental protection, when a company carries out a project to comply with new environmental standards, no cost savings are to be deducted from the cost of the investment. Sidmar further points out that, if the Commission were to continue to regard the project as an investment in energy saving and to deduct such savings, then all the costs related to the project, as described above, should be deducted from the savings.

IV. **COMMENTS FROM BELGIUM**

(18) As part of the procedure, the Belgian authorities confirmed the position given in the notification, namely, that only two years' savings should be deducted from investment costs relating to 'construction of circular cooler for sintering plant No 2'. In support of Sidmar's position, they nevertheless consider that, if a 10-year period were to be undertaken, it would also be necessary to take account of all the costs relating to the investment. They also confirmed the comments made by Sidmar under the procedure, stating that the firm's intention in implementing the project is to reduce dust emissions from the sintering plant in order to comply with the new VLAREM II standards and that the investment project constitutes a whole. The energy-saving effect had never constituted the main reason for undertaking the project. Accordingly, the Belgian authorities considered that the Commission should examine the admissible aid under the rules in its guidelines on State aid for environmental protection concerning investment aid to help firms comply with new standards.

V. **ASSESSMENT OF THE AID**

(19) Article 3 of the Steel Aid Code allows steel companies to benefit from aid for carrying out investments which help to improve environmental protection. The rules and conditions applicable to environmental aid are set out in the Annex to the Steel Aid Code and the guidelines on environmental aid. Under those rules, aid for investment to help firms comply with new mandatory standards can be authorised up to 15 % gross of the eligible costs (point 3.2(A) of the guidelines on environmental aid). Aid for investments that allow significantly higher levels of environmental protection than those required by law may be authorised up to 30 % of the eligible costs (point 3.2(B) of the guidelines). The eligible costs, in any case, must relate solely to environmental protection.

(20) As stated in the Annex to the Steel Aid Code, in assessing aid for environmental protection, the Commission endeavours to prevent general investment aid for new equipment being granted under cover of environmental protection. The Commission therefore rigorously checks that only investment costs that are related to environmental protection are considered eligible for aid.

Contrary to the position taken by Sidmar, the guidelines state clearly that 'the eligible costs must be strictly confined to the extra investment costs necessary to meet environmental objectives'. This applies to any investment regardless of the initial reason that led the company to carry out the investment, whether to comply with new rules, to improve on standards or to reduce energy consumption. As stated in point 2.3 of the guidelines, 'aid for energy conservation will be treated like aid for environmental purposes'.

(21) As it stated when opening the procedure, the Commission believes that the 'construction of circular cooler for sintering plant No 2' project achieves significant benefits for the environment and that it thus qualifies for aid under the guidelines on environmental aid. While the Commission therefore acknowledges that the project was aimed at such environmental objectives, it would not alter its approach to the case if the savings had not been made in energy costs but in another type of cost. To ensure that the eligible costs are strictly confined to the extra investment costs necessary to meet environmental objectives, the Commission deducts from the investment costs all production cost advantages that the company derives from the investment. This can be done only by taking into consideration the savings made during the lifetime of the equipment or, as an acceptable equivalent, the depreciation period of the equipment. In the present case, therefore, Belgium must deduct from the investment cost the savings made over 10 years as a direct result of the investment.

(22) Operating costs related to the project cannot be considered eligible for aid either. Costs such as financing costs, maintenance costs and normal running costs for any given equipment are part of the normal running costs of any company. They cannot be regarded as part of the extra investment costs necessary to meet environmental objectives. Thus, the costs incurred by Sidmar during the 10-year depreciation period of the equipment in question do not qualify for aid to protect the environment.

VI. **CONCLUSION**

(23) The aid notified by Belgium for the 'construction of circular cooler for sintering plant No 2' project does not comply with the conditions set out in the guidelines on environmental aid and the Steel Aid Code. The aid to the other projects, however, complies with all the conditions, as the Commission already stated when it initiated the procedure. The Commission accordingly considers that the aid to the projects relating to 'dust collection at unloading crane', 'treatment of filtrate from blast furnaces', 'adjustments to blast furnace No 4', 'optimisation of industrial sewers', 'improved dust collection at blast-furnaces loading sites', amounting to BEF 24 516 600, is compatible with the common market. However, the aid to the 'construction of circular cooler for sintering plant No 2' project amounting to BEF 78 438 600 is considered incompatible,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Belgium plans to grant to NV Sidmar for the financing of the environmental projects relating to 'dust collection at unloading crane', 'treatment of filtrate from blast furnaces', 'adjustments to blast furnace No 4', 'optimisation of industrial sewers', 'improved dust collection at blast-furnaces loading sites' amounting to BEF 24 516 600 is compatible with the common market.

Article 2

The State aid which Belgium plans to grant to NV Sidmar for the environmental project relating to the 'construction of circular cooler for sintering plant No 2' amounting to BEF 78 438 600 is incompatible with the common market.

Accordingly, the aid for this investment project 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, 15 February 2000.

For the Commission

Mario MONTI

Member of the Commission