

AUXÍLIOS ESTATAIS — REINO UNIDO**Auxílio C 30/03 (ex N 788/02) — Peugeot Ryton****Convite para apresentação de observações, nos termos do n.º 2 do artigo 88.º do Tratado CE**

(2003/C 147/02)

(Texto relevante para efeitos do EEE)

Por carta de 30 de Abril de 2003, publicada na língua que faz fé a seguir ao presente resumo, a Comissão notificou ao Reino Unido a decisão de dar início ao procedimento previsto no n.º 2 do artigo 88.º do Tratado CE relativamente ao auxílio supramencionado.

As partes interessadas podem apresentar as suas observações no prazo de um mês a contar da data de publicação do presente resumo e da carta, enviando-as para o seguinte endereço:

Comissão Europeia
Direcção-Geral da Concorrência
Registo dos Auxílios Estatais
Rue de la Loi/Wetstraat 200
B-1049 Bruxelas
Fax: (32-2) 296 12 42.

Estas observações serão comunicadas ao Reino Unido. Qualquer interessado que apresente observações pode solicitar por escrito o tratamento confidencial da sua identidade, devendo justificar o pedido.

TEXTO DO RESUMO

Em 16 de Dezembro de 2002, as autoridades britânicas notificaram, nos termos do n.º 3 do artigo 88.º do Tratado CE, um plano de concessão de auxílio com finalidade regional a favor da Peugeot Citroën Automobiles UK Ltd. (em seguida denominada «Peugeot»). A Peugeot é uma filial do grupo francês PSA Peugeot Citroën.

O projecto notificado prende-se com o investimento necessário para a produção do modelo destinado a substituir o actual Peugeot 206. O projecto será realizado nas instalações existentes do PSA em Ryton, na região de West Midlands. Ryton-on-Dunsmore é uma área abrangida pelo disposto no n.º 3, alínea c), do artigo 87.º, sendo o respectivo limite em matéria de auxílios com finalidade regional de 10 % ESL para o período 2000-2006.

A notificação refere que a data prevista para o início do projecto é 2003, sendo a respectiva conclusão projectada para 2008. De acordo com as autoridades britânicas, o projecto envolve a transformação das instalações existentes e requer um investimento no montante de 187,760 milhões de libras esterlinas em termos nominais.

Segundo as autoridades britânicas, trata-se de um projecto móvel, uma vez que o PSA pondera a possibilidade de instalações alternativas em Trnava, na Eslováquia. Em Janeiro de 2003, Trnava foi seleccionada para a implantação de novas instalações de produção, a partir de 2006, de pequenos veículos automóveis do mesmo tipo que os destinados a Ryton. De acordo com as autoridades britânicas, o PSA examina a possi-

bilidade de expandir a capacidade prevista em Trnava e a supressão progressiva da produção em Ryton [...]⁽¹⁾.

O auxílio notificado é concedido ao abrigo de um regime aprovado, designadamente, o regime de assistência selectiva regional (Regional Selective Assistance), ascendendo o respectivo montante a 16,195 milhões de libras esterlinas em equivalente-subvenção bruto em valores actualizados (tendo por referência o ano de 2002 e uma taxa de actualização de 6,01 %). O investimento elegível eleva-se a 165,017 milhões de libras esterlinas em valores actualizados. Por conseguinte, a intensidade do auxílio notificado pelas autoridades britânicas é de 9,81 % em equivalente-subvenção bruto.

A Comissão manifesta dúvidas quanto ao facto de o projecto respeitar os requisitos em matéria de necessidade e proporcionalidade, conforme estabelecidos no enquadramento comunitários dos auxílios estatais no sector dos veículos automóveis.

No que diz respeito à necessidade, a Comissão duvida se Trnava constitui uma alternativa viável para a implantação do projecto. As autoridades britânicas não apresentaram um estudo que comparasse as duas localizações, também não tendo apresentado elementos de prova suficientes que demonstrassem o facto de este local alternativo estar a ser activamente considerado neste contexto. Estas informações são necessárias para apreciar se o projecto é móvel, uma condição *sine qua non* em matéria de necessidade.

⁽¹⁾ Segredos comerciais.

Quanto à proporcionalidade, a Comissão manifesta dúvidas quanto ao carácter completo da análise custos-benefícios apresentada para demonstrar que a alternativa de Trnava seria mais conveniente para o PSA. Em especial:

- na fase actual, não foi ainda suficientemente demonstrado que os custos de investimento em Trnava são mais reduzidos do que em Ryton. Em particular, não foram incluídos quaisquer custos respeitantes a terrenos na análise custos-benefícios (não obstante o facto de Trnava constituir um projecto de raiz), sendo os custos dos edifícios, maquinaria e equipamento substancialmente mais baixos do que em Ryton,
- a vantagem indicada em matéria de custos no que se refere a Trnava no domínio dos materiais e do equipamento não se baseia em elementos de prova devidamente justificados,
- o rácio da desvantagem regional em Ryton não foi ajustado, por forma a ter em conta o aumento da capacidade de produção do PSA na Europa durante o período de realização do projecto, conforme exigido pelo enquadramento aplicável no sector dos veículos automóveis.

TEXTO DA CARTA

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

1. PROCEDURE

1. By letter dated 16 December 2002 the authorities of the United Kingdom notified a plan to grant regional aid to Peugeot Citroën Automobiles UK Ltd (hereafter Peugeot). The Commission requested further information on 7 February 2003, which was provided by the authorities of the United Kingdom by letter dated 7 March 2003 and registered on 14 March.

2. DESCRIPTION OF THE MEASURE AND ITS RECIPIENT

2. The planned aid would be granted to Peugeot, a subsidiary of the French group PSA Peugeot Citroën (hereafter PSA). PSA designs, manufactures and sells motor vehicles. In 2002 PSA sold 3 267 500 vehicles, achieving a turnover of EUR 54,436 billion, and an operating margin of EUR 2,913 billion.

The project

3. The notified project concerns the investment necessary for the production of the replacement model [...] (*) and derivatives of the current Peugeot 206.
4. Current capacity at the Ryton plant is of 183 500 vehicles/year. The plant produced 190 000 Peugeot 206 in 2001. After introducing a fourth shift in 2002, it plans to reach production of 230 000 vehicles in 2003. The current 206 model will be phased out in 2006, with the introduction of a replacement model that will use a new platform. Capacity at the plant is foreseen to remain constant at 183 500 vehicles/year.

5. The planned start of the notified project is 2003, and the planned completion date 2008. According to the authorities of the United Kingdom, the project involves the installation of new (paintshop, metal finish) or transformed (bodyshop retooling for the different platform, final assembly) lines for the production of the new [...] (*) model. Infrastructure works will include improved environmental, working and safety conditions, and a new car park for finished vehicles. According to the United Kingdom, total required investment will amount to GBP 187,760 million in nominal terms.
6. According to the authorities of the United Kingdom, the project is mobile, and PSA is considering the alternative site of Trnava, in Slovakia, for the project. PSA announced in January 2003 that Trnava has been chosen as the location for a greenfield investment. The new Trnava plant will start production in 2006, and will produce 300 000 small cars/year of the [...] (*) type. According to the authorities of the United Kingdom, PSA is considering whether to expand projected capacity at Trnava, while phasing out production at Ryton [...] (*).

Legal basis, investment and aid amounts

7. The project takes place at the existing PSA plant in Ryton, in the West Midlands region. Ryton-on-Dunsmore is an Article 87(3)(c) area, whose regional ceiling is 10 % NGE for the 2000 to 2006 period.
8. The notified aid is granted under the approved Regional Selective Assistance scheme⁽²⁾ with the legal basis in section 7 of Industrial Development Act of 1982.
9. The proposed aid takes the form of a direct grant, and would be paid over the 2003 to 2008 period. It amounts to nominal GBP 19,1 million gross grant equivalent, with an actualised value of GBP 16,195 million gross grant equivalent (base year 2002, discount rate 6,01 %). Eligible investments amount to GBP 187,760 in nominal values, and to GBP 165,017 million in actualised values. Therefore, the aid intensity notified by the authorities of the United Kingdom is 9,81 % gross grant equivalent.
10. According to the notification, no other Community aid or financing has been allocated to the project.

3. ASSESSMENT OF THE AID

11. In accordance with Article 6(1) of Council Regulation (EC) No 659/1999 of 22 March 1999, the decision to initiate proceedings shall summarise the relevant issues of fact and law, shall include a preliminary assessment from the Commission as to the aid character of the proposed measure, and shall set out the doubts as to its compatibility with the common market.
12. The Commission considers, at this stage of the procedure, that the measure constitutes State aid within the meaning of Article 87(1) of the EC Treaty. It would be financed by the State or through State resources; moreover, given that it represents a significant proportion of the project funding, it is likely to distort competition within the Community, giving an advantage to Peugeot over other companies not receiving aid. Finally, the market for motor vehicles is characterised by extensive trade between Member States.

(*) Business secret.

⁽²⁾ Commission Decision of 25 April 2000 not to raise objections on the case N 731/2000 (OJ C 211 of 28 July 2001, p. 48).

13. Article 87(2) of the EC Treaty lists certain types of aid that are compatible with the EC Treaty. In view of the nature and purpose of the aid, and the geographical location of the firm, subparagraphs (a), (b) and (c) are not applicable to the plan in question. Article 87(3) specifies other forms of aid, which may be regarded as compatible with the common market. The Commission notes that the project is located in the area of Ryton-on-Dunsmore, which qualifies for assistance under Article 87(3)(c), with a maximum regional ceiling of 10 % NGE.
14. The aid in question is intended for Peugeot, which manufactures and assembles cars. The firm is therefore part of the motor vehicle industry within the meaning of the Community framework on State aid to the motor vehicle industry (hereinafter the car framework) ⁽³⁾.
15. The car framework specifies that aid which the public authorities plan to grant to an individual project under an authorised aid scheme for a firm operating in the motor vehicle industry must, in accordance with Article 88(3) of the Treaty, be notified before being granted if either of the following thresholds is reached: (i) total cost of the project equalling EUR 50 million, (ii) total gross aid for the project, whether State aid or aid from Community instruments equalling EUR 5 million.
16. Both the total cost of the project and the amount of aid exceed the notification thresholds. Thus, in notifying the proposed aid for Peugeot, the authorities of the United Kingdom have complied with the requirements of Article 88(3) of the Treaty.
17. According to the car framework, the Commission shall ensure that the aid granted is both necessary for the realisation of the project and proportional to the gravity of the problems it intended to solve. Both tests, necessity and proportionality, must be satisfied if the Commission is to authorise State aid in the motor vehicle industry.
18. 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. Consequently, no regional aid may be authorised for a project that is not geographically mobile.
19. In order to assess mobility of the project, the Commission requires all available documentary evidence that can demonstrate the existence of a viable geographical alternative for the project. In particular, plant location studies should be provided wherever possible.
20. The Commission doubts at this stage that Trnava can be considered as a viable alternative to Ryton for the project in question. Even though the Commission formulated a request in this sense in its letter of 7 February 2003, a location study comparing the two locations has not been submitted, nor has sufficient circumstantial evidence that Trnava is a viable alternative. In their letter of 7 March 2003, the authorities of the United Kingdom affirm that the Trnava location has been decided on the basis of a feasibility study. The Commission needs, for the assessment of the case, to evaluate the location study for what regards the investment project under scrutiny.
21. Regional aid intended for modernisation and rationalisation, which is generally not mobile, is not authorised in the motor vehicle sector. However, an expansion or transformation, involving a radical change in production structures on the existing site could be eligible for regional aid. The Commission notes that the authorities of the United Kingdom consider the project to be a transformation, involving completely new machinery and equipment. The Commission has to verify that the planned project does not include any elements of modernisation, which is not eligible for aid.
22. According to point 3(2)(c) of the car framework the Commission needs to ensure that the planned aid is in proportion to the regional problems it is intended to resolve. For that, a cost-benefit analysis method (hereinafter referred to as CBA) is used.
23. A CBA compares, concerning the mobile elements, the costs that 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. Through this comparison, the Commission determines the specific handicaps of the assisted region concerned. The Commission authorises regional aid within the limit of these regional handicaps.
24. In accordance with point 3(2)(c) of the car framework, operating handicaps of Ryton as compared to Trnava are assessed over three years in the CBA since the project in question is not a greenfield site. The period covered by the submitted CBA is 2006 to 2008, that is three years from the beginning of production in compliance with point 3(3) of Annex I to the car framework. Using 2002 as the reference year, the notified CBA indicates a net cost handicap of GBP 17,568 million for the location in Ryton in comparison with the location in Trnava. Consequently, the 'regional handicap ratio' of the project would be 10,65 %.
25. 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 in particular to the calculation of eligible costs; the difference in investment costs for land, buildings, machinery and equipment; the investment for vendor tooling; the operating costs for components and materials; and the incidence of redundancy costs.
26. According to point 3(2)(b) of the car framework, eligible costs are defined by the regional scheme applicable in the assisted region concerned. In this case, the authorities of the United Kingdom have considered that eligible investments amount to GBP 174,934 million in actualised values. In order to compare the handicap intensity and the aid intensity to the regional ceiling, the Commission needs to know the depreciation methods used for the eligible investments respectively in land, buildings and machinery, and the taxation levels to which the beneficiary is subject.

⁽³⁾ OJ C 279, 15.9.1997.

27. Regarding specifically the comparison between the investment costs of land, the Commission notes that the authorities of the United Kingdom estimate such costs to be zero in Trnava, since within the overall Trnava project, the land purchased will be large enough to allow the extension to accommodate the production of the 206 replacement. The Commission doubts however that no land costs should be taken into account. PSA undoubtedly has to purchase the land for the greenfield Trnava site, and the proportion of land that will be used for the 206 replacement should be counted as a cost of that project.
28. Regarding the higher investment costs for buildings in Ryton than in Trnava, the authorities of the United Kingdom affirm that they are due to general lower construction costs in Slovakia than in the United Kingdom, and to the fact that in Trnava the investments will be limited to only extension of the buildings planned. In Ryton, some buildings can be used for the projects, but many new buildings are necessary, including a new paintshop. The Commission doubts that, at this stage, the cost differential has been sufficiently justified. In order to verify this point, the Commission needs detailed information on which buildings are considered additional for the 206 replacement project in Trnava, and which buildings would be built in any event.
29. Similarly, the authorities of the United Kingdom affirm that investment costs for machinery and equipment are lower in Trnava, because the project there would consist of an extension, whereas in Ryton it is a transformation. The information supplied, however, does not allow to understand why in Ryton the investment in the body shop will be three times higher than in Trnava, and the investment in the assembly line twice as high. Given that all machinery and tools will be new in both cases, the Commission finds that the cost differential has not, at this stage, been sufficiently justified. More detailed information is needed on this issue, including a clarification on the how the additional production in Trnava could be integrated within the facilities already foreseen at the plant.
30. Regarding investment costs for vendor tooling, the authorities of the United Kingdom affirm that, for the two alternatives, PSA would invest in some of the suppliers tooling, and that the initial amount of investment will be approximately the same for Ryton as for the alternative solution. The Commission needs to know whether this investment has been counted within the eligible costs. In the affirmative case, the exact amount of the investments in vendor tooling, as well as the location of the investments, and the names of the suppliers involved are needed to determine the eligible costs.
31. Regarding the operating costs for components and materials, the authorities of the United Kingdom affirm that the alternative solution in Trnava would allow savings for this item, since automotive parts bought in CEECs countries are cheaper than parts bought in the United Kingdom with the same definition. In order to verify this point, the Commission needs a detailed description of the components and materials the authorities of the United Kingdom refer to, as well as documentary evidence of the existing price differences between the United Kingdom and the CEECs.
32. As regards the redundancy costs, the Commission notes that according to the information provided, the choice of Ryton for the realisation of the project would safeguard a considerable number of jobs. For this reason, the Commission believes that redundancy costs should be incorporated in the CBA analysis as additional costs for the alternative location in Trnava. Such costs should reflect the normal practice as regards major workforce layoffs.
33. The authorities of the United Kingdom affirm that redundancy costs have been included in the CBA as part of the 'transitory costs' voice, and have provided a breakdown of such costs. The Commission is however not in the position, at this stage, to verify the credibility of the figures provided. To this end, the Commission needs a detailed account of the redundancy costs that would arise in the event of the closure of the Ryton plant. The account should include an itemised estimation of redundancy costs for the different categories of workers at Ryton.
34. Finally, the Commission in its analysis considers the question of a 'top-up', which takes into account the expansion or reduction in capacity for the motor vehicle producer in question during the investment period. An increase in the regional handicap ratio resulting from the CBA is authorised on condition that the beneficiary of the aid does not increase the capacity problems facing the motor vehicle industry. Conversely, the regional handicap ratio resulting from the CBA is reduced if the aid beneficiary potentially aggravates the overcapacity problem of the industry.
35. The authorities of the United Kingdom affirm in the notification that the location choice of the project under scrutiny will not influence PSA's overall production capacity. While this statement is true, the Commission notes that the top-up is calculating comparing European production capacity of the producer in question before and after the project. According to the documentation provided, PSA's capacity will be considerably expanded with the new facilities in operation at Kolin (200 000 cars/year for PSA) and in Trnava (300 000 units), while no corresponding capacity cuts at other European plants are foreseen. Consequently, the 'regional handicap ratio' resulting from the CBA will be reduced by 2 %. Only aid intensities up to the regional handicap ratio adjusted by the top up will be deemed compatible with the common market.
- #### 4. CONCLUSION
36. 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, within one month of the date of receipt of this letter.
37. The Commission requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.
38. The Commission wishes to remind The United Kingdom that Article 88(3) of the EC Treaty has suspensory effect, and would draw your attention to Article 14 of Council Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.»