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COMMISSION DECISION**of 18 July 1969****on the French system of aid for research and the reorganization of production and distribution in the textile industry****(Only the French text is authentic)****(69/266/EEC)****THE COMMISSION OF THE EUROPEAN COMMUNITIES,**

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2), and Article 93 (3) thereof;

Whereas by Decree No 65-1163 of 24 December 1965 (Official Journal of the French Republic of 31 December 1965) the French Republic introduced, with effect from 1 January 1966, a parafiscal charge for the purpose of encouraging research and the reorganization of production and distribution in the textile industry;

Whereas this charge the rate of which was fixed at 0.2 % by Order of 24 December 1965 (Official Journal of the French Republic of 31 December 1965), affects textile products sold in France or imported into France, export sales being exempt;

Whereas by Orders of 29 March 1966 (Official Journal of the French Republic of 2 April 1966) and 21 April 1966 (Official Journal of the French Republic of 3 May 1966) 40 % of the proceeds of this charge have been allocated to the French Textiles Institute (*Institut textile de France*) for research, and 60 % to the trade association called the Union of the Textile Industries (*Union des industries textiles - UIT*) to implement 'programmes for the reorganization of production and distribution methods of textile undertakings and, by way of exception in limited fields, for modernization or collective trade promotion'; whereas the administrative boards of the two bodies, which take all decisions on the use of these funds, subject to the French Government's right of veto, include members nominated by the industry;

Whereas the French Government informed the Commission of these provisions by letter of 4 May 1966; whereas a preliminary study was made of them during a multilateral meeting with representatives of

the Member States on 20 June 1966; whereas, in accordance with the second sentence of Article 93 (3) of the Treaty, the Commission then initiated the procedure provided for in paragraph 2 of that Article and by letter of 30 May 1967 addressed to all Member States gave the interested parties notice to submit their comments;

Whereas by Decree No 68-383 of 27 April 1968 (Official Journal of the French Republic of 30 April 1968), the French Republic, with effect from 1 May 1968, modified the system introduced by Decree No 65-1163 of 24 December 1965 and revoked that Decree; whereas the rate of the charge was fixed at 0.35 % by an Order adopted the same day (Official Journal of the French Republic of 30 April 1968); whereas by that Order two-sevenths of the proceeds of the charge are allocated to the French Textile Institute for research and five-sevenths to the Union of the Textile Industries for reorganization; whereas the other provisions of the Order of 21 April 1966 remain in force for the time being;

Whereas the proceeds of the parafiscal charge in question constitute State resources and are allocated in their entirety to the Institute and to the trade association concerned by way of assistance to French textile undertakings; whereas, by the abovementioned Decrees, the French Government has, therefore, introduced a system of aid;

Whereas the part of the proceeds of the charge which is applied to research by the French Textile Institute is to be used, in particular, to promote technical advances which can improve output and quality in the textile industry, thus relieving that industry, and particularly undertakings which are not in a position to undertake research on their own account, of part of the expenditure connected therewith; whereas the provisions which the French Government has brought to the attention of the Commission do not suggest that textile undertakings of the other Member States would be able, under the same conditions as apply to

French undertakings, to take advantage of the results of all the research financed by the proceeds of the charge; whereas, therefore, the aid to the French Textile Institute threatens to distort competition by favouring French textile undertakings;

Whereas the same is true of the other part of the proceeds of the charge which is allocated to the Union of the Textile Industries to provide textile undertakings in France with financial aid for the reorganization of production and distribution methods and, by way of exception in certain branches of the industry, for modernization and collective trade promotion.

Whereas by thus strengthening the competitive position of French undertakings receiving aid, to the detriment of those established in other Member States, the aid is liable to disturb trade in textile products between the Member States.

Whereas the effect which the system of aid is likely to have on competition and trade between Member States will be all the more serious in that the textile industry is experiencing difficulties in several Member States and that the aid is financed from a special charge on the products of the sector benefiting from the charge, which is also levied on textile products imported from other Member States;

Whereas by the Decree of 24 December 1965 the French Government has thus introduced a system of aid which falls under Article 92 (1) of the Treaty;

Whereas the information supplied by the French Government and the other information available to the Commission give no grounds for applying any of the derogations provided for in Article 92 (2) and (3) (a) and (b) of the Treaty, which provisions the French Government has not in fact invoked; whereas, in particular, the aid in question has no specific regional purpose within the meaning of Article 92 (3) (a) and is not intended to remedy a serious disturbance in the French economy within the meaning of Article 92 (3) (b);

Whereas as regards the derogation provided for in Article 92 (3) (c) of the Treaty, the difficulties which the textile industry is at present experiencing in France, as in several other Member States, may justify the introduction of aid to stimulate that industry; whereas in this particular case the granting of aid to the French Textile Institute for research is likely to provide such stimulus; whereas the same applies in respect of aid for the Union of the Textile Industries for the reorganization of production and distribution, particularly in the light of the explanations as to the manner of its application given by the French delegation during the multilateral meetings held in Brussels on 20 June 1966 and 18 June 1969;

Whereas it is advisable to ensure that the derogations from Article 92 (1) are reserved for systems of aid which, although they distort competition and disturb trade between Member States, do so to an extent which does not go beyond what is indispensable for the attainment of their legitimate objectives;

Whereas in this case the aid is financed from a parafiscal charge levied on the products of the industry; whereas the proceeds of that charge are allocated entirely and directly to the French Textile Institute and to the Union of the Textile Industries to finance measures for the benefit of textile undertakings in France; whereas the parafiscal charge is thus an integral part of the system of aid;

Whereas the levying of this charge is likely to lead to a reduction of foreign producers' profit margins and, to the extent to which the charge is passed on to consumers, to a reduction of their markets; whereas, therefore, this levy is liable to aggravate the effect of the aid on competition and on intra-Community trade;

Whereas it is not apparent – nor has the French Government made such a claim – that the parafiscal charge, and in particular its application to products imported from other Member States, is indispensable for the attainment of the legitimate objectives of the aid; whereas it is in fact open to the French authorities to replace the proceeds of the parafiscal charge, either entirely or to the extent of the incidence of the charge on products from other Member States, by funds from other sources, for example by contributions from French textile undertakings;

Whereas, furthermore, even assuming that the abolition of all special taxation on imported textile products would prevent the aid from fully attaining its legitimate objectives, such abolition would nevertheless be necessary, because by aggravating the already difficult situation of the textile industry of other Member States, the taxation of imported products in any case affects trading conditions to an extent contrary to the common interest;

Whereas, consequently, the system of aid instituted by the Decree of 24 December 1965, and amended by the Decree of 27 April 1968, also does not qualify for the derogation provided for in Article 92 (3) (c) of the Treaty; whereas it is therefore incompatible with the common market;

Whereas, finally, according to the first subparagraph of Article 93 (2), and Article 93 (3), the French Republic may not apply the system of aid instituted by the Decree of 24 December 1965 and amended by the Decree of 27 April 1968 and by the implementing Orders of 29 March 1966, 21 April 1966 and 27 April 1968 mentioned above, so long as the granting of the aid is linked with the application to textile products imported from other Member States of the parafiscal

charge or any other special taxation on textile products;

Whereas, however, reasonable time should be allowed for the method of financing of the aid referred to in this Decision to be modified,

HAS ADOPTED THIS DECISION:

Article 1

From 1 April 1970 the French Republic shall not grant any aid under the system instituted by Decree No 65-1163 of 24 December 1965, as amended by Decree No 68-383 of 27 April 1968, which introduced a parafiscal charge for the purpose of encouraging research in the textile industry and the reorganization

of production and distribution, unless it first revises that system in such a way that products imported from other Member States are no longer liable to the parafiscal charge introduced by that system or to any other special taxation on textile products.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 18 July 1969.

For the Commission

The President

Jean REY