

COMMISSION

COMMISSION DECISION

of 20 October 1982

on the aid which the Belgian Government proposes to grant to the steel firm Laminoirs de Jemappes SA

(Only the French and Dutch texts are authentic)

(82/951/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 2320/81/ECSC of 7 August 1981 establishing Community rules for aids to the steel industry ⁽¹⁾, and in particular Article 8 (3) thereof,

Having given notice, in accordance with Article 8 (3) of the abovementioned Decision, to the parties concerned to submit their comments ⁽²⁾, and having regard to those comments,

Whereas :

I

By letter dated 28 December 1981 the Belgian Government, in accordance with Article 8(1) of Decision No 2320/81/ECSC, notified the Commission of its intention to grant aid to the steel firm Laminoirs de Jemappes. The proposed aid to the firm comprises : (a) operating aid to cover the firm's trading losses between 1980 and 1984, of up to Bfrs 670 million in the form of capital increases and a contribution of conditional participating convertible bonds, and (b) pursuant to the Economic Expansion Law, aids for the firm's investment programme (a State guarantee on a loan of Bfrs 275 million, interest-rate subsidies of seven points over a five-year period on a loan of Bfrs 206.25 million and tax reliefs). This investment

programme is aimed at achieving various rationalization measures and improvements and involves expenditure of approximately Bfrs 275 million.

After an initial scrutiny of that aid, in the light of the criteria laid down in Articles 2, 3 and 5 of Decision No 2320/81/ECSC, the Commission reached the following conclusions on the basis of the information provided by the Belgian Government :

- the restructuring programme for which the aid would be given appears to consist of the ordinary investments which any firm must make as part of its normal activity, rather than investments which would change the structure of the firm in question and thus restore its competitiveness and viability,
- the effect of these investments on the firm's production capacity is not specified, but in any event they are not likely to result in any reduction in capacity,
- the aid in question is substantial in relation to the volume of investments and the size of the firm and could be justified only if a vigorous restructuring effort were made,
- the duration of the operating aid exceeds the maximum of two years laid down in Article 5 of the Decision.

For these reasons the Commission considered that the aid in question was not compatible with the orderly functioning of the common market and therefore initiated in respect of that aid the procedure provided for in Article 8(3) of Decision No 2320/81/ECSC. Accordingly, the Commission, on 26 February 1982, sent a letter constituting formal notice to the Belgian Government to submit its comments.

⁽¹⁾ OJ No L 228, 13. 8. 1981, p. 14.

⁽²⁾ OJ No C 109, 30. 4. 1982, p. 3.

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In its reply, dated 31 March 1982, the Belgian Government informed the Commission that it was planned in due course to close down Laminoids de Jemappes' electric furnace, and that other rationalization measures were being examined. In its letter, of 14 June 1982, the Belgian Government stated that no solution had yet been found to the problem of supplying the firm with steel after that closure.

In their replies, two other Member States were in general agreement with the conclusions of the Commission.

The first indent of Article 2(1) of Decision No 2320/81/ECSC provides that the recipient undertaking must be engaged in the implementation of a systematic and specific restructuring programme covering the different aspects of restructuring, which is capable of restoring its competitiveness and of making it financially viable without aid under normal market conditions. In the case in point, on the basis of realistic assumptions concerning prices and sales volume, the financial position of the firm seems certain to deteriorate, while it has had a negative gross profit margin for a number of years, despite the aid it has received in the past. The criteria laid down in the first indent of Article 2(1) of the Decision are therefore not satisfied.

The second indent of Article 2(1) provides that the restructuring programme must result in an overall reduction in the production capacity of the recipient undertaking or group of undertakings. According to the statements made by the firm to the Commission, its capacity to produce hot-rolled products will increase by about 10 000 tonnes. The planned closure of its electric furnace, if and when it occurs, will have no effect on that increase and therefore cannot be construed as a reduction in capacity within the meaning of Decision No 2320/81/ECSC. The Belgian Government has not indicated any reduction in capacity in rolled products in another firm which could be attributed to Laminoids de Jemappes, so that the criteria laid down in the said indent are not satisfied. This conclusion applies also with regard to the criteria laid down in the third indent of Article 3(1), which provides that the investment programme must take account of the general criteria defined in Article 2 and of the general objectives for steel.

The second indent of Article 3(1) provides that the amount and intensity of aid must be justified by the extent of the restructuring effort involved. The

considerable amount of the aid in question is not justified by the restructuring effort involved, since there is no reduction in capacity, and the criteria laid down in the second indent of Article 3(1) are therefore not satisfied.

Lastly, the second indent of Article 5(1) provides that the duration of aid for continued operation must be limited to a maximum of two years and that derogations from the two-year period may be granted only in exceptional cases and on the basis of a duly reasoned request from the Member State concerned. The Belgian Government made no such request, but the planned duration of the aids for continued operation in question is five years, which is incompatible with the second indent of Article 5(1).

In view of the above considerations, the proposed Belgian aid does not fulfil the conditions necessary for it to be regarded as compatible with the orderly functioning of the common market, pursuant to the Community rules for aids to the steel industry established by Decision No 2320/81/ECSC,

HAS ADOPTED THIS DECISION :

Article 1

Belgium may not implement the proposal, notified to the Commission by letter dated 28 December 1981 from the Office of the Belgian Permanent Representative, to grant aid for continued operation and investment aid to the steel firm Laminoids de Jemappes SA.

Article 2

Belgium shall inform the Commission within one month of the date of this Decision of the measures it has taken to comply with it.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 20 October 1982.

For the Commission
Frans ANDRIESEN
Member of the Commission