

to BVBA DS Profil is considered compatible with the common market by virtue of Article 92 (3) (c), aid in support of the investment in question would be likely to affect trade to an extent contrary to the common interest because it would not conform with the code on aid to the synthetic fibres industry.

For these reasons, the Commission has decided to initiate the procedure provided for in Article 93 (3) of the EC Treaty in respect of the proposed aid.

Consequently, the Commission hereby gives your Government the opportunity to present, within one month of the receipt of this letter, any comments and further information relevant to the proposed aid.

The Commission would also remind your Government of the suspensory effect of Article 93 (3), and would draw your attention to the communication published in *Official Journal of the European Communities* No C 318, of 24 November 1983, page 3, in which it was stipulated that any aid awarded unlawfully, i.e. without prior notification or without awaiting the Commission's final decision under the procedure provided for in Article 93 (2), may have to be recovered from the recipient. Your Government is requested to confirm, within 10 working days of being notified of this letter, that it will not pay any aid falling under the procedure until the Commission has taken a final decision.

In the absence of the requested confirmation, the Commission reserves the right to take a decision requiring your Government to suspend its payments⁽¹⁾.

The Commission also requests your Government to inform BVBA DS Profil without delay of the opening of the procedure, and the fact that they might have to repay with interest any aid improperly received.

The Commission hereby informs your Government that it will publish this letter as a notice in the *Official Journal of the European Communities*, giving other Member States and interested parties notice to submit comments, and in the EEA supplement to the Official Journal, giving interested parties in the EFTA States similar notice to submit comments.⁷

The Commission hereby gives other Member States and interested parties notice to submit comments within one month of the date of publication of this notice to:

Commission of the European Communities,
200 rue de la Loi
B-1049 Brussels.

The comments will be communicated to the Belgian Government.

⁽¹⁾ See Commission letter dated 4 March 1991 to Member States concerning the procedures for notification of aid plans and procedures applicable when aid is provided in breach of the rules of Article 93 (3) of the EC Treaty.

Approval of a State aid pursuant to Article 92 and 93 of the EC Treaty

Cases where the Commission does not raise objections

(94/C 201/03)

(Text with EEA relevance)

Summary of the Commission's decision not to oppose the aid which the United Kingdom Government intends to provide to Jaguar Cars Ltd in support of an investment project.

By letter dated 4 February 1994 from its Department of Trade and Industry, the United Kingdom Government informed the Commission of its intention to award State aid, under the Regional Selective Assistance (RSA) scheme on the basis of the Industrial Development Act 1982, to Jaguar Cars Limited, a wholly owned subsidiary of Ford Motor Company USA, for an investment project to launch the production of the new X100 sports car series in the Jaguar and Ford plants in Coventry, Birmingham and Merseyside.

Jaguar's investment plans originate from its decision to launch a new range of luxury sports cars, codenamed the X100, to replace the XJS range which had been introduced in 1975, and thus to improve its competi-

tiveness in this specific market segment. A new engine with improved performance and significantly lower emissions will be incorporated into the new model.

Production of the X100 series will be focused on two Jaguar sites and two Ford sites. Body construction and paint will be accommodated at the Jaguar Castle Bromwich site in Birmingham, where a new low cost and low volume production facility will be installed. Trim and final assembly will be based at the Jaguar Browns Lane site in Coventry where a new single overhead conveyor system will be installed. Engine manufacturing will take place at the Ford Bridgend site in South Wales and will be processed through an all new engine manufacturing facility incorporating new transfer line equipment, assembly and test automation and unique cylinder bore plating equipment. Stamping will take place at the Ford Halewood site in Liverpool and will be processed through the existing press shop using new and carryover dies. All four sites are located in areas that are

eligible for regional aid according to Article 92 (3) (a) and (c), but investments at Bridgend are not part of the aided investment expenditure.

The project will take place over the years 1993 to 1997 at a total cost of £ 187 million of which £ 73,3 million is eligible for regional aid. The investment into the Jaguar X100 production will not lead to an increase in capacity. As to the permanent employment, by launching the X100 series, 883 jobs will be safeguarded by 1998.

The proposed aid will take the form of a grant in application of an approved aid scheme (Regional Selective Assistance) of £ 9,4 million and up to £ 1,8 million training assistance in kind by the local authorities to the project. The grant will be paid in four instalments from 1994 to 1997 against progress on the project, with provision for withholding/clawback of the grant if there is under-achievement. The aid intensity amounts to 11,9 % GGE, excluding the training assistance.

The £ 9,4 million aid is notifiable under the Community framework for State aid to the motor vehicle industry. As there is substantial intra-Community trade in luxury sports cars, the aid measures which relieve the company concerned from part of the investment costs, clearly threaten to distort competition among vehicle manufacturers and affect trade within the Community within the meaning of Article 92 (1) of the EC Treaty and Article 62 (1) of the EEA Agreement.

As the training courses provided by the local Training and Enterprise Council consist entirely of non-vehicle specific generic courses that provide general vocational knowledge usable in other companies or branches of industry, the training assistance of up to £ 1,8 million in kind does not constitute State aid within the meaning of Article 92 (1) of the Treaty and Article 62 (1) of the EEA Agreement.

As the cost of the project exceeds ECU 12 million, the proposed aid has to be considered under the Community framework on State aids to the motor vehicle industry, which acknowledges the valuable contribution to regional development which can be made by investment in motor vehicle or engine production facilities in disadvantaged areas.

The Jaguar and Ford plants, where the aided investment plan will be realized, are located in Birmingham, Coventry (intermediate area) and in Liverpool. All these areas suffer from major economic and social problems, in particular high and rising levels of unemployment, due to the contraction of other industries, which has been worsened in the course of 1993 by job losses at the Leyland DAF plant in Birmingham and British Coal in Coventry.

The proposed investment plans are expected to safeguard 883 jobs by 1998. The project therefore makes a noticeable contribution to safeguarding employment in these regions of increasing unemployment and thus helps to overcome their structural handicaps. Without the aid this project would not take place, thereby aggravating

the negative trend in unemployment, as the major alternative location analyzed by Ford was a United States site. Without the realization of the X100 project it would also be unlikely that Jaguar UK would have been a viable operation in the long term as its prospects of securing the next Jaguar model would be remote. The aid intensity falls significantly below the regional aid ceilings of 30 % NGE in Castle Bromwich and Halewood and 20 % NGE in Coventry.

However, as it is stressed in the motor vehicle framework, in evaluating proposals to grant regional aid in the automobile sector, the Commission has to assess the benefits for regional development against possible adverse effects on the sector as a whole, such as the creation of important overcapacity. Consequently, it has to be ensured that the aid is in proportion to the problems it seeks to resolve, so that it does not give rise to unwarranted distortions of competition.

With regard to the likely effects on the Community motor industry as a whole, it has to be noted that, as was explained above, Jaguar does not increase capacity when introducing the X100 series. Therefore it can be concluded that, although the European car market is at present experiencing serious overcapacity problems, the project under consideration will not have negative effects on the sector as a whole within the Community and does not contribute to the creation of overcapacity for the production of cars.

The Commission has carried out a comparative cost-benefit analysis of Jaguar's investment plan with a view to ascertain to what extent the aid proposed under the RSA scheme is in proportion to the regional problems it seeks to redress. This analysis attempted firstly to identify all the additional costs and benefits arising for Jaguar from its decision to locate the production of the new X100 series in Birmingham, Coventry and Merseyside as opposed to a central non-assisted region, thereby identifying the region-specific handicaps facing the investor. The analysis related to additional investment costs and operating costs over three years of operation.

The result of the Commission's analysis, which draws in large part on data originating from Jaguar and submitted by the United Kingdom authorities, is that the net regional handicaps facing Jaguar and Ford from its investment in Castle Bromwich, Browns Lane and Halewood are estimated to represent 10,3 % of the eligible investment in discounted terms. The proposed aid intensity of 11,9 % GGE exceeds this by 1,6 % of the investment.

It has, however, been the Commission's policy under the framework that aid need not to be strictly limited to the net incremental costs facing the investor in the disadvantaged region, if the investment does not lead to sectoral problems. In such cases it is possible to approve an overcompensation of such disadvantages as an additional incentive for the investor to move into the

assisted area, the so-called top-up aid. As the investment under consideration does not lead to an increase in Jaguar's car production capacity and this does not contribute to sectoral problems, the Commission can approve the total proposed regional aid to the company of £ 9,4 million.

In conclusion the regional aid proposed by the United Kingdom authorities for Jaguar Cars Limited is compatible with Article 92 (3) (c) of the EC Treaty and Article 61 (3) (c) of the EEA Agreement as it complies

with the criteria for regional aid set out in the Community framework for State aid to the motor vehicle industry.

Accordingly the Commission has decided, on the basis of Article 92 (3) (c) of the EC Treaty and Article 61 (3) (c) of the EEA Agreement, not to raise any objections to the proposal of the United Kingdom authorities to award £ 9,4 million regional aid under the assumption that the notified aid conditions are repeated.

Authorization for State aid pursuant to Articles 92 and 93 of the EC Treaty

Cases where the Commission raises no objections

(94/C 201/04)

(Text with EEA relevance)

Date of adoption: 29. 9. 1993

Member State: Germany (Baden-Württemberg)

Aid No: N 549/93

Title: Rescue aid (Aluminium Gießerei Villingen GmbH)

Objective: To retain the company in business during the procedure to assess compatibility of a proposed restructuring aid C 29/93 (OJ No C 306, 12. 11. 1993)

Legal basis: Wirtschaftsförderungsprogramm Baden-Württemberg

Budget: Guarantee covering a loan on commercial terms and conditions

Duration: Duration of procedure C 29/93

Date of adoption: 16. 3. 1994

Member State: Spain (Basque Country)

Aid No: N 10/94

Title: ECSC and non-ECSC steel: Articles 1 (2), 4 (1) and 6 (2) of Commission Decision No 91/3855/ECSC and Article 92 (3) (c) of the EC Treaty

Objective: A 15 % public holding (Pta 1 005 million) to be taken in GSB, a new company formed by the merger of Pesa and Aforasa; social aid linked to closure (Pta 150 million)

Date of adoption: 29. 3. 1994

Member State: France

Aid No: N 89/94

Title: Aid for consultancy help

Objective: Encourage firms to obtain help from outside consultants on how to improve their performance (beneficiaries: independent businesses with up to 500 employees)

Budget: Around FF 800 million (ECU 122 million) per year

Aid intensity: Normally up to 50 %, cash limited

Duration: Five years (1994 to 1998)

Date of adoption: 6. 4. 1994

Member State: Germany (former German Democratic Republic — Land of Brandenburg)

Aid No: N 14/93

Title: Regional investment aids in favour of 'TTR Thyssen-Rohstoff-Recycling GmbH', Ost-Berlin

Objective: Investment project for creation of supplementary scrap recycling capacities

Legal basis:

(a) Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsstruktur

(b) Investitionszulagengesetz

Budget:

(a) DM 7 730 000

(b) DM 2 361 000

Duration: *Ad hoc*

Conditions: Annual report