

COMMISSION DECISION

of 28 June 1972

concerning aid granted by Italy under Law No 471 of 14 July 1969 for imports of scientific instruments and advanced technological equipment

(72/261/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) thereof;

Having regard to the written and oral comments of Member States and of other interested parties;

I

Whereas Italian Law No 471 of 14 July 1969 (*Gazzetta Ufficiale della Repubblica Italiana* No 197 of 5 August 1969) makes provision for the granting of aid in the form of credit at a reduced interest rate to facilitate imports, from any source, of scientific instruments and advanced technological equipment, not manufactured in Italy;

Whereas organizations and institutions engaged in scientific and applied research work as well as industrial undertakings established in Italy may receive this aid;

Whereas neither the Law, nor the directives in implementation thereof specify the nature of the instruments and other goods which it covers; whereas the Italian authorities could thus facilitate the importation of any advanced technological instrument such as electronic equipment and numerically controlled machines; whereas such equipment could constitute normal investment items for the development and technological modernization of certain production lines;

Whereas in fact, according to information provided by the Italian authorities, Law No 471 has in practice been applied not only for the promotion of research but also to enable certain undertakings to obtain advanced technological equipment;

Whereas the Italian undertakings receiving the aid provided for in Law No 471 have an advantage over

their common market competitors, who are obliged to use their own resources to procure such equipment; whereas this advantage distorts competition in goods manufactured with such equipment, whereas, therefore, such aid affects trade not only in respect of equipment whose importation into Italy is facilitated but also in respect of the goods manufactured with such equipment;

Whereas, therefore, Law No 471 of 14 July 1969 has introduced a system of aid within the meaning of Article 92 (1) of the Treaty; whereas that system of aid was introduced in an irregular manner since the relative draft law was not communicated to the Commission;

II

Whereas the Commission has initiated with regard to said Law the procedure laid down in the first subparagraph of Article 93 (2) of the Treaty on account of the irregular character of the aid and because it constitutes general aid for imports enabling any Italian undertaking, wherever located and whatever the nature of its business, to receive such aid;

Whereas general aid for imports is, without exception, incompatible with the common market;

Whereas examination of the facts has confirmed the Commission in this view; whereas, in actual fact, the granting of the aid in question is not determined by considerations of sectorial or regional specificity; whereas, at the time of the inquiry, most cases of application arose in the North-Central regions of Italy; whereas aid may even be granted to undertakings which, by the nature of their activity, belong to sectors of highly advanced technology; whereas no machinery of control exists whereby an overlapping of such import aid with other systems of aid can be avoided; whereas, in particular, undertakings which have already received regional aid for their installation can subsequently receive import aid in order to improve or modernize their equipment;

Whereas general aid for imports as such incompatible with the common market, has, when applied in combination with other systems of aid, the effect of altering the scope of those other systems;

Whereas, therefore, having regard to all these reasons and facts, the said import aid should be abolished;

III

Whereas, however, the measures provided for by Law No 471 are applicable not only to undertakings but also to organizations and institutions engaged in research; whereas, when applied to recipients of the latter kind, the measures in question do not amount to aid within the meaning of Article 92 of the Treaty;

Whereas, moreover, according to the objectives and directives for implementation of the said Law, import aid for the execution of research and development projects may also be granted to industrial undertakings;

Whereas, however, there are in Italy systems of aid intended specifically for research and development; whereas, therefore, special import aid is not absolutely necessary;

Whereas, however, the Commission has always been in favour of aid for research and development provided that such aid is not used for other purposes; whereas aid for research and development can be considered as compatible with the common market within the meaning of Article 92 (3) (c) of the Treaty;

Whereas, therefore, the measures provided for by Law No 471 should not be abolished in their entirety,

but some method of control should be exercised in order that such aid will not in future be used for purposes other than scientific research and development research,

HAS DECIDED AS FOLLOWS

Article 1

The Italian Republic shall without delay take the necessary measures to cease granting aid, under Law No 471 of 14 July 1969, for imports of scientific instruments and advanced technological equipment, not manufactured in Italy, to undertakings which do not make use of such instruments and equipment for research work. Instruments and equipment acquired by means of this aid must not form part of the current production plant of the recipient undertakings.

Article 2

The Italian Republic shall communicate quarterly to the Commission a detailed list of cases of aid granted under Law No 471 of 14 July 1969, with all the information necessary to satisfy the Commission that such aid is being used solely for the promotion of research.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 28 June 1972.

For the Commission
The President
S. L. MANSHOLT