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(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 3 February 1988

on French Government aid to Pechiney, a company producing mainly aluminium

(Only the French text is authentic)

(88/283/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 given notice in accordance with the above Article to interested parties to submit their comments, and having regard to those comments,

Whereas :

I

By a letter dated 24 October 1983, addressed to the French Permanent Representation, the Commission informed the French Government that, according to the information in its possession, Pechiney, a company whose operations are centred on the production of aluminium, had embarked on a major restructuring and rationalization drive.

As the company had been nationalized in 1982 and had made a loss in previous years, the Commission took the view that Pechiney could not carry out its restructuring plan without government assistance, and this would therefore constitute aid within the meaning of Article 92 (1) of the EEC Treaty.

The French Government was accordingly called upon to notify, in accordance with Article 93 (3) of the Treaty, all measures to assist Pechiney within 15 working days from the date of the Commission's letter.

Having received no reply, the Commission telexed the French authorities on 25 November 1983 stating that, if it did not hear from them by 15 December, it would be obliged to initiate the procedure provided for in Article 93 (2) of the Treaty in respect of the aid linked to Pechiney's restructuring effort.

No reply was forthcoming, so the Commission decided on 17 April 1984 to initiate the Article 93 (2) procedure in respect of FF 4 800 million in aid granted to Pechiney in the form of capital contributions and equity loans.

The Commission considered that the company would have the utmost difficulty in finding the FF 16 000 million it needed to carry out its investment programme, whether from its own resources or by borrowing.

Consequently, the grant by the State of FF 4 800 million in the form of capital contributions and equity loans seemed to contain aid elements falling under Article 92 (1) which were likely to distort competition. By letter dated 3 May 1984, it called upon the French Government to submit its comments.

On 30 April 1985, the French Government informed the Commission of aid granted in 1984 to Cégédur, an aluminium products manufacturer. It transpired that Cégédur belonged to the Pechiney group. It is responsible for all the aluminium-processing operations of the group, with the exception of packaging. The aid had been granted in the form of a FF 80 million FIM (Industrial

Modernization Fund) loan for an investment of FF 143 100 000 which the recipient firm had undertaken in 1984/1985 with a view to introducing new aluminium-processing technologies.

In its Decision 85/378/EEC [1] the Commission pointed out to the French authorities that the grant of FIM loans constituted aid within the meaning of Article 92 (1) and made the clearing of such loans conditional on all significant awards being notified to it at the proposal stage and on its being informed also of significant awards prior to the Decision, adding that the latter cases constituted unlawful aid which might have to be recovered.

FIM loans were originally granted at 9,25 % interest over a maximum of 10 years, with a two-year period of grace in repayment. They are intended to support investment projects of an innovatory nature, and in particular those aimed at the installation of high-technology machinery and equipment and the development of office automation and biotechnology.

After scrutinizing the aid comprising the FF 80 million FIM loan to Cégédur on the basis of an analysis of the market for the products in question and in the light of the information furnished by the French authorities, the Commission decided on 18 December 1985 to initiate the Article 93 (2) procedure in respect thereof. Given the overcapacity found to exist in the Community in the semi-fabricated aluminium products sector, the fact that the firm in question exports about half its output in value terms and that the recipient investment seemed, from the information available, to involve straightforward modernization of production facilities, the Commission concluded that the aid was incompatible with the common market and did not qualify for exemption under Article 92 (2) or (3). It gave the French Government notice, by letter dated 29 January 1986, to submit its comments.

II

Leaving aside the memorandum sent by the French authorities on 19 April 1984, which referred exclusively to Commission Directive 80/723/EEC and was received just after the procedure was initiated, the French Government replied for the first time to the Commission's letter of 3 May 1984 on the first procedure by letter from its Permanent Representation dated 15 October 1984. It maintained that the injections of new capital (FF 3 350 million between 1982 and 1984) by the State in Pechiney constituted normal help from a shareholder in the context of the crisis in the aluminium market and the rationalization effort made by Pechiney.

The group had, according to the Government's letter, embarked on a major restructuring of its traditional activities and was branching out into high-technology areas. Its attempts to adapt to the changing market could be compared to those of other firms in the industry and were therefore not likely to distort the normal conditions of competition. These brief remarks were enlarged upon in various memoranda sent under cover of letters from the French Permanent Representation dated 18 April 1985, 14 April 1986, 18 May 1987 and 16 July 1987, which provided the Commission with full details lof the restructuring plan. Not until it had received the last memoranda, which were of some length, was the Commission able to assess all the aid measures and the impact the restructuring plan and the related investment would have on the industry as a whole.

The French Government's views on the State aid for Pechiney were summed up in its letter of 18 May 1987 :

— in 1982 the Pechiney group was weakened by the troubled state of its operations in the basic sectors (iron and steel, chemicals, upstream non-ferrous metallurgy). It then entered upon a programme of switching out of steel and chemicals, partially rationalizing and restructuring its traditional upstream businesses and moving into semi-fabricated products or 'specialities'. The programme backed up by an investment drive aimed, in France, at remodelling its production facilities and, abroad and especially outside Europe, at safeguarding its supplies of raw materials in the long term. These measures have borne fruit as Pechiney, after heavy losses in 1981 and 1982, regained profitability in 1984,

— particular emphasis must be placed on the scale of the restructuring measures undertaken by Pechiney : this restructuring has led to numerous plant closures and capacity reductions, substantial job losses and a significant economic impact on several regions of France which were already depressed or in difficulty. An appreciable proportion of the group's resources has been devoted to financing these restructuring measures,

— the group has had balanced recourse to its own resources, its shareholders and its capacity to pay debt. It has thus returned to a state of equilibrium, sheltered from the inevitable cycles which characterize the non-ferrous metals markets. This recovery is underlined by the successful flotation of the group via the issue of investment certificates,

[1] OJ No L 216, 13. 8. 1985, p. 12.

— the group is financed in a manner that is in keeping with market principles. Witness the volume of new loans granted to Pechiney by the international financial community : the group's credit standing has always been good with French and foreign banks despite its temporary difficulties and the scale of its investments.

The French Government has, for its part, behaved like a normal shareholder *vis-à-vis* Pechiney : it supported the company throughout its financial difficulties pending the renewed payment of dividend in 1985 and at the time of the public share issues of 1985 and 1986. It should be noted that the capital injections by the Stade in Pechiney cover the entire restructuring plan and do not serve specific objectives.

On the procedure initiated in respect of the FIM loan granted to Cégédur, the French Government replied by letter dated 22 May 1986, which was followed by a memorandum on the firm's restructuring and the link with the Pechiney restructuring programme. This memorandum was sent under cover of a letter dated 19 December 1986.

The French authorities told the Commission that, in their opinion, the grant of the loan to Cégédur was entirely compatible with the common market as it contributed to the mastery of innovative technologies to an extent in keeping with the European interest. The introduction of innovations consisting of the adaptation of fabrication processes had not led to an overall increase in the firm's production capacity.

The innovative investments which were assisted by the FIM to the exclusion of all others were coupled with a major restructuring programme involving gradual plant closures and a reduction in the workforce. Over the period during which the investments to whose financing the FIM was contributing were carried out, the firm's production capacity had been stable overall.

As regards the market shares held by the firm in the Member States of the Community for the various products concerned, the market was steady and the market shares held by Cégédur were themselves decreasing slightly.

When comments were sought from other interested parties on these cases, the governments of three other Member States, one industrial federation and one competing firm responded.

III

The information obtained rom the group's annual reports, from the memoranda received from the French Government in the course of the two procedures, and at the bilateral meetings held in this connection provide a comprehensive overview of the restructuring of the Pechiney group, the government assistance given to Pechiney and the impact on intra-Community trade in the products concerned.

The group, which was nationalized in February 1982 at a time when it was experiencing difficulties due both to a cyclical downturn and to a structural crisis, did in fact, starting in 1982, embark an a wide-ranging restructuring and rationalization drive. During the first quarter of 1982, the loss-making steel business (Ugine Aciers) was sold to Sacilor. The book losses resulting from the sale amounted to some FF 800 million,. Steel activities accounted for 6 % of the group's consolited turnover in 1981.

In May 1983 Pechiney disposed of its chemicals division. The loss-making activities of PCUK were split up among Elf-Aquitaine, Rhône-Poulenc, CDF-Chimie and Entreprise Minière et Chimique. It was considered financially and legally essential to restore PCUK's balance sheet beforehand. It therefore received a capital increase of FF 2 830 million from the Government, of which FF 748 million passed through Pechiney. This transfer therefore involved no outlay on the part of Pechiney. Chemical activities accounted for 22 % of the group's consolidated turnover in 1982.

In July 1983 Pechiney drew up in conjuntion with the authorities a recovery plan containing the following strategic guidelines :

— after the sale of its steel and chemical businesses, Pechiney should concentrate on the production of metals, materials and non-finished products,

— its objective was to consolidate its 'strong points', that is to way the areas in which it ranks highly worldwide, both technologically and commercially. A particular effort would be made in the aluminium sector, which accounted for nearly 60 % of total turnover, in order to restore the competitiveness of French smelters, build plants in countries where the group can have access in the long term to cheap energy (Quebec project), and pursue an active research and development policy,

— the recovery of operations in difficulty would be striven after with the help of a major investment drive,

— emphasis would be placed on the development of sectors based on new technologies in which Pechiney held a strong hand : this policy would make it possible to add to and renew the group's product range,

— lastly, Pechiney should continue to pursue its policy of industrial and commercial deployment abroad, bearing in mind the international nature of most of its markets.

This strategic plan called for an extraordinary effort in terms of investment. The proportion of turnover accounted for by investment increased by 6 % in 1980 and 1981 and by 13 % on average between 1982 and 1986. Over FF 21 000 million was invested between 1982 and 1986, of which FF 14 000 million directly served the plan's objectives. The other investments concern financial investments, the purchase from EDF of rights to use nuclear-power generated electricity, the investments made by the companies hived off from the group before 1985, and the start-up costs for the aluminium electrolysis plants at Tomago (Australia) and Bécancour (Canada). The FF 14 000 million investment in tangible assets can be broken down as follows : upstream aluminium 52 % ; primary aluminium processing 15 % ; secondary aluminium processing 5 % ; nuclear electrothermics 12 % ; fine metallurgy and new materials 4 % ; turbo-motor parts 7 %. Approximately one-half of these investments were effected outside France.

Although care must be exercised in assessing capacity, the data furnished by the French authorities make it possible to trace the significant swings that occurred between 1982 and 1986 : Pechiney reduced consolidated alumina production capacity in the Community by 300 000 tonnes (– 14 %), that of crude aluminium by 150 000 tonnes (– 18 %) ; that of primary aluminium processing by 55 000 tonnes (– 8 %, of which – 3 % for soft-rolled products and – 2,9 % for soft extrusions) ; that of secondary aluminium processing increased slightly over the period ; copper-processing capacity fell by about 15 % ; that of ferro-alloys remained stable overall ; the capacity increase in the fine metallurgy field concerned the nuclear sector and that in the new materials field was due especially to external growth. According to the French Government, the capacity increases occurred in sectors where the market is steadily expanding. The information also provides details of future capacity closures in the crude-aluminium and ferro-alloy sectors.

The capacity reductions already achieved have led to the closure of several plants, numbering 10 in all at the end of 1986. Most of these plants were located in depressed areas. The cuts made by Pechiney in its French labour force between 1982 and 1986 totalled 9 900 jobs. Considerable social and regional difficulties meant there was a need for staff redeployment (early retirement, transfers within the group, retraining, etc.) and job creation in the less-favoured labour market areas. These job-creation programmes were conducted by a subsidiary set up for that purpose known as Sofipe. This sought to encourage small business start-ups by offering advice and additional financing. During the period 1983 to 1986, Sofipe lent FF 93,7 million for 74 investment projects creating 1 719 jobs in labour market areas in difficulty. Altogether, the restructuring costs borne by Pechiney over the period came to FF 2 400 million.

The group's total financial requirements of FF 27 000 million for the years 1983 to 1986 included, in addition to the FF 21 000 million investments and the FF 2 400 million in restructuring costs, an increase in working capital of FF 2 700 million and dividends to shareholders amounting to FF 650 million. These resources were obtained in the following way : a cash flow of FF 8 300 million ; assets sales bringing in FF 6 500 million ; public capital increases of FF 5 600 million ; private capital amounting to FF 1 700 million ; equity loans of FF 1 700 million ; and new long-term debt totalling FF 3 400 million.

The public-sector contributions were described in greater detail. For the restructuring of the group, the State advanced direct to Pechiney FF 500 million in capital in 1982, FF 700 million in 1983 and FF 2 150 million in 1984. In 1982, Société Française de Participations Industrielles (SFPI), a holding company established after the nationalization of five industrial groups, put up another FF 1 500 million in capital. SFPI was incorporated with a capital of FF 3 000 million, subscribed jointly by the Government, in the form of shares of nationalized companies, and a consortium of publicly owned banks, in the form of a cash contribution. The Government held 50,1 % of the shares in SFPI and the banks 49,9 %. SFPI was therefore under direct state control. In 1986, under the privatization policy, it was considered appropriate to dissolve SFPI and distribute among the partners the shares it held in proportion to their capital contribution. As a result, these banks, several of which have just been privatized, now hold 7,3 % of Pechiney's share capital.

In 1983 the Government also injected FF 748 million into Pechiney, which provided the same amount of new capital to PCUK. This operation was essential so as not to complicate from the legal point of view the distribution of PCUK's assets.

Consequently, the total public contribution to the equity capital of Pechiney between 1982 and 1984 came to FF 5 598 million.

On 27 July 1982 the publicly owned banks granted an equity loan of FF 400 million at an average interest rate of 9,5 % over 15 years and an additional variable rate calculated on the basis of the group's consolidated results. The actual rate of interest borne by Pechiney was 13,5 % in 1985 and 9,65 % in 1986.

On 14 July 1983 Crédit National granted an equity loan of FF 1 070 million at an average fixed rate of 7,5 % over 15 years and an additional variable rate based on the group's consolidated results as from 1987. The actual rate of interest borne by Pechiney between 1984 and 1986 was 6 %.

On 22 December 1983 Caisse de Dépôts et Consignations granted an equity loan of FF 200 million at a fixed rate of 0,1 % and an additional variable rate based on the dividends distributed by Pechiney. The actual rate of interest borne by Pechiney in 1986 was 5,4 %.

The FIM loan granted in 1984 to Cégédur was in fact of 10 years' duration with a two-year repayment holiday and a rate of interest of 9,25 %.

The Pechiney group also received FF 15,6 million in regional aid over the period 1982 to 1986 for investments at Dives (Calvados), Voreppe (Isère) and Vaudières (Meurthe et Moselle), as well as state assistance or involvement in its research and development programmes. Over the period 1982 to 1986 this assistance amounted to FF 14 million a year on average, at 1986 prices.

Lastly, it must be stressed that the group was back in profit in the second half of 1983 and that its steadily improving financial performance enabled it to make dividend payments as from 1984.

IV

All the public sector aid in the form of capital contributions, equity loans and FIM loans made between 1982 and 1984 in support of the recovery may contain elements of state aid within the meaning of Article 92 (1) of the EEC Treaty.

In its policy statement of September 1984 on the application of Articles 92 and 93 to provisions of capital to companies by governments, the Commission indicated that there is state aid where fresh capital is contributed in circumstances that would not be acceptable to a private investor operating under normal market-economy conditions. This is especially the case where the financial position of the company, and particularly the structure and volume of its debt, is such that a normal return cannot be expected within a reasonable time from the capital invested and where, because of its inadequate cash flow if for no other reason, the company would be unable to raise the funds needed for an investment programme on the capital market.

In 1982 the group's financial position was very precarious: its losses, debts and negative cash flow accounted for 16 %, 53 % and 4 %, respectively, of turnover. It is therefore unlikely that a private investor would have been prepared to contribute FF 7 000 million to assist in the concern's recovery.

It is outside the realms of possibility, moreover, that a private firm could have sold such a loss-making and debt-ridden subisidiary as PCUK (in 1982 PCUK had debts of FF 4 000 million and its losses totalled FF 1 500 million) without any outlay on its part. It will be recalled that this separation of the chemicals division from the rest of the group cost the French Government FF 2 830 million.

The existence of the aid element in the provisions of capital by the authorities is borne out by the fact that, at the extraordinary general meeting on 21 May 1985, the shareholders of Pechiney (then 100 % state-owned) adopted a FF 4 739 million reduction in its equity capital, the number of shares being reduced accordingly. Moreover, in estimating the extent of the aid element in these capital contributions, account must be taken of the fact that the company quickly became profitable once more.

After the capital injections of FF 5 598 million between 1982 and 1984, the equity capital rose by only FF 943 million, from which a normal return could be expected only after the recovery plan had been fully implemented. The other increases in the company's capital (FF 5 598 million less FF 943 million) helped, moreover, to offset the accumulated losses without generating any return. This larger part of the capital injections could even be considered a grant.

Although part of the capital was contributed by publicly owned banks through SFPI, the fact remains that all the public shareholdings contain aid elements within the meaning of Article 92 (1).

The equity loans and the FIM loan also contain aid elements within the meaning of Article 92 (1) because the actual rates borne by Pechiney from 1983 to 1986 were lower than the market rates for France. The reference rate in France, which corresponds to the rate applied by the Crédit National to loans for the purchase of plant and equipment, ranged from 16,25 % to 9,25 % between the beginning of 1983 and the end of 1986.

The regional measures and the research and development measures likewise constituted aid because they are individual awards under general schemes approved by or notified to the Commission.

Assuming that the offsetting of the accumulated losses by a reduction in the number of shares corresponds to a subsidy, the aid intensity measured in net grant equivalent may be put at 16 % (14,6 % capital, 1,4 % subsidized loans and 0,03 % regional grants), this being a maximum because, owing to the successful restructuring, the value of the government-held shares has risen well above the nominal value of FF 100 per share.

Consequently, all the government measures contain aid elements within the meaning of Article 92 (1). This aid to Pechiney relieves the recipient of a large part of the cost of its investments, which it would normally have to bear itself.

The products of the non-ferrous metals sector, which are the principal products concerned, are traded between Member States. In 1986, intra-Community trade amounted to 860 080 tonnes of semi-fabricated aluminium products and 711 051 tonnes of semi-fabricated copper prodcuts, of which 19 % and 25 %, respectively, consisted of French exports to other Member States. The Pechiney group, which is one of the leading producers of non-ferrous metal products in Europe (for example, in 1985 32 % of Community crude-aluminium capacity, 21 % of rolled-aluminium products and 11 % of extruded-aluminium products), sells over 50 % of its production outside France, and the Community is the main source of outlets for the group. It must also be borne in mind that, in 1981, the world and Community non-ferrous metals industry entered into a deep, structural crisis characterized by weak demand, low prices and considerable surplus capacity. Consequently, trade between Member States is likely to be affected by the measures in question within the meaning of Article 92 (1).

Article 92 (3) lists that aid which may be considered compatible with the common market. Compatibility with the Treaty must be viewed in the context of the Community as a whole and not in that of a single Member State. In order to ensure the proper functioning of the common market and take into account the principles laid down in Article 3 (f) of the Treaty, the exceptions to the principle of Article 92 (1), set out in paragraph 3 of that Article, must be understood in the strict sense in examining any aid scheme or any individual aid award.

In particular, they may be applied only where the Commission establishes that, without the aid, the free play of market forces would not by itself induce potential recipients to act in such a manner as to contribute to the attainment of one of the objectives sought.

As regards the exceptions provided for in Article 92 (3) (a) concerning aid to promote the economic development of certain areas, it should be noted that the depressed areas in France do not possess the features of regions in which the standard of living is abnormally low or in which there is serious underemployment within the meaning of that subparagraph.

As to the exceptions provided for in Article 92 (3) (b), it is clear that the aid is intended neither to promote the execution of an important project of common European interest nor to remedy a serious disturbance in the French economy.

As for the exceptions provided for in Article 92 (3) (c) in favour of aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, a distinction must be drawn between the sectoral and regional implications of the aid.

At the sectoral level, the Commission can consider compatible with the common market aid for restructuring or job creation if it satisfies the following criteria [1]:

(a) Sectoral aid should be limited to cases where it is justified by circumstances in the industry concerned so as to overcome, for example, a structural or cyclical crisis; in restoring the viability of firms, aid should not tend to preserve the *status quo* and lead to the putting-off of decisions and changes which are inevitable.

Pechiney alone accounts for the entire French crude-aluminium industry and the larger part of processed aluminium. In many of the other areas in which it operates, the company is the leading French producer. The majority of its activities were affected by a structural and cyclical crisis in 1982. At that time, Pechiney undertook a wide-ranging restructuring and rationalization drive which quickly restored viability. The results of the Pechiney group confirm this finding;

(b) Nevertheless, since adjustment takes time, use of resources to reduce the social and economic costs of change is admissible in certain circumstances and subject to strict conditions.

The French authorities have indicated that a substantial part of the government assistance was granted with a view to helping cover the costs arising from job losses;

[1] Eighth Report on Competition Policy, point 176.

(c) Unless granted over reatively short periods, aid should be progressively reduced and clearly linked to the restructuring of the sector concerned.

The aid linked to the restructuring and recovery plan was paid only for the first three years. As from 1985 Pechiney relied on its cash flow and external resources ;

(d) The intensity of aid should be proportionate to the problem it is designed to resolve so that distortions of competition are kept to a minimum.

On the basis of the investment programme and the rationalization costs linked to the recovery plan, the Commission has found that the aid was necessary to permit the technical restructuring called for. It has also found that the financial restructuring was a precondition for this technical restructuring and that it was likewise limited to the financial implications of the technical restructuring. The Commission has therefore concluded that aid intensity (maximum 16 %) was proportionate to the scale of the problems that had to be solved and that the aid was not in such a form and of such an intensity that it might have led to unacceptable distortions.

In the light of trends in intra-Community trade in the products concerned and in particular of Pechiney's share in such trade, the Commission has found that aid has not led to an increase in the company's share of the market for aluminium semi-fabricated products, and in particular soft-rolled product, where the subject of almost all the comments by third parties ;

(e) Industrial problems and unemployment should not be transferred from one Member State to another.

Through the closure of several plants and the various concentrations and reductions of capacity in those sectors in which there were overcapacity problems at Community level (copper, primary aluminium processing, ferro-alloys), Pechiney has been instrumental in solving the sectoral problems in the Community's non-ferrous metals industry.

In short, the restructuring aid granted to Pechiney has led to the full recovery of the concern and, through the restructuring measures, has contributed to the resolution of the structural problems of the non-ferrous metal sector at Community level. For these reasons, and in view of the intensity and form of the aid, the Commission has found that the aid for restructuring facilitates the development of the sector in question at Community level without affecting trading conditions to an extent contrary to the common interest.

At regional level, part of the aid has been used for job creation in the depressed labour market areas affected by the group's restructuring operations. Almost all these areas appear on the list of zones eligible for French regional aid. The few cases of regional investment aid granted to the group do not exceed the thresholds of the aid scheme approved for France.

In the light of the above, the aid for restructuring granted to Pechiney in the form of capital contributions or equity loans qualifies for exemption under Article 92 (3) (c) of the Treaty.

The FF 80 million FIM loan granted to the subsidiary Cégédur also qualifies for exemption under Article 92 (3) (c) because the FIM has focused, out of a total of FF 645 million, on the FF 143 million of truly innovative investments. The smelter built in 1985 in the soft-rolled products sector at Neuf-Brisach was revolutionary in terms of fire waste and automation. In the same sector, a rolling-mill cylinder capable of very high speeds and of thickness tolerances of a few microns was introduced in 1985.

In the Commission's opinion, although they are proportionate to the scale of the problems to be solved the amount and intensity of the aid attain a high level and must be sufficient to ensure the group's total financial autonomy in the near future. Nevertheless, the cyclical nature of the relevant markets is such that the current position may change, and it cannot be rules out that in future subsequent aid may alter trading conditions to an extent contrary to the common interest. It must therefore be ensured that, at least during a period of three years, the public authorities do not grant the Pechiney group any aid, and in particular aid intended to finance investments likely to increase the company's production in the non-ferrous metal sector.

The submission of an annual report during that period covering Pechiney's industrial and commercial activities appears necessary to enable the Commission to ensure the smooth functioning of the common market.

So that the objectives of this Decision may be attained, the Commission should also be informed of any aid proposals other than those mentioned above which would constitute individual awards under the general and regional schemes approved by the Commission,

HAS ADOPTED THIS DECISION :

Article 1

The Commission raises no objections to the aid granted to the Pechiney group in the form of capital contributions (FF 5 598 million), equity loans (FF 1 670 million) and a FIM loan (FF 80 million), awarded between 1982 and 1984 to assist in its revocery, on condition that the French Government :

1. refrains until 31 December 1990 from granting any aid, including individual awards under aid schemes already approved by the Commission, likely to contribute to an increase in Pechiney's production capacity in all the non-ferrous metal sectors ;
2. notifies the Commission until 31 December 1990 pursuant to Article 93 (3) of the Treaty of any proposal to grant aid to the Pechiney group other than those referred to above irrespective of the form they take, including individual awards under aid schemes already approved by the Commission and government subscriptions of new capital ;
3. sends the Commission for each of the years 1987, 1988, 1989 and 1990 an annual report containing the annual figures for the volume of installed capacity, production and intra-Community exports per product of the group at both French and Community levels. This information shall be sent to the Commission during the first quarter of the year following the year under review.

Article 2

The French Government shall inform the Commission within two months of the date of notification of this Decision of the measures it has taken to comply therewith.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 3 February 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission