II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 29 March 1988

concerning aid provided by the French Government to the Renault group, an undertaking chiefly producing motor vehicles

(Only the French text is authentic)

(88/454/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

At the request of the Commission, the French Government informed the Commission by letter of 2 May 1985 that it intended to provide during 1985 FF 3 000 million of new equity capital to Renault. It did not regard the transmission of this information as a notification, but as information sent in accordance with the requirements of Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings [1]. The French Government has contested the need to notify such aids under Article 93 (3) of the Treaty in all its correspondence relating to new equity capital.

Furthermore, by letter dated 30 April 1985, the French Government informed the Commission of an FIM loan of FF 750 million to the 'Régie Nationale des Usines Renault', hereinafter referred to as RNUR. By a further letter dated 6 August 1985, the French Government informed the Commission that it had granted a second FIM loan of FF 500 million to 'Renault Véhicules Industriels', hereinafter referred to as RVI.

On 18 December 1985 the Commission decided to initiate the procedure under Article 93 (2) of the EEC Treaty with respect to the capital injection of FF 3 000 million granted to RNUR for 1985, the FIM loan of FF 750 million awarded in 1984 to RNUR, and the FIM loan of FF 500 million granted in 1985 to RVI. In view of the severe financial difficulties of Renault in 1984 and 1985, the Commission considered that, in accordance with its position of September 1984 on public authorities' holdings in company capital, the provision of capital contained aid elements falling within Article 92 (1). Furthermore, according to Commission Decision 85/378/EEC [2], all FIM loans constitute aid measures within the meaning of Article 92 (1) of the EEC Treaty.

The main reasons for initiating the procedure were the probable distortion of competition in view of the current situation in the car sector, the lack of information on the

[1] OJ No L 195, 29. 7. 1980, p. 35.

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

specific utilization of the capital provision and the extent to which the FIM loans contributed to the development of truly innovative products.

By letter dated 29 January 1986, it gave the French Government notice to submit its comments. In accordance with the provisions of Article 93 (2) of the EEC Treaty, the other Member States and third parties were also given notice to submit their comments.

At the request of the Commission, the French Government informed the Commission by letter of 8 July 1986 that new equity capital amounting to FF 3 000 million was earmarked for Renault in 1986. Here again, the French Government informed the Commission on the basis of the transparency Directive referred to above, that the new capital did not constitute aid and was not earmarked for specific operations but would be used in general to improve the financial situation of the group in the shortest possible time.

On 29 July 1986, the Commission decided to initiate the Article 93 (2) procedure in respect of the non-notified FF 3 000 million capital contribution to RNUR which the French Government had decided to allocate within the 1986 budget provisions. The Commission considered that, in view of the continuing financial difficulties of the Renault group during 1986, the provision of new capital contained aid elements falling under Article 92 (1).

The main reasons that led the Commission to initiate the procedure were the probable distortion of competition given the current problems in the motor-vehicle industry, the lack of detailed information on the restructuring efforts currently under way in the Renault group, and the intended use of the share capital.

By letter dated 5 August 1986, the Commission gave the French Government notice to submit its comments. In accordance with Article 93 (2) of the EEC Treaty, the other Member States and interested parties were also given notice to submit their comments.

At the request of the Commission, the French Government informed the Commission by letters dated 23 February 1987 and 18 May 1987 that a complementary capital injection of FF 2 000 million within the 1986 budget was awarded to Renault and that a new capital injection of an unspecified level was to be committed in the 1987 budget. The new aid measures again aimed at the reinforcement of the financial position of the undertaking, the financing of its investment programmes and the pursuit of the restructuring efforts in question.

On 1 July 1987, the Commission decided to initiate the Article 93 (2) procedure in respect of the non-notified FF 2 000 million capital contribution that the French Government provided in 1986 and the FF 2 000 million capital contribution which it planned to grant Renault in 1987. The Commission considered that in view of the continuing financial difficulties of the Renault group the provision of new capital contained aid elements falling under Article 92 (1).

The main reasons for initiating the procedure were the likelihood of distortion of competition given the current situation in the motor vehicle industry and the lack of information on a generally agreed restructuring plan.

By letter dated 22 July 1987 the Commission gave the French Government notice to submit its comments. In accordance with Article 93 (2), the other Member States and third parties were also given notice to submit their comments.

All the abovementioned aids were implemented without the prior approval of the Commission as provided for in Article 93 (2) of the Treaty and were therefore illegal under Community law from the time they were granted.

By letter of 20 October 1987 from the Minister for Industry, the French Government notified the Commission of its intention to repay FF 12 000 million of long-term loans that Renault has outstanding with the Crédit National, in order to facilitate the change from Renault's special status as a 'régie' into a legal entity under normal company law.

On 4 November 1987, the Commission decided to initiate the Article 93 (2) procedure in respect of the notified aid plan of the French Government to write off 12 000 million of Renault's debts. Given that the debt write-off discharges the heavily indebted group of part of its financial burden and debt repayment, the Commission considered that it confers a competitive advantage on Renault *vis-à-vis* other Community manufacturers. Thus, the proposed measure contains aid elements falling under Article 92 (1). The aid element of the measure was not contested by the French Government.

The main reasons for opening the procedure were the danger of significant distortion of competition given the sensitivity of the motor-vehicle industry, the lack of information on the future restructuring plan, the allocation terms of the FF 12 000 million debt repayment and the particularly high level of aid involved.

By letter dated 13 November 1987 the Commission gave the French Government notice to submit its comments. In accordance with Article 93 (2), the other Member States and third parties were also given notice to submit their comments.

II

As regards the procedure initiated on 18 December 1985, the French authorities presented their comments by letter dated 8 July 1986, in which it was argued that the capital contribution should not have been considered as falling within Article 92 (1) because it should be regarded as a normal obligation of the State as a shareholder. The FIM loans, which supported only 15 % of total investments in 1984/85, were used for the introduction of new technologies and innovations, and are therefore not incompatible with the common market.

As regards the procedure initiated on 29 July 1986, the French authorities submitted their comments by letter dated 15 October 1986 which contained a report explaining the main lines of the restructuring plan adopted by RNUR since 1985. As regards the assessment of the aid element of the capital contributions, reference is made to the letter of 8 July 1986.

Following the Commission's request of 31 March 1987, the information on the restructuring efforts by Renault and the FIM loans were supplemented by a memorandum sent by the French authorities by letter dated 19 June 1987. In the opinion of the French Government, the capital injections corresponded to the actions of a normal private investor and did not lead to distortions of intra-Community competition. Further details were provided on the technical restructuring carried out between 1983 and 1986. As regards the FIM loans of FF 750 million for RNUR and FF 500 million for RVI, technical descriptions of the two aided investment programmes were provided in order to prove that the loans only financed investments representing a technological breakthrough or containing significant innovative elements.

As regards the procedure opened on 1 July 1987, the French Government has not submitted comments or replied to a revised list of questions mainly concerning the investments aided by the FIM loans which was sent by the Commission by letter of 17 August 1987.

As regards the procedure initiated on 4 November 1987, the French authorities submitted their comments by letters dated 10 December 1987, 21 January, 4 February, 23 February and 29 February 1988, providing very detailed information on the financial and technical restructuring of the Renault group, on the proposed debt write-off, on the change of legal status of the RNUR and the effects of this change on the future fiscal treatment of the undertaking.

The arguments given by the French Government for a favourable decision on the different aid measures concerning Renault can be summarized as follows:

— The special status of Renault as a 'régie' has not resulted in preferential treatment by its shareholder given that the company remained obliged to produce profits and secure a return on invested capital. In addition, it has not benefited from any special fiscal measures as regards taxes or depreciation allowances,

— The decline of the motor-vehicle market since 1982 resulted in growing losses for the Renault group which caused a serious deterioration of its financial situation. This obliged the State to make additional financial means available in order to restore the financial situation, support its restructuring efforts and improve its competitiveness.

— The capital contributions of FF 8 000 million provided in 1985 and 1986 are the consequence of normal relations between a private shareholder and its undertaking, and are motivated by the legitimate interest of a shareholder to safeguard its existing assets. The French State thus acted towards Renault in a way which is fully consistent with the attitude of a private investor. The capital contributions were therefore not earmarked for specific operations. For the abovementioned reasons, these capital injections do not in the opinion of the French Government constitute aid within the meaning of Article 92 (1) and the information provided on this subject was therefore transmitted to the Commission purely within the framework of the transparency Directive,

— The French Government as shareholder expects Renault to return to profitability by 1987 as a result of the measures undertaken,

— The policy pursued linked to capacity reductions has not distorted competition within the Community within the meaning of Article 92,

— The FIM loans were granted only for operations representing a technological advance or embodying significant innovations,

— As regards the debt repayment of FF 12 000 million, the objective of the French Government is to place Renault in a situation comparable with its main European competitors by ending the privileged links with the French State. This implies the transformation of the 'Régie' status of Renault to a legal entity subject to normal company law,

— In order to achieve this change it is indispensable to bring Renault back to at least a zero net worth, i.e. to compensate at least for the negative net capital of FF 16 400 million at the end of 1986. On the basis of an expected profit of FF 3 000 million in 1987 and an extension of the residual depreciation period which will produce FF 1 400 million in 1987, the minimum amount needed to achieve a zero net worth is FF 12 000 million. This amount will not be awarded in the form of fresh capital but by means of debt write-off ; the write-offs primarily concern debts at preferential rates and have the advantage of reducing the tax carry-forward advantage of Renault's accumulated losses.

Under the abovementioned procedures, four other Member States and two third parties concerned submitted observations.

III

The information obtained from the French Government under the various procedures, as well as during several bilateral meetings, has given a full picture of the forms and conditions of the public assistance measures, of their impact on intra-Community trade in the products concerned and of the restructuring plan of the Renault group.

The continuous losses since 1981 and in particular the record losses of 1984 led the French Government in January 1985 to request Renault to implement a drastic restructuring plan, which it would assist in the form of capital contributions and FIM loans.

Renault was by then in a disastrous position. The huge losses of 1984 were known and own resources had become negative. The rapid decline was caused by excessive overmanning, the lowest productivity level of any European car manufacturer, an outdated model range, considerable backwardness as regards new technologies and the failure of its plan to set up in the United States.

Although some elements of the restructuring plan were put forward in 1984, the bulk of the restructuring measures were adopted in 1985. Briefly, the restructuring plan, which runs until 1990, contains the following main points :

— Drastic reduction in employment : between the end of 1984 and the end of 1987 employment at group level was reduced by 38 311 jobs, which corresponds to 18 % of the 1984 workforce. A further reduction is planned before the end of the restructuring plan,

— Closures of sites and capacity reductions : apart from the closure of five small subsidiaries not linked to the motor-vehicle industry, Renault's restructuring plan provided for the closure of various assembly lines in the car, truck and components divisions,

— Reorientation of investments : between 1983 and 1985 a serious effort was undertaken to increase investment as much as possible in modernization and the introduction of new technologies in the shortest possible time,

— Sales of assets : the Renault group has sold since 1985 a large number of companies and shareholdings which were either not directly linked to the motor-vehicle activities or were not essential thereto. Assets in the form of real estate have also been sold. Renault is currently negotiating the sale of further remaining assets. These sales have already produced over FF 2 000 million of cash-inflow,

— Reorganization of the distribution network : the number of affiliated dealers and distributors has been reduced continuously since 1984 by some 20 %,

— Reduction of input cost : a considerable reduction in the number of suppliers (20 % within two years) linked to an increase of outside sourcing permitted a better control and a relative reduction of input cost,

— Reduction of stocks : from 1985 onwards a more effective stock management has been pursued resulting in a 26 % reduction in assembled car stocks in two years,

— Definition of a new quality policy : since 1985 Renault has undertaken a series of internal measures to improve the quality standards of both its products and services,

— Renewal of product models : at the end of 1986 the average age of Renault's car models was reduced to 2,8 years, compared to 7 years in 1983,

— Training of personnel : along with the introduction of new technologies Renault introduced in 1985 a special training programme which not only improved product quality but also increased the mobility, flexibility and productivity of labour. As an illustration of these efforts, training hours increased by 63 % between 1983 and 1987,

— Redefinition of wage policy : since 1985, wages and salaries have increased considerably more slowly than the overall inflation rate in France, thus slowing down the burden of labour cost.

In addition to assisting the Group's technical restructuring, the French Government also had to deal with the financial restructuring of the Group's two key undertakings, RNUR and RVI. As regards RVI, it is a public limited-liability company required by law to regain a net positive balance at least equal to 50 % of its equity capital before 30 June 1987 in order to avoid filing for bankruptcy. The recapitalization of RVI was achieved before the deadline by the following methods: its assets were reassessed at FF 1 800 million, a capital provision of FF 2 000 million by RNUR to RVI (using the last capital contribution from the State to RNUR in 1986 included in the third procedure), the transfer from RNUR to RVI of the Mack Trucks (USA) securities, worth FF 2 000 million, and the provision by three RVI creditor banks of FF 1 200 million obtained through equity warrant bonds. With the transfer of Mack Trucks to the RVI Group, the latter became the world's second largest manufacturer of heavy trucks of over 15 tonnes.

The proposed debt write-off of FF 12 000 million is tied to the change in status of RNUR into a public limited-liability company. In view of its legal obligation to re-establish, within two years following its change of status, its net position to achieve a minimum of half its equity capital, the change in status must necessarily be accompanied by a recapitalization of the company. The proposed repayment is calculated on the assumption that it will achieve a zero net worth after its change of status.

The total cost of the abovementioned objectives was estimated at FF 83 400 million between 1984 and 1990. Within this total, non-financial investments accounted for FF 53 100 million, financial investments FF 3 700 million, extraordinary restructuring costs FF 20 000 million. These last costs correspond to the charges involved in plant closures and redundancies.

As regards the productive investments, FF 43 500 million are earmarked for investments in the car division and FF 7 200 million in the truck and bus division.

In order to rationalize and reduce its activities, Renault had to close several production units and reduce the workforce employed in other units. The workforce reduction was partly achieved by early retirement schemes (FNE contracts) and repatriation schemes. The restructuring charges assumed so far by the RNUR account for FF 13 600 million. RVI spent FF 1 200 million on redundancy costs and production transfers and some FF 300 million on retraining and closure costs.

The restructuring cost over 1984-1990 is financed as follows:

- cash flow excluding provisions for social costs: FF 50 500 million,
- sale of assets: FF 10 700 million,
- reduction of indebtedness: – FF 6 400 million,
- reduction of working capital: FF 16 900 million,
- public capital contributions: FF 10 600 million,
- private capital contributions: FF 1 100 million.

The impact of the restructuring plan on the productive capacity is substantial. Overall assembly capacity will be reduced by at least 25 % by the end of the restructuring plan. As the utilization rate of component production capacity (mainly engines and transmissions) was lower, the capacity reductions will be all the greater.

IV

In its examination of the compatibility with the common market of the different public interventions in support of Renault's restructuring plan, the Commission has verified to what extent these measures contain aid elements under Articles 92 and 94 of the EEC Treaty.

The Commission initiated the Article 93 (2) procedure against a total of FF 10 000 million in capital contributions and FF 1 250 million in FIM loans. In connection with the latter procedure, the French Government informed the Commission that a capital contribution of FF 2 000 million provided for in the 1987 budget and included in the procedure by the Commission, had not been granted to Renault and would not be granted in the future. The Commission thus has to scrutinize only FF 8 000 million in capital contributions. In addition to the capital grants, a capital increase of FF 1 900 million based on sums earmarked in the State budget in 1983 and 1984 was granted in 1984. The Commission has not to date opened proceedings against these increases, considering that Renault's losses at the time were a temporary cyclical problem shared by the whole motor-vehicle industry.

However, the circumstances of the State capital contributions in 1985 and 1986, FF 3 000 and FF 5 000 million, were different. They corresponded to fresh capital made available by the French Government in its 1985 and 1986 budgets. Since spring 1985 onwards, when the adverse 1984 results were made public, Renault's financial situation has been very precarious. The accounts of 1984 and 1985, the most difficult years for the Renault group, show record losses totalling FF 23 500 million and a negative cash-flow of FF 14 200 million. At the end of 1985, its consolidated gross financial debt amounted to FF 76 500 million or 63 % of the 1985 turnover.

This situation corresponds precisely to the Commission's position of September 1984 on public authorities' holdings in company capital when it considered that State aid was involved where fresh capital was contributed in circumstances that would not be acceptable to a private investor operating under normal market-economy conditions. This is the case where the financial position of a company, and particularly the structure and volume of its debt, is such that a normal return (in dividends or capital gains) cannot be expected within a reasonable time from the capital invested, or 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.

It can therefore be ruled out that a private investor could, within two years, provide FF 8 000 million in the form of equity capital.

Consequently, the FF 8 000 million capital injections, which maintained Renault artificially in business, constitute aid measures under Article 92 (1) of the EEC Treaty.

The two FIM loans also contain aid elements under Article 92 (1) of the EEC Treaty. Pursuant to Decision 85/378/EEC, all FIM loans are aids within the meaning of the abovementioned Article. According to the French authorities' latest information, the first loan of FF 750 million was awarded to RNUR in June 1984 at an interest rate of 8,4 %. The second loan of FF 500 million was granted to RVI in September 1985 at 8,75 %. Both are 10-year loans with a grace period of two years. The reference rate in France, which corresponds to the rate applied by the Crédit National for corporate investments, was 14,75 % in June 1984 and 13 % in September 1985. Thus, both loans were awarded at rates clearly below the normal French market rates. It should be noted that, in its letter of 8 July 1986, the French Government had communicated that both loans had an interest rate of 9,25 %, which is incorrect, as they were actually awarded at 8,4 % and 8,75 %. The Commission regrets the fact that the French Government provided incorrect information in its letter of 8 July 1986.

As already stated above, the aids in the form of FF 8 000 million in capital injections and FIM loans of FF 1 250 million are illegal in relation to Community law. In this respect it must be noted that — in view of the imperative character of the rules of procedure as laid down in Article 93 (3), which are also of importance as regards public policy, the direct effect of which the Court of Justice recognized in its ruling of 19 June 1973 in Case 77/72 [1] — the illegality of the aids at issue here cannot be cured *ex post.*

Moreover, in cases of aids incompatible with the common market, the Commission — making use of a possibility given to it by the Court of Justice in its Judgment of 12 July 1973 in Case 70/72 [2], confirmed in its Judgment of 24 February 1987 in Case 310/85 [3] can require Member States to recover aid granted illegally from recipients.

The proposed debt write-off of FF 12 000 million which Renault would obtain once its status is changed discharges the heavily indebted group of part of its financial charges and debt repayments which it normally would have to pay over the coming years. The debt write-off thus gives Renault a competitive advantage in relation to other Community manufacturers. It can be concluded that the amount of the debt write-off constitutes aid under Article 92 (1) of the EEC Treaty. It should be noted that the communications from the French Government under the latest procedure did not dispute the aid element of the debt repayment.

In conclusion, the Commission considers that the capital injections of FF 8 000 million and the two FIM loans of FF 1 250 million awarded to Renault, as well as the proposed debt repayment of FF 12 000 million, constitute aid measures falling under Article 92 (1) of the EEC Treaty. The aids provided to Renault affect trade between Member States because there is intensive intra-Community trade for all products manufactured by the Renault group. In fact, for passenger cars in 1986, trade between Member States amounted to 5 030 402 units, 17,4 % of which (878 927 units) were exported from France to the other Member States. As regards commercial vehicles, intra-Community trade in 1986 amounted to 424 154 units, 16,4 % of which were exports from France to the other Member States.

In 1986, Renault exported 494 866 cars to other Member States, i.e. 54 % of its total car production in France. In the commercial vehicles market, it exported in 1986 from France to Western Europe 4 564 trucks, representing 13 % of its total production in France.

[1] ECR (1973), p. 611.
[2] ECR (1973), p. 813.
[3] OJ No C 77, 24. 3. 1987, p. 3.

The aid intensity of the various aid measures in terms of investment between 1984 and 1990 cannot be calculated precisely because the aids are intended not only for the technical restructuring of the Group but also for the financial rationalization of RNUR and RVI. However, if capital injection are considered to be equivalent to a grant, as indicated in Chapter III, the gross aid intensity is calculated at 23 %. This percentage also corresponds to the estimated net intensity, as the undertaking was not taxed during the assisted period. This should be regarded as a maximum because, even if the equity capital held by the Government does not change after the restructuring has taken place, the intrinsic value of shares will most likely increased.

V

Article 92 (3) of the Treaty lists those aids which may be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community as a whole and not of a single Member State. In order to safeguard the proper functioning of the common market and taking into account the principles of Article 3 (f), the derogation from the principle of Article 92 (1) as set out in Article 92 (3) must be construed narrowly when an aid scheme or any individual award is scrutinized.

In particular, they may be applied only: when the Commission is satisfied that the free play of market forces alone, without the aids, would not induce the prospective aid recipient to adopt a course of action contributing to the attainment of one of the said objectives.

With regard to the exceptions provided for in Article 92 (3) (a) and (c) for aids that promote or facilitate the development of certain areas, the application of the aid scheme cannot benefit from the exception provided for Article 92 (3) (a) since the standard of living is not abnormally low, nor is there serious underemployment in France. Nor does the grant incorporate the requisite features of aid to facilitate the development of certain economic areas within the meaning of Article 92 (3) (c) inasmuch as it is not conditional on initial investment or job creation as explained in the 1979 Commission Communication on the principles of coordination of regional aid systems [1]. Moreover, the majority of Renault's production plants are located outside assisted areas, and the aid grants are not awarded under the French regional aid system (PAT). The French Government has not in fact attempted to justify the aids in question on regional grounds.

As regards the exception provided for in Article 92 (3) (b) of the EEC Treaty, it is evident that the aid in question was not intended to promote the execution of an important project of common European interest, or to remedy a serious disturbance in the French economy. Nor has the French Government requested exemption on these grounds.

With regard to the exception provided for in paragraph 3 (c) of Article 92 of the EEC Treaty in favour of 'aid to facilitate the development of restructuring aids to be compatible with the common market if a number of criteria are fulfilled [2].

The criteria must be viewed in the light of the two principles of Article 92 (3) (c), i.e. the aid must be necessary for the development of the sector from a Community standpoint, and the safeguard clause which provides that the aid must not alter trading conditions to an extent contrary to the common interest [3].

These criteria were systematically verified in order to assess the compatibility of the restructuring aids for Renault, i.e. FF 8 000 million of fresh capital and FF 12 000 million of proposed debt write-off [4]:

1. Sectoral aid should be limited to cases where it is justified by circumstances in the industry concerned. Aid should lead to a restoration of long-term viability by resolving problems rather than preserve the status quo and put off decisions and changes which are inevitable.

   In 1983/1984, the European motor-vehicle industry was facing difficulties due both to a cyclical decline and to a structural crisis in the heavy trucks' sector. This crisis particularly affected the French industry, because of very low demand and a considerable productivity gap *vis-à-vis* its competitors. This situation particularly holds for the Renault group. Since, then, Renault has implemented a restructuring plan which is restoring its long-term viability by concentrating on reducing capacities for cars, commercial vehicles and their components. This plan has already shown its beneficial effects in that the RNUR as well as RVI returned to profitability in 1987.

   The seven years over which the restructuring plan is to be implemented is a normal period in view of the fact that the Renault group is a conglomerate comprising 269 entities at 31 December 1986, employing 182 448 persons and with a very broad range of activities. As

[1] OJ No C 31, 3. 2. 1979, p. 9.

[2] Eight Competition Report, point 176.

[3] See Court of Justice Judgment of 17. 9. 1980, Case 730/79, Phillip Morris, ECR (1980), p. 2671.

[4] Aid to modernization through FIM loans is discussed in Chapter VI.

the restructuring involves a number of measures in a variety of activities, the time required is considerable and is comparable to the efforts already undertaken by other groups in the sector;

2. Nevertheless, since adjustment takes time, a limited 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 public assistance was intended to offset the high social costs of the 38 311 redundancies which hab already taken place between 1984 and 1987 as well as a further reduction in the workforce by the end of the plan period;

3. Unless granted over relatively short periods, aids should be progressively reduced and clearly linked to the restructuring of the sector concerned.

The final aid package of FF 12 000 million is aimed entirely at the repayment of debt and cannot serve as fresh capital with which new investments can be financed; it is chiefly intended to repay loans awarded at preferential rates. The French Government has undertaken not to award any further aid to Renault in the future. From 1987 onwards, the remaining restructuring efforts are and will be entirely financed from the company's cash-flow which became positive in 1986. Consequently, once the change of status has taken place, the Renault group will be put legally and financially on the same footing as its competitors.

Moreover, through the debt repayment as well as the measures agreed by Renault in respect of the tax system, it will be possible to reduce the tax carry-forward advantages from FF 38 000 million at the end of 1986 to only FF 6 000 million at the end of 1988. The balance will largely be absorbed in 1989. Renault will thus pay corporate taxes on its profits from 1990 onwards.

4. 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.

The aid measures, which correspond to some 24 % of the total cost of the restructuring plan to be carried out between 1984 and 1990, not only support the investments but also the rationalization costs and the financial reorganization, i.e. the reduction of the debt burden through the FF 12 000 million write-off. The Commission can conclude that the aid in the form of capital contributions was necessary to allow the technical restructuring of the company and restore its long-term technical viability. In addition, in view of the severe indebtedness of Renault, and the plan to change the status of the Régie into a normal company subject to commercial law, it is essential to reduce some of the enormous net debt (FF 55 000 million at the end of 1986) to ensure its long-term financial viability. Under French commercial law, every company should have a net worth equal to at least half its capital. The Commission considers that the proposed debt write-off of FF 12 000 million represents a sufficient and necessary amount in order to put the undertaking at zero net worth after changing its status as a first step towards achieving a net worth situation within two years as it is legally required to do. At the end of 1986, RNUR had a negative net capital of FF 16 400 million. The latest estimates of RNUR's net worth at end 1987 show a negative total of FF 11 800 million. The difference is to be covered by the FF 12 000 million write-off. The Commission has made sure that alternative or additional means to increase the net worth of the company, such as re-evaluation of remaining corporate and financial assets and sales of other assets than the ones already foreseen in the restructuring plan could not contribute to a reduction of the FF 12 000 million without endangering the financial position of the company and its credibility *vis-à-vis* the private capital markets on which it will depend in the future. It is noteworthy that even after the aid the Renault group will be by far the most indebted car manufacturer in the Community (net financial debt after the write-off will represent 25 % of turnover in 1988).

The statistics on intra-Comunity trade in the products concerned, the declining market shares of Renault in the Community (in 1982, RNUR held 15,7 % of the car market as against only 12 % in 1987; RVI's share of the Community heavy trucks' market fell from 14,3 % in 1982 to some 12 % in 1987) as well as the fact that sales prices for its vehicles exceeded the annual inflation rates in France and were not lower than these of its competitors, show that the aids were therefore not used to implement a low-price policy aimed at maintaining or augmenting Renault's market position;

5. Industrial problems and unemployment should not be transferred from one Member State to another.

The restructuring of Renault has led to a reduction in its market share and has not prevented full utilization of capacity by other Community car manufacturers since 1985. The same observation also applies for heavy trucks in the sense that the restructuring of RVI did not prevent a considerable increase in the degree of capacity utilization of other European truck manufacturers. The aids to Renault have thus not led to job losses in other Member States.

In conclusions, the restructuring aids awarded to Renault have led to the restoration of the company's viability and, trhough the elements of the restructuring, have contributed to the solution of the structural problems which the motor vehicle industry was facing in 1983/1984. For those reasons, the Commission considers that the restructuring aids facilitated the development of the sector concerned at Community level without adversely affecting trading conditions to an extent contrary to the common interest.

The Renault restructuring plan will be concluded only by the end of 1990 and depends on the implementation of future restructuring measures, such as capacity reductions and future sales of assets. At the same time. the Commission has assessed the case on the basis of important undertakings by the French authorities as regards future relations between Renault and the State. Indeed, in the letter of 23 February 1988, the French Government has unertaken to proceed with the FF 12 000 million debt write-off only after the change of status of the RNUR has been adopted by law and to abstain in the future from any further aid in the form of new capital for Renault.

Any future earnings which might be generated by the sale of American Motors Corporation (AMC) at the end of 1992 will not be included when calculating the necessary debt write-off. This was necessary because these future earnings, which could reach FF 2 400 million in the form of royalties and conditional payments, are subject to future market uncertainties and could therefore not be taken into account in the evaluation of the amount of debt repayment. However, the incidence of the sale of AMC on the net worth was negative to the tune of FF 1 200 million in 1986, which artificially increased the necessary capital injection.

It cannot therefore be excluded that Renault might be in a position to distort competition in one or more of the markets in which it is present and in doing so adversely affect trading conditions within the Community to an extent contrary to the common interest. Consequently, if the Commission considers that the exception under Article 92 (3) (c) is applicable to the restructuring aids — in the form of FF 8 000 million capital contributions and FF 12 000 million debt write-off — granted to Renault, it should at least impose specific conditions to discourage Renault from any possible distortions.

VI

The FIM loans, which do not correspond to individual restructuring aids but constitute applications of a specific aid system, were examined from the standpoint of their compatibility with the main objective of the scheme, i.e. the introduction of new products or processes.

The French Government provided a document annexed to its letter of 25 June 1987 describing the investments aided by the FIM loans to RNUR and RVI.

The Commission has subjected this information to an in-depth technical analysis in order to determine the extent to which the aided investments constitute genuine innovations at Community level at the time they were made. Because of several contradictions contained in the document in the document as well as obvious links between the investments and State-aided R&D programmes within Renault, the Commission requested the French Government by letter of 17 August 1987 to provide further explanations on this subject.

The French Government declared during several bilateral meetings that it would provided no further information on this matter.

The conclusions of the Commission's technical analysis were that, as regards the FF 750 million FIM loan to RNUR to finance investments of FF 1 226 million in the production of a vehicle with particularly low fuel consumption, only some 7 % of the investment could be regarded as innovative at Community level at the time it was made. As regards the FIM loans of FF 500 million awarded to RVI for investments of FF 1 180 million, only about one third contained a clearly innovative element in the sense defined above.

In conclusions, the vast majority of the investments partly aided by the two FIM loasns contributed to the modernization and product rejuvenation of RNUR and RVI, but were not intended to develop innovative products of processes. In Decision 85/378/EEC concerning the approval of FIM aid schemes, the Commission concluded that neither the priority interests of French industry nor the modernization of industries as such could be regarded

as of sufficient Community interest to justify exemption lunder Article 92 (3). It considered that, on the contrary, the aids were liable to alter intra-Community trade to an extent contrary to the common interest when they are awarded in such important individual cases, since they greatly strengthen the position of the recipient undertaking in relation to its competitors for intra-Community trade. This factor was the main reason for the adoption of the negative decisions concerning the planned FIM loan in the mineral-water and glass-packaging sectors (Commission Decision 87/194/EEC [1]) and the loan awarded in the brewery trade (Commission Decision 87/303/EEC [2]). Thus both FIM loans awarded to Renault do not fulfil one of the essential conditions attached to the FIM loan scheme, as communicated by the French authorities when they notified the scheme in question, the condition on which the Commission based its Decision of 19 December 1984 approving the FIM aid scheme. Therefore, the aid awarded through the FIM loans to Renault cannot benefit from the exemption provided for in Article 92 (3) (c) of the EEC Treaty.

As pointed out above in IV, the Commission can in such cases require Member States to recover from recipients the illegally granted aid.

Consequently, the aid element contained in these FIM loans should be abolished by the reimbursement of the loans or by making these loans subject to normal market conditions, as well as by the recovery of the interest relief obtained by Renault until the abovementioned change in the conditions of the loan. In quantifying the aid element, the Commission first calculated the difference between the reference market rate at the time of the loans (14,75 % in June 1984 and 13 % in September 1985) and the rate at which the loans were granted (8,4 % and 8,75 %); the interest subsidy is thus 6,35 % on the loan granted to the RNUR and 4,25 % on the loan to RVI. The interest subsidy was calculated for the period from when the loans were granted to the date of this Decision, i.e. end March 1988. The interest subsidy represents a benefit of FF 174,13 million on the FF 750 million loan, and of FF 53,12 million of the loan of FF 500 million, thus giving a total of FF 227,25 million at end March 1988. The amount of aid to be recovered must be increased by FF 5,25 million per month elapsing between the date of this decision and the reimbursement or adaptation of the conditions governing the loans in question,

[1] OJ No L 77, 19. 3. 1987, p. 43.
[2] OJ No L 152, 12. 6. 1987, p. 27.

HAS ADOPTED THIS DECISION:

Article 1

The restructuring aids to Renault in the form of capital contributions of FF 8 000 million awarded in 1985 and 1986 and a proposed debt write-off of FF 12 000 million to be awarded in 1988 after the change of status of the RNUR are considered to be compatible with the common market pursuant to Article 92 (3), provided that the French Government:

1. fulfills its commitment not to proceed with the payment in full or in part of the FF 12 000 million intended for the repayment of debts before changing the legal status of the RNUR, in accordance with its notification of 20 October 1987, into a company subject to commercial law, without prejudice to the ownership of the capital of the undertaking. The French Government is hereby required to use the FF 12 000 million solely to repay debts, and in particular those at preferential rates. If the change in status does not take place before 31 December 1988, this authorization shall be null and void;

2. fulfills its commitment to refrain from granting any further aid in the form of capital contributions and any other forms of discretionary aid to the Renault group;

3. fulfills its commitment as regards the completion of the Renault restructuring plan by the end of 1990 in accordance with the details communicated to the Commission;

4. ensures that any future earnings resulting from contracts relating to the sale of American Motors Corportion (AMC) are transferred to the State.

The French Government shall provide the Commission in the second quarter of 1989, 1990 and 1991 with an annual report on Renault's accounts, capacities, production, pricing policy and intra-Community exports by product as well as a detailed survey of all restructuring measures, debt repayment and sales of assets undertaken in the past calendar year.

Article 2

The aids awarded in the form of FIM loans of FF 750 million to RNUR in 1984 and FF 500 million to RVI in 1985 are incompatible with the common market within the meaning of Article 92 of the Treaty. The French

Government shall abolish the aid element contained in these FIM loans by requesting their reimbursement or by applying a normal market interest rate to them and recovering the interest subsidy of FF 227,25 million awarded to Renault up to the date of adoption of this Decision.

Article 3

The French Government shall inform the Commission of the measures taken to comply with this Decision within two months from its notification.

Article 4

This Decision is addressed to the French Republic.

Done at Brussels, 29 March 1988.

For the Commission
Peter SUTHERLAND
Member of the Commission

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 2021/88 of 7 July 1988 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(Official Journal of the European Communities No L 177 of 8 July 1988)

On page 40, in the Annex, in the column, 'Amount of refund' against product code 1004 00 90 000 :

for: '—',
read: '0'.

Corrigendum to Commission Regulation (EEC) No 2376/88 of 29 July 1988 fixing the amount of the subsidy on oil seeds

(Official Journal of the European Communities No L 205 of 30 July 1988)

On page 48, in Annex III, heading of the column 'Current 8' :

for: 'Current 8',
read: 'Current 8 (1);

On page 48, in Annex IV, line 'Esc', column '4th period 12 :

for: '174,83200',
read: '171,83200'.
