II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 29 March 1988

on planned aid by the French Government for certain areas of Haute-Normandie, Franche-Comté and Sarthe, in the conversion centres of Dunkirk, Le Creusot, Fos, Caen and the area of Roubaix-Tourcoing

(Only the French text is authentic)

(88/565/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 the parties concerned notice to submit their comments pursuant to Article 93, and having regard to those comments,

Whereas :

On 24 October 1986 the French Government, in accordance with Article 93 (3) of the Treaty, notified the Commission of a plan to retain for a further three years from 1 January 1987 the possibility of awarding exceptional regional planning grants ('Prime d'aménagement du territoire' — PAT scheme) in the following areas :

— all the areas listed in Article 1 of Commission Decision 85/18/EEC of 10 October 1984 on the French regional planning grant scheme ('Prime d'aménagement du territoire') [1], i.e. the areas eligible for a regional planning grant until 31 December 1985 in the departments of Eure, Seine-Maritime, Franche-Comté and Sarthe,

— the 'conversion centres' of Dunkirk, Fos, Caen, Le Creusot and the area of Roubaix-Tourcoing.

The plan concerns the award in these non-assisted areas of exceptional regional planning grants (PATs) within the meaning of Article 3 of Commission Decision 85/18/EEC which provides for the award of such aid only until 31 December 1986, provided that any project involving investment of ECU 4 500 000 or more or to be awarded a grant at a nominal intensity of 15 % or above is notified in advance to the Commission for approval.

Following its social and economic analysis of the areas in question in accordance with the method for implementing Article 92 (3) (c) of the Treaty on regional aid, the Commission took the following decisions on 18 March 1987 :

(a) to make no objection to the implementation of the aid in the formerly eligible areas in the arrondissement of Le Havre (Seine-Maritime), the conversion centres of Caen, Dunkirk and Fos and in the area of Roubaix-Tourcoing. The Commission took into account the persistent high level of unemployment (Le Havre, Roubaix-Tourcoing) and the unfavourable trend in industrial employment (Caen, Dunkirk, Fos), chiefly due to job losses in steel and shipbuilding ;

(b) to open the Article 93 (2) procedure against the retention in the 'exceptional' PAT area of all the previously eligible areas in the departments of Eure, Sarthe, Doubs, Territoire de Belfort and, in the department of Haute-Saône, the previously eligible arrondissement of Vesoul and the conversion centre of Le Creusot, for the reason that none of these areas, except for the Haute-Saône, have economic characteristics (level of structural unemployment and GDP per inhabitant) making them eligible for regional aid. As regards the Haute-Saône, with a GDP per inhabitant of 66 and therefore below the threshold value of 77,

[1] OJ No L 11, 12. 1. 1985, p. 28.

the exact figure was not known at the time for statistical reasons, so it was decided to initiate the procedure pending confirmation.

The Commission informed the French Government of the decision by letter No SG (87) D/3741 dated 20 March 1987, and the other Member States by letters dated 12 June 1987, giving them notice to submit their comments. The interested parties other than the Member States were informed in a communication published in the *Official Journal of the European Communities*(1), giving them notice to submit their comments.

In the course of the consultation procedure, the Government of a Member State other than France expressed agreement with the Commission's analysis. The French Government also submitted its comments, but did not contest the Commission's analysis, only providing details on the social and economic position of the regions in question.

As regards the question of effects on competition, the Commission considered that it was not possible to distinguish between a PAT area and a non-PAT area in which an exceptional PAT grant is awarded on a case-by-case basis. It therefore studied the areas in question using the method for determining regional aid areas.

Aid awarded under the regional planning grant (PAT) scheme to promote investment in industry is covered by Article 92 (1) of the Treaty.

It is awarded for eligible investment by undertakings located in development areas. These undertakings are privileged in the sense that their investment costs them less.

This reasoning is not in any way weakened by the argument that regional aid only compensates for the drawbacks of being located in a development area. In the first place, compensation for the disadvantages of a given site still helps a company by reducing its installation costs. Secondly, in most cases the drawbacks cannot be calculated sufficiently precisely to determine the amount of aid to offset them exactly. Lastly, and most importantly, regional aid granted by Member States is usually sufficiently high to constitute an incentive for companies to establish themselves and invest in certain areas.

The abovementioned aids distort competition ; financial aid awarded to an undertaking leads to a calculable improvement in its profits and increases its range of opportunities in relation to competitors not receiving such aid.

To the extent that the aid enables undertakings to relocate, it must also be regarded as distorting competition within the meaning of Article 92 (1). A system which ensures that competition in the common market is not distorted (Article 3 (f) of the Treaty) means that firms must establish themselves completely independently without being influenced or guided by the aid.

The aid also affects intra-Community trade. The evaluation of development areas cannot extend to a definite prediction of the markets of recipient firms, as it does not apply to a concrete case but to a general system whose recipients are not known beforehand. On the basis of experience, however, it can be said that certain recipients take part in intra-Community trade.

As stated above, financial aid strengthens the position of its recipients in relation to their competitors. To the extent that this takes place in a context of intra-Community trade, it must be regarded as affecting such trade.

The foregoing considerations all indicate that the aid awards under the PAT scheme are covered by Article 92 (1).

Since the aids are regional aids, it is necessary to establish whether they qualify for exemption under Article 92 (3) (a) and (c). The exemption would apply in particular only when the Commission is satisfied that market forces alone would be insufficient to guide potential recipients towards patterns of behaviour that would serve one of the objectives referred to in the exemption clauses.

To invoke the exceptions in the case of aid that did not serve such an objective would be to alter trading conditions between Member States and distort competition without any compensatory benefits for the Community.

In applying the principles set out above in its scrutiny of regional aid schemes, the Commission must satisfy itself that the regions concerned are suffering from problems that are sufficiently serious, compared with the situation in the rest of the Community, to require the grant of aid at the level proposed.

The scrutiny must establish that the aid is essential if the objectives specified in Article 92 (3) (a) or (c) are to be attained. Where this cannot be demonstrated, it must be assumed that the aid does not serve the objectives specified in the exception clauses, but does little more than further the interests of the recipient.

(1) OJ No C 176, 4. 7. 1987, p. 5.

Article 92 (3) (a) of the Treaty provides that, in order to be compatible with the common market, aid should promote the development of areas where the standard of living is abnormally low or where there is serious under-employment In its Decision 85/18/EEC on the French regional planning grant scheme (PAT) the Commission had already considered, on the basis of a detailed social and economic analysis of the regions of metropolitan France, that the exception provided for in Article 92 (3) (a) could not be invoked because the regions did not have an abnormally low standard of living or serious under-employment.

The only exception that can be considered in the present case is therefore that provided for in Article 92 (3) (c) for aid to facilitate the development of certain economic areas which does not affect trading conditions to an extent contrary to the common interest. In order to ensure that its analysis is logical and objective from the Community point of view, the Commission has developed a general method for implementing Article 92 (3) (c) which makes it possible to establish thresholds for the various regions of the Member States based on structural unemployment and GDP per inhabitant. Once the threshold is reached, regional aid is in principle admissible. The method is based on available harmonized statistics at the NUTS (Nomenclature of Statistical Territorial Units) III level which, in France, is at department level. In the absence of reasons to the contrary, therefore, the analysis of the areas to be assisted is to be conducted at the NUTS III level.

As regards the proposed areas of the departments of Eure, Sarthe, Doubs and the Territoire de Belfort, the Commission can confirm its original analysis made at the time of the opening of the procedure. Firstly, the characteristics of these departments do not exceed the eligibility thresholds, i.e. 118 and 77 for unemployement and GDP respectively :

	Unemployment 1983 to 1986	GDP 1985
Eure	110	89
Sarthe	115	88
Doubs	95	104
Territoire de Belfort	109	86

Secondly, in accordance with the second part of the method for implementing Article 92 (3) (c), none of the departments has any particularly unfavourable features. Consequently, the proposed areas in the four departments do not qualify for exemption under Article 92 (3) (c).

However, the situation in the areas in the departments of Haute-Saône (arrondissement of Vesoul) and Saône et Loire (conversion centre of Le Creusot) is different.

In the Haute-Saône, the GDP index of 66 per inhabitant in 1985 (F = 100) has been confirmed and is well below the threshold value of 77. As regards the department of Saône et Loire where the conversion centre of Le Creusot is located, the GDP index is 90 and the unemployement index 113.

The location of the Le Creusot conversion centre has certain drawbacks, particularly as regards its future :

— the three travel-to-work areas of Le Creusot, Montceau-les-Mines and Chalons-sur-Saône which form the conversion centre constitute the only industrial site not only in the department but in the whole of the Bourgogne region,

— mechanical engineering and the traditional industries are strongly represented in the conversion centres : mining, textiles, iron and steel are all undergoing restructuring and constantly shedding jobs. In the centre as a whole, the number of employed persons fell by 6,2 %, from 64 900 in 1982 to 60 900 in 1985. Mining companies, the large engineering, public works and electrical equipment firms are all preparing to cut employment by some 2 000 jobs in the next few months. At the Montceau-les-Mines-Blanzy coalfield, which in 1986 employed 1 425 persons, the underground mine is to be closed by 1990,

— in addition to the job losses in industry, an estimated 800 jobs a year are lost as a result of the common agricultural policy. Between 1981 and 1986, the number of dairy farms fell from 6 000 to 3 000. As a result of introducing milk quotas, a large number of dairy cows have been slaughtered, leading to the collapse of the market in beef cattle in which the department in question specializes.

In these circumstances, the Commission considers that the arrondissement of Vesoul in the department of Haute-Saône and the conversion centre of Le Creusot qualify for exemption under Article 92 (3) (c). As a result, the exceptional award of grants under the PAT scheme, within the meaning of Article 3 of Decision 85/18/EEC on the PAT scheme, can be permitted in the areas in question for three years from 1 January 1987. In implementing the scheme, the Community rules

governing State aid must be observed, in particular those concerning the cumulation of aid for different purposes (1) and certain areas of activity in industry, agriculture and fisheries,

HAS ADOPTED THIS DECISION:

Article 1

France shall not award exceptional regional planning grants in the former PAT areas in the departments of Eure, Sarthe, Doubs and the Territoire de Belfort as such aid is not compatible with the common market within the meaning of Article 92 of the EEC Treaty.

Article 2

The exceptional award of regional planning grants under the scheme defined in Article 3 of Decision 85/18/EEC on the PAT scheme is considered to be compatible with the common market within the meaning of Article 92 of the EEC Treaty for a period of three years from 1 January 1987 in the former PAT areas of the arrondissement of Vesoul (department of Haute-Saône) and in the conversion centre of Le Creusot.

All awards involving investment of ECU 4 500 000 or more or grants at a nominal intensity of 15 % or above shall be notified in advance to the Commision under Article 93 (3) of the EEC Treaty.

In implementing the scheme, the Community rules on State aid must be observed, in particular those concerning:

— the cumulation of aid for different purposes,

— certain areas of activity in industry, agriculture or fisheries.

Article 3

The French Government shall inform the Commission of the steps it has taken to bring its rules into line with Article 1 of this Decision within two months of the date thereof.

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

(1) OJ No C 3, 5. 1. 1985, p. 2.