II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 February 1996

relating to aid granted by the French Government to Cellulose du Rhône et de l'Aquitaine (CDRA)

(Only the French text is authentic)

(Text with EEA relevance)

(96/364/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62 (1) (a) thereof,

Having given the interested parties, in accordance with the said Articles, notice to submit their comments, and having regard to those comments,

Whereas:

I

Cellulose du Rhône et de l'Aquitaine (CDRA) is a 99,9 %-owned subsidiary of the La Rochette group, which is chiefly engaged in the wood and pulp industry on the one hand and packaging on the other. The group, which employs some 3 000 persons, achieved before/tax profits of FF 783 million in 1989 and FF 345 million in 1990. It incurred losses of FF 45 million in 1991, FF 431 million in 1992, FF 634 million in 1993 and FF 144 million in 1994. The losses were entirely attributable to its wood and pulp division, of which CDRA is a part.

CDRA comprises two plants which manufacture commercial-quality bleached kraft pulp in the south of France:

— the Saint-Gaudens (Haute-Garonne) plant with a production capacity of 320 000 tonnes a year and 350 employees,

— the Tarascon (Bouches-du-Rhône) plant with a production capacity of 280 000 tonnes a year and 300 employees.

Despite an extensive modernization plan, the poor market situation meant that CDRA achieved a turnover in 1992 of FF 1 181 million, corresponding to a limited output of 456 000 tonnes (76 % of capacity). In 1993, production fell again to 408 100 tonnes, corresponding to a turnover of FF 1 105 million; CDRA itself incurred losses of FF 600 million in 1993.

In October 1993 it was decided to undertake financial restructuring, with major contributions from shareholders, the principal creditor banks and the French Government.

II

In October 1993 the Commission learnt from the press that aid was to be granted to CDRA and, by letter of 20 October 1993, requested information on these measures in order to assess them under Articles 92 and 93 of the Treaty.

France replied by letter of 9 November 1993 and, in a letter of 17 January 1994, it provided the answers to some of the specific questions posed by the Commission in its letter of 21 December 1993.

It described the crisis in the pulp market which had compromised the future of all commercial pulp producers, especially CDRA. As a result, financial restructuring had been decided on in October 1993. In that context, France had decided to reschedule the State loans and provide new financing.

Through the Caisse française de développement industriel (CFDI), the French State granted CDRA six medium- and long-term loans with a residual capital value of FF 430,3 million plus deferred interest at 30 June 1993 of FF 136 million.

After a preliminary examination of the rescheduling in relation to the contributions from other creditors and shareholders, the Commission noted that the entire amount loaned by the State through CFDI would have been lost if CDRA had been put into receivership. The banks for their part would have lost some 80 % of their claims. Thus, as a result of their agreement, the principal creditors are able to recover more of their claims than in the event of a winding-up. In view of the fact that the transfers of State resources did not exceed those of the banks, the Commission decided that the alterations to the existing loans under the creditors' agreement of October 1993 and the concomitant granting of an additional loan did not constitute aid.

The Commission found, however, that the six loans, granted in the past by CFDI to CDRA and guaranteed by the State, already constituted State aid. Despite the fact that a loan of FF 300 million granted in 1978, a loan of FF 60 million in 1981 and three loans totalling FF 199,5 million in 1982 exceeded the notification thresholds for FDES (Economic and Social Development Fund) loans, they had not been notified to the Commission in advance in accordance with Article 93 (3) of the Treaty.

The Commission also noted that the balance of FF 430,3 million considerably exceeded the residual amount of FF 258 million which would have been due on 30 June 1993 according to the repayment timetables drawn up when the loans were granted. The Commission concluded that the terms of the loans had therefore been altered in favour of CDRA, again without the Commission having been notified beforehand.

The Commission also took account of the fact that France had decided, as part of the rescheduling referred to above, to grant CDRA FF 100 million, of which FF 50 million had been paid in 1993 and the balance in 1994, in order to improve wood supplies and environmental protection. This grant had not been notified to the Commission either.

Following a preliminary examination under Article 92 of the Treaty, the Commission reached the conclusion that the aid in question was liable to distort competition and affect trade within the meaning of Article 92 (1) of the Treaty and Article 61 (1) of the EEA Agreement. At that stage, it expressed doubt as to the possibility of applying one of the derogations from the principle of incompatibility of the aid in question with the common market and therefore decided to initiate the procedure provided for in Article 93 (2).

By letter of 5 April 1994, the Commission gave the French Government notice to submit its comments.

III

France sent comments under the procedure by letters of 11 May and 12 October 1994. It also, at the request of the Commission, provided further details at a bilateral meeting held on 3 May 1995, and by letter of 14 September 1995.

It pointed out that there was very little intra-Community competition in the production niche occupied by CDRA and that the French measures had not created distortions of competition. As for the grant of FF 100 million, it pointed out that it was a lump-sum grant which could be assessed only as part of the overall CDRA restructuring plan. It nevertheless sent the details of a series of environment-linked investments aimed at improving wood supplies which would be financed from the grant. France also provided information to justify the five loans referred to in the procedure and the later adjustments, as well as the details needed to calculate the corresponding aid.

Following publication of the letter from the Commission dated 5 April 1994 in the *Official Journal of the European Communities*[1], the Commission received comments from a German paper pulp producer. The comments were forwarded to France by letter dated 27 September 1994, accompanied by a request for it to submit any comments. Comments were provided in the abovementioned letter of 12 October.

[1] OJ No C 206, 26. 7. 1994, p. 7.

IV

The FF 100 million granted in 1993 to CDRA constitutes aid to that firm since it relieved it, through State resources, of part of the investment costs it would otherwise have borne.

Similarly, the loans granted by CFDI with a State guarantee through the FDES constitute aid. The Commission defined its position in this respect in 1972 and 1973 (1), namely, that FDES loans are granted on terms (interest rates, duration, repayment and security) that are more favourable than those which enteprises could obtain either on the financial market, or from credit establishments. In accordance with its general position at the time with regard to general aid schemes, the Commission requested France to inform it, pursuant to Article 93 (3) of the Treaty, of sectoral application schemes or, failing that, significant individual grants.

France replied that the following loans had been granted to CDRA: on 17 July 1978 an ordinary loan of FF 300 million partly converted into an equity loan in June 1981 and fully converted in March 1983; on 7 April 1981 an equity loan of FF 60 million, the terms of which were altered in March 1983; on 23 March 1982 an equity loan of FF 46 million, the terms of which were adjusted in March 1983; on 14 October 1982 two equity loans of FF 96 million and FF 57,5 million; on 21 August 1986 an equity loan of FF 8 million. In May 1990 and June 1992 the duration of the loans was extended and the terms again adjusted in favour of CDRA.

The sixth loan of FF 8 million granted in 1986 did not reach the notification threshold and was therefore considered compatible with the common market under the Commission decision on FDES loans. On the other hand, the first five loans should have been notified in advance. Their compatibility with the common market must therefore be assessed under Article 92 of the Treaty.

The Commission calculated the aid element in the first five loans and their adjustments. It found that the difference between the interest actually paid by CDRA and the amount it would otherwise have had to pay, on the basis of the reference rate used to calculate net grant equivalent which was in force when the loans in question were granted, would have totalled FF 561 million up to the rescheduling agreed by the CDRA creditors in 1993.

(1) *Third Competition Report*, points 113 and 114.

The Commission calculations were presented to the French authorities, who confirmed that the amount was correct. The total of FF 561 million included a debt of FF 136 million owed by CDRA in 1993. The debt having been written off following the creditors' agreement already approved by the Commission, the amount of aid actually enjoyed by CDRA through the five loans in question is FF 425 million.

V

Paper pulp is traded between Community countries and EEA countries and there is competition between producers. In the course of the procedure, France considered that the aid to CDRA had had little effect on competition and that it preceded the entry into force of the EEA Agreement. It pointed out, in particular, that the world pulp market essentially consists of two separate products: bleached softwood kraft pulp and bleached hardwood kraft pulp. Each paper maker purchases several softwood and hardwood pulps which are then evaluated and processed according to the quality of paper he produces and his purchase prices. Substitution of one type of pulp for another is very rare. In the hardwood pulps, substitution is possible between eucalyptus pulp and the pulp produced by CDRA. In the softwood pulps, substitution is possible to some extent between Scandinavian softwoods, the pulp produced by CDRA and pulp imported from third countries (southern pines). Only CDRA was producing commercial bleached softwood kraft pulp in the Community as at 31 December 1994. This pulp currently accounts for almost two-thirds of sales by CDRA and should reach three-quarters in the future. The French authorities also pointed out that, as Community output totals only some 5,5 million tonnes, 10 million tonnes are imported, of which 2 million tonnes from Sweden and 1 million from Finland. France also stressed that the aid in question had been granted before the entry into force of the EEA Agreement.

The Commission agrees with the French authorities' definition of the pulp market. It considers, however, that the definition does not affect its initial finding that there is some competition in the industry in question and that the situation in the new Member States and the EEA is not relevant. The French authorities themselves had pointed out in their letter of 9 November 1993 that there were five Iberian producers of short-fibre bleached eucalyptus kraft pulp with a combined capacity of 1 535 000 tonnes and identical markets to those of Saint Gaudens. This fact was not disputed in the procedure.

When State aid strengthens the position of certain firms in relation to their competitors in the Community, it must be regarded as affecting competition with those firms.

In view of the foregoing, the aid granted by France to CDRA affects trade between Member States and distorts or threatens to distort competition within the meaning of Article 92 (1) by favouring the firm concerned.

Article 92 (1) establishes the principle of incompatibility with the common market of aid having the characteristics set out therein.

The exceptions to this principle set out in Article 92 (2) are not applicable in the present case owing to the nature and objectives of the aid in question, nor were they invoked by France.

VI

1. Article 92 (3) of the Treaty lists the aid 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 in that of a single Member State. In order to ensure the proper functioning of the common market, and having regard to the principles set out in Article 3 (g) of the Treaty, the exceptions listed in Article 2 (3), to the principle provided for in Article 92 (1) must be construed narrowly when any aid scheme or an individual aid award is scrutinized.

   In particular, they may be invoked only when the Commission is satisfied that, without the aid, market forces alone would be insufficient to guide the recipients towards patterns of behaviour that would serve one of the objectives of the said exceptions.

   To exempt cases not contributing to the achievement of such objectives or where the aid is not necessary for that purpose would be to confer unfair advantanges on the industries or entreprises of certain Member States and stengthen their financial position; it would also be laible to affect trade between Member States and distort competition without any justification in the common interest as provided for in Article 92 (3).

2. With regard to the exemption provided for in point (a) of Article 92 (3) for aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious under-employment, the Haute Garonne and Bouches du Rhône regions where the CDRA production plants are located do not have the characteristics that would qualify them for exemption.

3. As regards the exemptions provided for in point (b) of Article 92 (3), the aid in question is 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 have the French authorities requested exemption on these grounds.

4. With regard to the exemption provided for in point (c) of Article 92 (3) for 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 interests, it should be noted that the Saint-Gaudens and Tarascon plants are located in areas where investment aid may be granted under the regional exemption referred to above. Between 21 December 1978 and 11 August 1982, the approved aid levels amounted to 20 % net for Tarascon and 30 % for Saint-Gaudens. Since 11 August 1982, the regional planning grant scheme (PAT) has been applicable, giving a gross rate of 17 % for the two plants.

5. *The loans*

   As part of the procedure, the Commission was informed of the amount and nature of the investments financed by the series of loans granted to CDRA up to the creditors' agreement in 1993.

   The first loan of FF 300 million, granted in 1978 and adjusted in 1981 and 1983, and the second loan of FF 60 million, granted in 1981 and adjusted in 1983, were used to finance a major investment programme of FF 849 million which served, among other things, to increase production capacity at Tarascon from 90 000 to 200 000 tonnes a year. The Commission concludes, on the basis of the conditions applicable to the loans and the ceilings in force at the time, that the aid contained in the two loans and the first two adjustments is well below the level of aid it had decided to allow for the areas in question, in view of the fact that no other aid was received for the investments in question.

   The three equity loans totalling FF 199,5 million were granted in 1982 at the time of CDRA's first financial restructuring. The plan adopted in August 1982 included a shareholders' contribution in the form of a debt waiver and capital conversion of FF 190 million, an injection of fresh capital of FF 183,5 million, a debt write-off by the creditor banks of FF 50 million, new loans of FF 88 million and a favourable rescheduling of loans totalling FF 142 million. The Commission notes that the plan in question is similar to the 1993 plan to which it had not objected.

The Commission also notes that it was decided to invest heavily in the two plants in 1982 in order to enhance CDRA's profitability, in view of the obvious difficulties it was having in staying afloat in the cyclical downturns experienced in the pulp industry. The investment in Saint Gaudens and Tarascon, which did not benefit from any other aid, totalled FF 808 million. The Commission notes that the aid, in the form of three equity loans granted to CDRA in 1982, is below the level which could have been granted under the regional exemption.

In May 1990 and June 1992, the following adjustments were made to the five loans: their duration was extended by a total of three years, repayment of the principle, due in 1991, 1992 and 1993, was carried forward to 1993, deferred interest payments due in 1990, 1991, 1992 and 1993 were postponed to two years following the last repayment date, the fixed interest applicable to repayment dates between 1 March and 31 December 1990 was reduced to 0,1 %, only this fixed part being due for that period; the contractual interest was reestablished from 1 January 1991. These adjustments resulted in additional aid which may be quantified at FF 16,7 million. The Commission notes that CDRA invested FF 440 million in the period 1990 to 1992, investments not benefiting from any other aid, and that the aid thus granted to CDRA in 1990 and 1992 is below the level of aid which could have been granted under the regional exemption.

The Commission checked that the aid contained in the five loans granted to CDRA and the adjustments to those loans does not exceed the ceilings applicable to regional aid in Tarascon and Saint-Gaudens. It is true that the FDES loan scheme is a general one, which means that it is not limited to regions eligible for regional aid. According to the principles for the coordination of regional aid, general aid covering the entire national territory may not be granted in the form of regional development aid [1]. In determining the compatibility of such aid in a specific, notifiable case, the Commission must nevertheless take account of both its regional and its sectoral effects. According to the case-law of the Court of Justice, the fact that aid is granted on the basis of an *ad hoc* decision does not rule out its being described as regional aid (Judgment of 14 September in Joined Cases C-278, 279, 280/92, *Spain* v. *Commission*, (Hytasa) paragraph 49). The Commission assesses such aid on the basis of the following two criteria: first, its contribution to regional development whilst remaining below the regional aid ceiling and, second, its effects on the sector concerned, taking account of the latter's characteristics.

With regard to the first criterion, the investment aid in question complied with the regional aid ceilings applicable to Saint-Gaudens and Tarascon. As regards the contribution of the aid to regional development, the Commission notes that CDRA has become, through the aid in question, an enterprise with plant that is modern and capable of attaining the highest quality standards. Its production capacity is at a level which should be competitive. It is true that the crisis in the period 1991 to 1994 threatened the existence of CDRA and that a creditors' agreement was necessary in order ot avoid collapse. However, it must also be acknowledged that the crisis was exceptionally long and serious and that CDRA became profitable again in the second half of 1994. The Commission recognizes that the aid in the form of loans was essential for the two CDRA plants to attain their present level.

As regards the sectoral effect of the aid, the Commission refers to the analysis contained in section V, in particular the fact that the Community was a net importer of pulp. The pulp market is very much a worldwide, cyclical market. Only Community producers with modern, competitive and profitable production tools have been able to overcome the difficulties due to the economic climate. The Community of Twelve was a net importer of pulp, Community production being considerably lower than demand. From a Community standpoint, the sectoral problem was therefore not one of possible over-capacity but a lack of competitiveness in its pulp industry. Several so-called integrated commercial pulp plants which had failed to adapt sufficiently were closed down. These closures had considerable negative effects on the forestry and logging industry. The Commission notes that CDRA obtains its supplies from the forests in south-eastern France, an area constantly threatened by fire owing to the climate and poor forest maintenance. The Commission acknowledges that the loss of the outlets represented by the two CDRA plants would have led to a further deterioration of these forests and, consequently, a greater risk of fire, at the same time affecting rural development, notably by increasing desertification.

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

In assessing the compatibility of the aid in question, the Commission took account of the comments submitted as part of the procedure by a manufacturer of bisulphite pulp. This company had also experienced serious difficulties since the beginning of the 1980s due to stronger international competition and the increasingly severe constraints of environmental protection. This company confirmed that the fall in profits, which particularly affected European commercial pulp producers, resulted in the winding-up of several German firms. It had itself been saved by one of its shareholders, and had set up a paper manufacturing plant. No State aid had been granted to save it during the difficult period or for the major investment it had made. It pointed out that the grant of State aid to CDRA was a serious infringement of the principle of equal opportunity in the field of competition.

It should be noted in this respect that the firm in question is not located in one of the areas eligible for specific regional aid under the exemption provided for in points (a) or (c) of Article 92 (3). There is thus an important difference between the position of that firm and that of CDRA with regard to the compatibility of investment aid with the common market.

For all these reasons, the Commission concludes that the aid in the form of FDES loans to CDRA, which replaces regional aid and is within the limits approved for regional aid schemes in France, resolved the problem of CDRA's lack of comeptitiveness without affecting trade to an extent contrary to the common interest. From a Community standpoint, the positive effects of the aid were greater than its negative effects on competition. The Commission therefore decided that the aid qualified for exemption under point (c) of Article 92 (3) of the Treaty.

6. *The grant*

In response to its request, the Commission received details of the investments financed from the 1993 grant of FF 100 million. They related partly to environmental matters and partly to wood supplies.

The Commission examined the investments on the basis of the Community guidelines on State aid for environmental protection (1).

It notes that FF 162,2 million was invested in technology that eliminates the need for chlorine gas at Saint-Gaudens. The aim is to reduce the discharge of absorbable organic halogen compounds (AOX) by using an oxygen pre-bleaching plant and a second chlorine dioxide production line using purchased liquid sulphur dioxide. The environmental impact of the AOX goes beyond existing standards in France. No other aid was granted for the investment.

A total of FF 192,25 million was invested in eliminating the need for chlorine gas at Tarascon. This involves a different process from that used at Saint Gaudens, as it is based on fine control of the cooking of the pulp. The reduction in the environmental impact of the AOX is well below existing requirements in France. The Tarascon investment received other aid from the Agence de Bassin in the form of a grant of FF 15,97 million and an interest subsidy of FF 3,35 million.

The Commission verified that the investments in question did not lead to an increase in production capacity or to a reduction in operating costs. On the contrary, as both sites, the additional production costs resulting from the investments greatly exceed the savings generated.

Point 3.2.3.B of the Community guidelines on State aid for environmental protection provides that aid for investment that allows significantly higher levels of environmental protection to be attained than those required by mandatory standards may be authorized up to a maximum of 30 % gross of the eligible costs. Similarly, point 3.2.3.C of the guidelines provides that firms undertaking investment that will significantly improve on their environmental performance or match that of firms in other Member States in which mandatory standards apply may be granted aid at the same levels and subject to the same conditions of proportionality as for going beyond the standards provided for in point 3.2.3.B.

The Commission considers that the chlorine gas removal standards achieved in the present case qualify for the full application of the possibility offered in point 3.2.3.B of the guidelines, especially in view of the toxicity of the product. It therefore considers that a grant of 30 % gross of the cost of the investments in question is justified. Taking account of the other aid granted for that purpose, an amount of FF 87 015 000 of the FF 100 million may be regarded as compatible with the common market under point (c) of Article 92 (3).

(1) OJ No C 72, 10. 3. 1994, p. 3.

France also pointed out that a biological treatment plant had been built at Saint-Gaudens which also treats the town effluent. The investment costs borne by CDRA were FF 85 million. It obtained aid from the Agence de Bassin in the form of a grant of FF 5,92 million and an interest subsidy of FF 12,68 million, representing 21,9 % of the investment. Whilst taking account of the argument put forward by the French authorities that the biological treatment plant goes well beyond what is 'usual' and that discharges in other Member States are often considerably higher, the Commission considers that an aid of 21,9 % adequately represents the environmental improvement achieved by the investment and that no additional aid is justified.

France stated that a decision had been taken to invest FF 24 million in Tarascon for the combustion of malodorous gases. Continuous combustion of such gases is a requirement imposed by a prefectural decree of 1991. No other aid had been granted for that investment and it had not produced any operating savings, indeed the contrary was true. According to point 3.2.3.A of the guidelines, the Commission could authorize aid up to the level of 15 % gross of the cost of an investment to comply with new mandatory standards. Taking account of the information sent by France, the Commission considers that an investment aid of 15 % gross, i.e. FF 3,6 million, is justified. It does not agree, however, with France's argument that an aid of 16,76 % might be justified since the decision to invest was taken under the previous guidelines which allowed aid of up to 15 % net for such investments. In cases of illegal aid, the Commission applies the law in force at the time of the decision.

Lastly, France provided information on an investment at Tarascon aimed at removing at source the production of wood dust. No other aid had been granted for that investment. The Commission had in the past approved dust reduction as one of several elements (noise reduction, traffic reduction, dust reduction), to justify environmental aid [1], the recipient of the aid being situated in the residential area of a tourist town. The Commission considers that an investment that has no effect other than reducing dust in an enterprise does not qualify for exemption if there are no other special circumstances; no such circumstances emerge from the information sent by France. Furthermore, the Commission considers that the firm itself is the principal beneficiary of a reduction of dust. It does not therefore agree with France that the investment in question has no economic advantages for CDRA.

In conclusion, the Commission considers that the grants of FF 87,015 million and FF 3,6 million are justified under the Community guidelines on State aid for environmental protection.

The Commission found no justification for the balance of FF 9 385 000 of the FF 100 million grant to CDRA in 1993 and 1994.

In the course of the procedure, France answered the Commission's questions on the impact upstream of CDRA's investments in creating extra wood capacity at Saint-Gaudens. In particular, an investment of FF 45,8 million was aimed at creating extra stocks of 100 000 m^3 of wood, chiefly in the interest of the forestry contractors and forestry operators. The Commission notes in this connection that forestry aid, within the limits set out in Council Regulation (EEC) No 867/90 [2], might be justified. In the case in point, however, the aid is not granted to forestry undertakings but to CDRA which is not engaged in first-stage wood processing. By letter dated 30 March 1995 the Commission informed France of its provisional conclusions in the present procedure, stating that the investment enabling wood stocks to be increased did not appear to satisfy the criteria of the guidelines on aid for environmental protection. The Commission notes that the reply from the French authorities dated 14 September 1995 did not throw any fresh light on the matter. Consequently, the aid does not qualify for exemption under Article 92 (3) of the Treaty.

VII

As France failed to notify the aid in question before granting it or altering it, as provided for in Article 93 (3), the Commission was unable to give its opinion on the measures before their implementation. The aid has therefore been illegal under Community law since the decision to grant it was taken. The situation resulting from this failure to satisfy an obligation is paricularly serious as the aid has already been paid to the beneficiary, and part of the aid is regarded as incompatible with the common market.

[1] OJ No C 271, 29. 9. 1994, p. 17.

[2] OJ No L 91, 6. 4. 1990, p. 7.

Where aid is incompatible with the common market, the Commission is entitled, pursuant to the case-law of the Court of Justice, to take a decision requiring Member States to recover aid granted illegally from the recipients. The economic effect of the aid in question must be nullified; consequently, interest must be added to the amount owed, calculated from the date on which the aid was granted or adjusted, the rate of interest being identical to that serving as a basis for the reference rate used to calculate the net grant equivalent of aid schemes which was in force when the aid in question was granted or adjusted. In 1994, the year in which the second tranche of the FF 100 million was paid, the reference interest rate was 8,93 %,

HAS ADOPTED THIS DECISION:

Article 1

1. The aid granted in 1978, 1981 and 1982 to Cellulose du Rhône et de l'Aquitaine (CDRA) in the form of the loans totalling FF 559,5 million and the adjustments to these loans in 1981, 1983, 1990 and 1992 are unlawful, as they were granted in breach of Article 93 (3) of the Treaty. The aid may, however, be regarded as compatible with the common market pursuant to point (c) of Article 92 (3) of the Treaty.

2. Aid totalling FF 100 million granted paid in the form of a grant in 1993 is also unlawful as it was also granted in breach of Article 93 (3). Of that aid, an amount of FF 90 615 000 is compatible with the common market pursuant to point (c) of Article 92 (3).

Article 2

Of the FF 100 million referred to in Article 1 (2), an amount of FF 9 385 000 is incompatible with the common market pursuant to Article 92 (1) of the Treaty.

Article 3

France shall abolish the aid of FF 9 385 000 referred to in Article 2 and shall order its recovery within two months of the date of notification of this Decision. Interest of 8,93 % shall be paid on that amount, starting to run from the date on which the aid was paid to the recipient.

Article 4

France shall inform the Commission, within two months of the date of notification of this Decision, of the measures it has taken to comply herewith.

Article 5

This Decision is addressed to the French Republic.

Done at Brussels, 21 February 1996.

For the Commission

Karel VAN MIERT

Member of the Commission