COMMISSION DECISION

of 18 December 1996

ECSC steel — Forges de Clabecq

(Only the French and Dutch texts are authentic)

(Text with EEA relevance)

(97/271/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 4 (c) thereof,

Having regard to Commission Decision No 3855/91/ECSC of 27 November 1991 establishing Community rules for aid to the steel industry [1],

Having given the parties concerned the opportunity to submit their comments [2], in accordance with the above-mentioned Decision, and having regard to those comments,

Whereas:

I

In June 1996 the Belgian authorities notified the Commission, in accordance with Article 6 (2) of Decision No 3855/91/ECSC (hereinafter referred to as the 'Steel Aid Code'), of financial assistance to be granted by the Region of Wallonia, through Société wallonne de sidérurgie (SWS), a company which it wholly owns, to the undertaking Forges de Clabecq, an integrated steel plant which produces liquid steel and finished flat products, namely sheet and flattened slabs.

The assistance was planned as part of the restructuring of the undertaking and consisted chiefly of a capital injection of Bfrs 1 500 million. Pending Commission authorization of this assistance and to enable the undertaking to continue to operate, rescue measures were taken, such as restructuring of the undertaking's long-term debt, the waiver of claims by SWS and its subsidiary SA Forges Finances, and the grant of bridging loans.

Belgium takes the view that no aid elements are involved. On the basis of the information then available, the Commission was unable to share Belgium's opinion. Consequently, in order to obtain as much information as possible and to give interested parties the opportunity of commenting on the case, the Commission decided to initiate the procedure provided for in Article 6 (4) of Decision No 3855/91/ECSC.

In the framework of that procedure, the Commission received Belgium's reply on 25 October 1996 and nine letters from interested parties, eight of which were communicated to the Belgian authorities for comment on 15 November 1996 and one on 20 November 1996. Three other letters were received but were not taken into account by the Commission since they were dispatched after expiry of the time allowed for comments. Belgium presented its observations on those comments by letter of 27 November 1996.

II

Forges de Clabecq is an integrated steel plant which produces liquid steel and finished flat products, namely sheet and flattened slabs. In 1995/96, it produced 725 000 tonnes of cast iron, 710 000 tonnes of steel (slabs) and 504 000 tonnes of sheet and flattened slabs. Annual production capacity is 1 250 000 tonnes of cast iron, 1 500 000 tonnes of steel and 980 000 tonnes of hot-rolled sheet. Monthly turnover is in the order of Bfrs 900 million. The workforce stood at 2 145 employees on 31 January 1996.

In June 1996, the undertaking had capital resources of Bfrs 51 million and financial debts of Bfrs 3 443 million, together with other debts (commercial, social and tax debts) totalling Bfrs 1 997 million.

After having studied various possibilities regarding the future of the undertaking the Region of Wallonia, through SWS, decided to take control of Forges de Clabecq and drew up a recovery plan for the undertaking, accompanied by a number of conditions. Before restructuring, the authorized capital of the undertaking was Bfrs 3 080 million, broken down as follows: SWS, 39 %; Socindus (private), 21,3 %; and the general public through stock exchange quotations, the remainder (nearly 40 %). Since 17 June 1996, the Belgian State, through SWS, has held 60,4 % of the shares.

[1] OJ No L 362, 31. 12. 1991, p. 57.
[2] OJ No C 301, 11. 10. 1996, p. 4.

After having considered various scenarios, the Region of Wallonia decided to maintain Forges de Clabecq as an integrated steel plant, while at the same time refocusing on a limited range of products for which the undertaking was in a more advantageous position. This option was taken against the advice of an independent expert who had come to the conclusion that Forges de Clabecq could survive in its existing industrial structure only if its capital was increased by Bfrs 4 500 million and that, in any event, it could possibly survive in that structure for five years at the most.

Total production would be limited in volume to 550 000 tonnes of hot-rolled sheet and 790 000 tonnes of slabs (including 150 000 tonnes for sale). Excess output from the liquid stage, and at least 200 000 tonnes, had to be disposed of externally, the Boël group having undertaken to continue to take the same tonnage as in recent years.

A social contract was signed with the employees in June 1996. The workforce was to be cut by 700 in the period up to June 1998. Most of the shedding of the workforce (560) was to be through early retirement and only 140 jobs were to be lost through redundancies/voluntary departures.

So as to enable the undertaking to continue to operate pending a final Commission decision, the Region of Wallonia implemented the following measures:

(1) the grant of bridging loans (so far amounting to Bfrs 700 million) as advance payments on the capital increase;

(2) the waiver of loan claims by SWS and its subsidiary SA Forges Finances totalling Bfrs 802 309 274;

(3) the rescheduling of the undertaking's debts to the financial institutions Belfin (50 % in public hands) and SNCI (recently privatized).

III

The Belgian authorities maintain that the measures taken to assist Forges de Clabecq do not constitute aid. They have presented the following arguments and clarifications in response to the decision to initiate the procedure:

(a) *The description of the case*

The Belgian authorities argue that the return to profit is not solely dependent on reducing the workforce. The job shedding results exclusively from refocusing the undertaking's industrial and commercial activities on the markets in which it is well placed and the product niche in which the finishing mill is efficient, margins are best and the undertaking faces least competition from strip mills and wide sheet mills.

The Belgian authorities also state that the outside financing for social measures will normally be provided through the compensation fund for workers made redundant in the event of company closures, in pursuance of the general legislation enabling the current restructuring to be treated in the same way as a closure. The maximum theoretical ceiling for assistance by this fund is set at Bfrs 553 667 000. The Belgian authorities therefore take the view that no aid is involved.

(b) *Legal basis*

The Belgian authorities regard the Commission's position as based on too restrictive an interpretation of the ECSC Treaty rules on aid, particularly when it comes to assessing a capital injection by a public undertaking. The Commission's position leads *inter alia* to a denial of the State's public-service responsibilities. The Belgian authorities therefore take the view that, because of its abstract and general nature, the principle of the market-economy investor often proves inappropriate for determining whether or not a measure involves State aid. The principle disregards any social, regional or sectoral policy considerations.

(c) *Capital injection*

Irrespective of those considerations, the Belgian authorities maintain that a private investor would have taken the same decision as SWS with regard to Forges de Clabecq. It frequently happens that private shareholders judge the cost of abandoning an ailing company to be so high that it is preferable to continue supporting it in an attempt to save at least some of the existing assets. That is the case with Forges de Clabecq.

The Belgian authorities consider that the withdrawal of private shareholders from Forges de Clabecq is not due to their lack of confidence in the prospects for restoring the company's viability but can be accounted for by three factors:

— the private shareholders' lack of financial resources,

— management shortcomings to be attributed to the private shareholders,

— SWS's wish to reap the benefits of the efforts undertaken so far.

The Belgian authorities also maintain that the fact that SWS is fully controlled by the Region of Wallonia does not mean that the capital injection by SWS is financed from public funds. The recapitalization will in fact be financed by SWS's own funds.

According to the Belgian authorities, the action by SWS, which followed the same logic as that of a private investor in the same circumstances, was therefore aimed, by means of a limited, temporary investment and in return for major efforts on the part of both the undertaking itself (reorganization, cost cutting and capacity reductions) and its workforce (large job losses), at safeguarding the efforts already made and thereafter reaping the benefits. As any shareholder should do, SWS also legitimately took account of its economic and social obligations towards the undertaking and towards the economic conversion of Walloon Brabant.

According to the Belgian authorities, the Commission also attaches priority to the reduction of production capacities. The action taken by SWS in the case of Forges de Clabecq is in line with this principle. A restructuring plan enabling the undertaking to adjust to the economic situation has thus been drawn up, the implementation of which involves a reduction in its production capacities.

The Belgian authorities stress that the objective pursued is to arrive at a lasting solution to the problem of Forges de Clabecq through action commensurate with the economic problems which the undertaking has to face and with a view to enabling it to adjust to Community-wide competition and prepare for privatization.

According to the Belgian authorities, these different considerations demonstrate that the measures in question do not constitute State aid but can, at the very most, be regarded as a derogation from the rules prohibiting State aid as introduced by the Commission.

The Belgian authorities stress that an unconditional and immediate negative decision on Forges de Clabecq by the Commission would seriously jeopardize the conversion plan for the western part of Walloon Brabant. That plan, which is supported by the Walloon Government and local authorities, relies on maintaining a certain level of industrial and service activity in the area concerned. It would be paradoxical if the Commission were to nip this plan in the bud while at the same time providing constant support for the revival of regions facing serious economic difficulties.

(d) *Rescheduling of debts*

The Belgian authorities point out that Belfin is not a public body since half of its shares and of its management structures are in private hands. Similarly, SNCI is controlled by CGER, which in turn is controlled by the private group Fortis AG. Contrary to what the Commission claims, they are therefore not public bodies. Furthermore, the loans granted by Belfin to Forges de Clabecq are not backed by a State guarantee.

According to the Belgian authorities, it is incorrect to claim that these bodies made deferment of their claims conditional on an increase in the guarantees attached to their loans, since they agreed to the guarantees being maintained at the previous level.

Although the undertaking is in difficulty, it still has the short-term support of its bankers: Générale de Banque, Banque Bruxelles Lambert, Kredietbank and Banque Paribas.

The Belgian authorities conclude, in view of the foregoing, that the debt rescheduling cannot be classed as aid and corresponds to normal management by the creditors of their claims on the company in the context of a recovery plan.

(e) *Waiver of claims*

The Belgian authorities maintain that the Belgian State and the Region of Wallonia did not intervene in the waiver of claims. The claims were waived by SWS and SA Forges Finances in the context of the undertaking's restructuring plan and to ensure its liquidity.

SA Forges Finances was a company incorporated pursuant to Luxembourg law and whose liquidation was completed on 26 July 1996. It was a 99,99 % subsidiary of Clabecq Lease, itself controlled on a 50/50 basis by SWS and Forges de Clabecq. The claims waived amounted to Bfrs 302 309 274, broken down as follows:

— long-term finance: Bfrs 188 790 412,

— short-term loans: Bfrs 113 518 862.

According to the Belgian authorities, unlike other creditors, SWS also had to protect its assets as a shareholder. In this respect, it acted in the same way as any private shareholder and creditor would have done with regard to a subsidiary. The Belgian authorities also stress that it is acknowledged in most ECSC Member States that the waiver of such claims does not confer an abnormal fiscal advantage on the beneficiary and that it is therefore fully justified.

With regard to the Bfrs 500 million loan granted in 1992 and renewed since 1993 without the Commission's authorization, the Belgian authorities ask the Commission to bear in mind that it was prompted by the need to support a rescue plan while safeguarding SWS's assets. Interest on this loan, the rate of which was negotiated with the Commission, has been paid regularly.

(f) *Bridging loans*

According to the Belgian authorities, the grant of bridging loans should be regarded as a temporary rescue measure. SWS takes the view that it could not afford to take the risk of losing its subsidiary pending a definitive decision by the ECSC authorities on the measures provided for by the recovery plan. SWS also considers that the measures in question do not constitute aid and that it is therefore in its interest and it has the duty to give the recovery plan a chance of succeeding.

IV

In the course of the procedure, the Commission received comments on the measures proposed by Belgium from four competing undertakings, namely two in Germany (Preussag Stahl AG and Dillinger Hütte), one in the Netherlands (Koninklijke Hoogovens) and one in the United Kingdom (British Steel); the French steel federation (Fédération française de l'acier); the German steel producers' association (Wirtschaftsvereinigung Stahl); the British Iron and Steel Producers Association (Bispa); the Permanent Representation of France to the European Union; and the Permanent Representation of the United Kingdom to the European Union.

All the third parties who presented comments are unanimous in the view that Belgium's action to assist Forges de Clabecq constitutes State aid which is contrary to the ECSC Treaty and the Steel Aid Code. All point to the large amount of excess capacity on the heavy sheet market and the efforts made by the industry to adapt to that situation. Reference is also made to the aid received in the past by Forges de Clabecq and its difficulty in adjusting to the fierce competition in the sector. In view of its history and the current state of the market, the undertaking's present troubles cannot be regarded as temporary difficulties and a capital injection is not justified in a market economy.

According to those third parties, allowing a competitor to operate with aid in order to safeguard jobs could quite simply result in the closure of competing plants and job losses elsewhere in the Community. In the present situation, in which the steel industry is again going through a difficult phase, that could also trigger a race for illegal subsidies.

They all call on the Commission not to allow the aid measures proposed by the Belgian authorities. They also stress the need to insist that the amounts already paid be recovered.

The Belgian authorities replied to the comments sent in by third parties by informing the Commission, on 28 November 1996, that they considered that the observations they had submitted in response to its letter of formal notice adequately answered the different points made by third parties.

V

The Commission's view of the observations submitted by the Belgian authorities, after analysing them in the light of the abovementioned provisions and with due regard to the comments submitted by the third parties, is as follows:

Assessment of the case, legal basis and capital injection

The statements made by the Belgian authorities concerning the description of the case do not alter the nature of the measures taken by the Region of Wallonia to assist Forges de Clabecq.

The Commission's position on State aid to steel undertakings and the role of public undertakings in the economy is directly based on legal instruments: in the case in point the ECSC Treaty, Article 4 of which expressly prohibits State aid, and the Steel Aid Code. Neither does Community law affect in any way the rules on ownership in the Member States. The fact that the Belgian State uses public undertakings in order to fulfil its public-service responsibilities cannot therefore be accepted by the Commission as justification for conferring on public undertakings advantages that would distort or threaten to distort competition.

The Belgian authorities take the view that SWS acted in the same way as a private investor would have done in choosing the least costly option, namely to restructure the undertaking instead of closing it. The cost of closing down an ailing undertaking, whether publicly or privately owned, can indeed be high. Article 4 of the Steel Aid Code therefore provides for the possibility of aid for closures being deemed compatible with the common market under certain conditions. Where the owner of an undertaking decides to provide capital in order to restructure it, even if it is because the closure costs would be higher, care must be taken to ensure that a public undertaking does not derive an advantage from its public status and that it acts in the same way as a private undertaking would, i.e. without State aid. It is in order to determine the answer to this question that the Commission applies the principle of the market-economy investor expressly provided for in Article 1 (2) of the Steel Aid Code.

In this context, the Commission takes the view that there is a presumption that State aid is involved where the injection of capital into companies whose capital is divided between private and public shareholders makes the public holding reach a significantly higher level than originally and where the withdrawal of private shareholders is largely due to the company's poor profit outlook.

This is precisely the case with Forges de Clabecq. When the company's difficulties worsened, the private shareholder not only did not take part in the recapitalization but completely withdrew from the company, and the Belgian State purchased his holding. The arguments put forward by the Belgian authorities can do nothing to change that situation. The lack of financial resources cannot serve to justify the withdrawal, since if the investment had been regarded as viable, the private shareholder would have been able to obtain the necessary finance from the banks. If the previous private-sector management of the company is held responsible for its present difficulties, that does not change the nature of the withdrawal in any way either, but on the contrary proves that the State has replaced the private sector. The same applies to the Belgian authorities' claim that 'the State wished to reap the benefits of the efforts undertaken so far'. The region of Wallonia also failed in its efforts to find another partner who could take over all or part of the company.

The immediate origin of the funds used by SWS to make the capital injection in no way changes the nature of its involvement. SWS is a public body and its own funds, irrespective of their immediate origin, are therefore regarded as State resources for the purposes of application of the Steel Aid Code.

The Commission also takes the view that there is a presumption that State aid is involved where the financial situation of the company, and in particular the structure and volume of its indebtedness, is such that there would appear to be no justification for expecting a normal return (in dividends or in value) on the capital invested within a reasonable timescale. That is the case with Forges de Clabecq. The level of the company's indebtedness is such that its equity even became negative in September 1996. That is the result of a process which began in 1992, if not before. Since then, the company's capital base has been almost constantly eroded. On 30 June 1993, its capital still amounted to Bfrs 950,3 million; on 30 June 1994, it stood at only Bfrs 546,3 million; on 30 June 1995, it fell to Bfrs 347,5 million and on 30 June 1996 to as little as Bfrs 51 million. The company has consistently made losses: Bfrs 3 300 million in 1993, Bfrs 3 700 million in 1994, Bfrs 3 900 million in 1995 and Bfrs 4 200 million in 1996. The company is therefore experiencing not temporary difficulties but a structural crisis which calls for drastic measures and not merely a limited and temporary investment.

In view of the foregoing, the Commission can only conclude that the capital injection of Bfrs 1 500 million constitutes State aid within the meaning of Article 1 of the Steel Aid Code.

Rescheduling of debts

It is apparent from the statements by the Belgian authorities that Belfin remains under public control and SNCI is a private company; there was no increase in the State guarantees in respect of the loans granted by those financial institutions to Forges de Clabecq, but only an extension of the existing guarantees until the due dates that were postponed. The Belgian authorities also stated that the loans granted by Belfin to Forges de Clabecq are not covered by a State guarantee.

The latter statement is contradicted by a letter from Belfin to Forges de Clabecq dated 25 June 1996 (transmitted in Annex 12 to the notification), in which Belfin stated that it agreed to 'a three-year postponement of the schedule for repayment of the capital for the loans granted by Belfin to Forges de Clabecq (...) subject to the conditions (...) 4. Agreement by the State to extend its guarantee to the postponed due dates'. It is also in contradiction with the other statement made by the Belgian authorities that 'It is incorrect to claim that these institutions made the postponement of the due dates conditional on an increase in the guarantees attached to their loans, since they were satisfied with them being merely maintained (see Annex 12 to our letter of 26 July 1996)'. It is therefore clear that there already was a guarantee and that it was also extended.

The provision of a State guarantee in respect of a loan normally constitutes State aid, which should have been notified to the Commission and should not have been put into effect without the latter's approval (Article 6 (2) of the Steel Aid Code). These rules were not complied with in the case of the loans granted to Forges de Clabecq. The extension of the guarantee in respect of those loans for a further three-year period certainly increases the aid element involved in the guarantee, particularly coming at a time when the undertaking is technically almost insolvent. As was pointed out when the procedure was initiated, the amount of aid involved in the guarantee often corresponds in such cases to the total amount guaranteed, since the undertaking could not obtain the loans (or postponement of due dates) without the guarantee.

The guarantees in respect of the loans granted by Belfin and SNCI and their extension to the postponed due dates

constitute State aid. The aid is furthermore illegal since it was granted without the Commission's prior authorization, in breach of Articles 1 (2) and 6 (2) of the Steel Aid Code.

Waiver of claims

As stated earlier, the concept of aid applied in the Steel Aid Code also includes aid elements contained in transfers of State resources by institutions and bodies to steel undertakings. SWS being a public body, as was SA Forges Finances, transfers from those companies to a steel undertaking fall within the scope of Article 1 of the Steel Aid Code.

The waiver of claims by those two companies, totalling Bfrs 802,3 million (Bfrs 302,2 million by SA Forges Finances and Bfrs 500 million by SWS), constitutes State aid because it was granted without any counter-concession by private institutions and in a situation in which the undertaking was technically insolvent. It is also illegal aid since it was granted without the Commission's prior authorization, in breach of Articles 1 (2) and 6 (2) of the Steel Aid Code.

Bridging loans

The Belgian authorities have so far informed the Commission that three bridging loans have been granted totalling Bfrs 700 million. They take the view that this is a rescue measure which is necessary in order to keep the undertaking in business pending the Commission's decision and in anticipation of measures which they do not regard as constituting aid. The loans granted by SWS constitute State aid because no private financial or credit institution would have agreed to do so under market conditions. It is also illegal aid since it was granted without the Commission's prior authorization, in breach of Articles 1 (2) and 6 (2) of the Steel Aid Code.

VI

At the beginning of 1995, Community steel production had risen very substantially. However, after a period of slackening, it fell sharply in the last two months of the year such that the total for the whole of 1995 stood at 155,7 million tonnes, corresponding to a 2,6 % increase on the figure for the previous year.

During the first four months of 1996, Community steel production continued to fall sharply owing to the low level of activity in the user sectors and the general trend towards stock reduction. The total fall in production over the first four months of 1996 was around 9,3 % in comparison with the corresponding period in 1995.

In the sector in which Forges de Clabecq operates (sheet and flattened slabs), capacity utilization has remained very low. In 1995, a year in which some improvement was observed, the rate of capacity utilization for the Community as a whole (EUR 15) stood at 76 % for liquid steel and 67 % for hot-rollet sheet. From 1991 to 1994, the rate of capacity utilization in EUR 12 was 60 %, 56 %, 53 % and 62 %.

In a market in which there is so much excess capacity, the independent expert referred to above also came to the conclusion that it would be extremely difficult for Forges de Clabecq to find outlets for its products given its extremely poor competitiveness, its production costs being between 20 % and 30 % higher than the average for its European competitors and between 45 % and 50 % higher than those of its most efficient competitors. That gap could not even be bridged with the Bfrs 4 500 million investment regarded as the minimum necessary for maintaining the undertaking as an integrated steel plant. The expert therefore concluded that there was no solution enabling Forges de Clabecq to stay in business in its present industrial structure.

VII

All the financing measures analysed in the preceding section constitute aid within the meaning of Article 1 of the Steel Aid Code.

The Belgian authorities situate their action in the context of the restructuring of Forges de Clabecq and refer to the Commission's application of the capacity reduction criterion when assessing specific cases, concluding that the measures to assist Forges de Clabecq can, at the very most, be regarded as a derogation from the rules prohibiting State aid as introduced by the Commission.

A distinction should be drawn here between, on the one hand, the prohibition on State aid enshrined in the ECSC Treaty, the only exceptions to which are the aid measures referred to in Articles 2 to 5 of the Steel Aid Code, and, on the other hand, the provisions of Articles 95 of the Treaty, pursuant to which State aid for restructuring has exceptionally been approved, in specific cases, by treating it in the same way as Community aid. Aid of this type has in such cases been approved by the Commission with the unanimous assent of the Council. In the present case, Belgium has not asked for the aid to be approved, in the Community interest, using the procedure laid down in Article 95 of the ECSC Treaty.

The Belgian authorities also stress the importance of saving Forges de Clabecq in order to ensure the success of the conversion plan for the western part of Walloon Brabant. Again, the Commission can only refer to the different legal frameworks in which decisions must be taken. Forges de Clabecq is a steel undertaking and is thus subject to the rules of the ECSC Treaty, which prohibits State aid. Neither does the Steel Aid Code allow regional or restructuring aid. Any aid in connection with the plan for the western part of Walloon Brabant can be granted only to activities or undertakings which fall within the scope of the EC Treaty.

Within the meaning of Article 6 (2) of the Steel Aid Code, the Commission has to assess the compatibility of aid with the provisions of Articles 2 to 5 of that Code.

Article 2 of the Steel Aid Code provides that aid for research and development may be deemed compatible with the common market if certain conditions are met. None of the financing measures taken by the Region of Wallonia to assist Forges de Clabecq are intended to defray expenditure on research and development projects, neither did the Belgian authorities make any such claim in their notification. The measures cannot therefore be regarded as satisfying the conditions of Article 2 of the Code.

Article 3 of the Steel Aid Code provides that aid for environmental protection may be deemed compatible with the common market if certain conditions are met. None of the financing measures taken by the Region of Wallonia to assist Forges de Clabecq are intended to defray expenditure to bring plants into line with new statutory environmental standards, neither did the Belgian authorities make any such claim in their notification. The measures cannot therefore be regarded as satisfying the conditions of Article 3 of the Code.

Article 4 of the Steel Aid Code provides that aid for closures may be deemed compatible with the common market if certain conditions are met. None of the financing measures taken by the Region of Wallonia to assist Forges de Clabecq are intended to contribute towards expenditure to facilitate the closure of the undertaking, neither did the Belgian authorities make any such claim in their notification. The measures cannot therefore be regarded as satisfying the conditions of Article 4 of the Code.

Article 5 of the Steel Aid Code applies only to undertakings located in Greece, Portugal or the territory of the former German Democratic Republic. It cannot therefore apply to Forges de Clabecq. The financing measures taken by the Region of Wallonia cannot therefore be regarded as satisfying the conditions of Article 5 of the Code.

The measures taken by the Region of Wallonia to assist Forges de Clabecq, as described above, are incompatible with the Steel Aid Code and therefore with the orderly functioning of the common market.

The illegal aid already paid must be reimbursed, in accordance with the procedures and provisions of Belgian law, using as a basis for calculation of the commercial interest rate the reference rate used for calculating the net grant equivalent of regional aid. This is necessary in order to restore the previous situation by removing any financial benefit which the undertaking has improperly enjoyed since the date on which the aid was paid,

HAS ADOPTED THIS DECISION:

Article 1

The measures taken by Belgium to assist Forges de Clabecq, namely:

— a capital injection of BEF 1 500 million,

— the provision of State guarantees in respect of loans granted by Belfin and SNCI,

— the waiver of claims amounting to BEF 802,3 million (BEF 302,2 million by SA Forges Finances and BEF 500 million by SWS),

— the grant of bridging loans totalling BEF 700 million,

constitute State aid within the meaning of Article 1 (2) of Decision No 3855/91/ECSC.

Article 2

The aid measures referred to in Article 1 are incompatible with the common market since they do not satisfy the conditions laid down in Articles 2 to 5 of Decision No 3855/91/ECSC, as provided for in Article 1 (2) of that Decision, and are therefore prohibited by Article 4 (c) of the Treaty.

Article 3

Belgium is hereby required to abolish the aid measures referred to in Article 1 and demand that the illegal aid already paid be reimbursed, with interest from the date on which it was paid, within two months of the date of notification of this Decision.

Such reimbursement shall be effected in accordance with the procedures and provisions of national law, using as a basis for calculation of the commercial interest rate the reference rate used for calculating the grant equivalent of regional aid.

Article 4

Belgium shall inform the Commission of the measures taken to comply with this Decision within two months of the date of its notification.

Article 5

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 18 December 1996.

For the Commission

Karel VAN MIERT

Member of the Commission