

COMMISSION

COMMISSION DECISION

of 30 July 1996

concerning aid granted to Santana Motor SA

(Only the Spanish text is authentic)

(Text with EEA relevance)

(97/17/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 parties concerned the opportunity to submit their comments, in accordance with the above-mentioned Articles,

Whereas:

I

Opening of the procedure provided for in Article 93 (2) of the Treaty

On 11 January 1995 the Commission decided⁽¹⁾ to initiate the procedure provided for in Article 93 (2) of the Treaty in respect of aid granted by the Spanish authorities to Santana Motor SA (Santana), previously owned by the Japanese company Suzuki Motor Co. (Suzuki).

The aid covered by the procedure consisted of:

1. (a) a loan of Pta 6 800 million granted by the Instituto de Crédito Oficial (ICO);
- (b) another loan of Pta 6 800 million granted by the Instituto de Fomento de Andalucía (IFA), a public institution owned by the Autonomous Community of Andalusia.

Both loans were without interest and were to be reimbursed through the assignment of a fixed percentage of profits.

Both loans were decided on, and up to Pta 10 116 million was paid out, without the Commission's authorization;

2. redundancy payments made by the regional authorities to encourage workers to take early retirement (amount unknown);
3. aid paid in 1994 to Santana's suppliers (amount unknown).

In its notice the Commission stated that these aid measures would be assessed in the light of the Community framework on State aid to the motor vehicle industry⁽²⁾ and the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽³⁾.

In accordance with the above guidelines, the Commission takes the needs of regional development into account when assessing restructuring aid in assisted areas. Nevertheless, the criteria normally used for assessing restructuring aid are also applied in such cases, since in the medium to long term, it does not help a region to prop up artificially companies which for structural or other reasons are ultimately doomed to failure.

II

Observations from interested parties

No comments were received from third parties pursuant to the Article 93 (2) procedure. The Spanish authorities transmitted their observations in connection with the opening of the procedure by letter of 31 March 1995 (after having requested and been allowed a one-month extension of the deadline).

⁽¹⁾ OJ No C 144, 10. 6. 1995, p. 13.

⁽²⁾ OJ No C 123, 18. 5. 1989, p. 3.

⁽³⁾ OJ No C 368, 23. 12. 1994, p. 12.

The problem of aid to partner companies was raised, in particular, in the letters received from Spain on 17 February and 31 May 1995.

Various changes were made in the mean time to the company's restructuring plan, and a new amended plan was drawn up in April 1995. Commission officials also visited the plants in April 1995 and held a number of meetings with the parties; they raised various questions concerning the viability plan, essentially in two letters dated 30 May and 19 September 1995. The answers to those letters were received on 31 July and 19 December 1995 respectively. However, the latest data enabling Commission officials to quantify the cost of restructuring and the level of aid were received only on 26 June and 10 July 1996.

In their replies to the Commission's notification of its decision to initiate the procedure, the Spanish authorities claimed that the company was not competing with other Community manufacturers at the lower end of the market for sport utility vehicles (SUVs), which constituted a specific market. In their view, the SUV market could be divided into three separate segments, namely the lower (or popular) segment, the intermediate segment and the upper (or luxury) segment. The classification was based on price, which was in turn linked to engine power, engine capacity and vehicle size, and reflected differences in consumer tastes, needs and purchasing power. The Spanish authorities concluded that the aid granted to the company did not constitute aid within the meaning of Article 92(1) of the Treaty.

Nevertheless, while the aid measures had to be examined in the light of Article 92(1) of the Treaty, the Spanish authorities took the view that they should be found to be compatible with the common market on the basis of the Community guidelines on State aid for rescuing and restructuring firms in difficulty and the Commission communication on the method for the application of Article 92(3)(a) and (c) to regional aid⁽¹⁾. They adduced in support of their claim the company's expected return to viability as anticipated in the old restructuring plan dating back to April 1994 as well as in the new plan, drawn up in March 1995, which took account of the company's new situation following the suspension of payments procedure and the purchase by the IFA of the shares previously held in the company by Suzuki.

Spain stated that the aid to companies linked to Santana was granted above all in order to prevent those companies, which were mostly SMEs and worked for Santana, from going bankrupt as a result of suspension of the latter's payments. Some of the aid granted was not linked

to Santana's situation but merely constituted regional investment aid, however. The aid to the firms in question that could be deemed to fall within the scope of the Community framework on State aid to the motor vehicle industry did not fulfil the criteria for notification since the investment costs did not exceed ECU 12 million. A list of the recipient firms was transmitted.

The aid to those firms was granted as regional aid, in accordance with the conditions laid down in an ongoing programme previously approved by the Commission (Law No 50/85 of 27 December 1985 and Royal Decree No 1535/87 of 11 December 1987), in the form of loan guarantees, interest subsidies on the guaranteed loans, direct loans and moratorium agreements to postpone payment of social security contributions. There was no relationship whatsoever between the aid granted and any possible participation of these firms in the vote taken at the Santana creditors' meeting on 26 September 1994, which wrote off the company's debts and enabled the suspension of payments to be lifted.

III

Analysis of the restructuring plan

Santana Motor SA (Santana) is a Spanish company whose main manufacturing plant is located at Linares (Jaen province) in the Autonomous Community of Andalusia. It produces Suzuki SUV models. Its turnover in 1993 (the last year of normal operations before restructuring) stood at Pta 48 516 million (approximately ECU 303 million), and at 31 December 1993 it employed 2 838 workers at the main Linares plant. In addition to its Linares factory, the company has plants at La Carolina (Jaen), where its distribution centre and training centre are located, works at Manzanares in the Autonomous Community of Castile-La Mancha, which produces engine parts for the Linares plant and motorcycle engines, and a head office in Madrid.

Santana belonged to the Japanese firm Suzuki Motor Corporation (Suzuki) until 29 December 1994, when Suzuki sold its shares, amounting to 83,74 % of the company's capital, to the IFA. The sale of the Manzanares works to Suzuki Manufacturing SA, which was planned in 1993, has been suspended and is expected to be concluded before the end of 1996.

After a period of social unrest and financial difficulties, the company initiated the statutory procedure for the suspension of payments, on 17 February 1994, having run up debts amounting to Pta 23 000 million while its assets stood at only Pta 3 638 million on 31 December 1993. It nevertheless reached an agreement with its creditors which was authorized by the court on 17 December 1994.

⁽¹⁾ OJ No C 212, 12. 8. 1988, p. 2.

The restructuring plan finalized in April 1995 is based on the company's situation after the suspension of payments procedure and uses 1993 as the reference year. It covers the period 1995 to 1997 and expects the firm to break even in 1996 and to return profits from 1997 onwards.

Financial restructuring

On 26 September 1994 Santana and its creditors signed an agreement whereby the latter consented to write off the company's debts. The debt write-off amounted to some Pta 13 600 million, corresponding to 100 % of the claims held by foreign suppliers (Suzuki) and 33 % of the claims held by domestic suppliers; the remaining 67 % of the claims held by the latter were rescheduled for reimbursement over a period of three and a half years without interest.

At the same time and in order to enable the company to stay in business, the Spanish authorities agreed to grant Santana two equity loans totalling Pta 13 600 million on particularly advantageous terms. The two loans were for the same amount (Pta 6 800 million each) and were to be disbursed on identical terms by the ICO and the IFA. They were interest-free and were to be reimbursed in the form of a fixed percentage (17,5 %) of the company's pretax profits. Suzuki contributed Pta 5 271 million to the debt write-off.

On 17 December 1994 the suspension of payments was lifted. On 29 December of that year, the Japanese owner (Suzuki Japan) sold its interest in the company to the IFA for a token amount. On the same date, Suzuki and Santana signed a 'commercial and technological agreement' laying down the conditions under which Santana could continue producing Suzuki four-wheel drive vehicles.

The Regional Government of Andalusia recently undertook to convert into capital the loan which it granted via the IFA (Pta 6 800 million). When it has done so, the company's accumulated losses will be brought down to the level of its current capital, namely Pta 2 729 million. The new capital will then be Pta 6 800 million.

Restructuring of the workforce

In addition to the financial restructuring, the plan provides for major restructuring of the workforce involving a large number of lay-offs (1 034 workers) and a complete reorganization of the remaining payroll with a view to boosting productivity and improving quality. Greater flexibility has been achieved in the production process, in particular through the classification of workers into only two professional groups and full functional

mobility within each of them. More flexibility has also been introduced as regards the length of the working day, within the limits of total annual working time. The company has adopted new systems of quality control and new methods for keeping track of working time.

The lay-offs took place under three different sets of arrangements: a preretirement plan, which concerned 348 employees and was initiated before the suspension of payments; an early retirement scheme, which involved the departure of 538 workers; and a voluntary redundancy scheme, which concerned 148 workers.

- (a) Under the voluntary redundancy scheme, workers who left the company in 1994 were paid a lump sum the amount of which was agreed between the company and the workers. The scheme cost a total of Pta 634 million; the company disbursed Pta 338 million and the Autonomous Community contributed Pta 296 million.
- (b) The early retirement scheme involved the creation of a pension fund by an insurance company, which was then to pay a pension to members of the scheme. Former workers made over to the insurance company the redundancy payments they received from Santana, namely the statutory compensation laid down in the workers statute, which came to a total of Pta 1 355 million; the employment department of the Regional Government of Andalusia contributed Pta 4 026 million in order to make the amount of income accruing to each worker more acceptable. The scheme was negotiated and agreed in 1994 between the company and the workers. Despite this, the trade unions applied to the courts for a review based on a wage increase. They won the case and the courts ordered Santana to pay a further sum of Pta 739 million, which was provided by the Autonomous Community (which had already disbursed Pta 205 million), bringing the total public contribution to Pta 4 765 million. The total cost of the scheme thus came to Pta 6 119 million.
- (c) The preretirement plan (AEJA scheme), which the company was authorized to put into effect by three Ministerial Orders (employment cases 38/92, 38/93 and 106/93), enabled 348 workers to qualify for the benefits offered by this type of retirement under the general AEJA (aid equivalent to early retirement) scheme. In accordance with the applicable legislation, the State can finance up to 40 % of the authorized costs; the company pays the difference and can negotiate with the workers an extra allowance to top up the final payment received by the workers. The cost of the plan initially came to Pta 6 253 million, of which Pta 1 740 million was to be borne by the State and Pta

4 513 million by the company. The company also asked the Regional Government of Andalusia to pay the extra allowances it had agreed with the workers, and that request was granted. Nevertheless, when suspension of the company's payments was announced Santana was unable to fulfil its obligations, with the effect that implementation of the plan was suspended and the former workers have continued to receive a wage pending a final solution. In those circumstances, the company has already disbursed Pta 918 million and the Autonomous Community Pta 931 million.

In the mean time, consideration is being given to a revision of the plan involving transfer of all the obligations to an insurance company. The premium required by the insurance company in May 1995 could have been covered by the amounts which the Autonomous Community had already agreed to pay under previous decisions (40 % of the standard costs plus extra allowances); this would undoubtedly have been a more economical solution. Since then, the cost of this type of insurance has risen, and the lowest offer is now Pta 4 160 million. The total cost of this plan currently stands at Pta 6 009 million.

The Regional Government of Andalusia has agreed to pay up to Pta 4 160 million for this insurance, or the definitive plan which is opted for, which brings the total public contribution to Pta 5 091 million.

Industrial restructuring

The plan is based on the technological agreement concluded with Suzuki, which lays down the terms whereby Santana is allowed to continue producing Suzuki models. The agreement is to apply until December 1999 and has four main provisions:

1. Santana is granted the exclusive right to produce and assemble in Spain (with a minimum of 25 000 units), and to sell and distribute in Spain and the rest of the Community, three Suzuki SUV models (SJ410, SJ413 and SE416);
2. Santana is to increase the proportion of European components used in manufacture, a major item being the new diesel engine supplied by Peugeot;
3. Santana is to pay Suzuki royalties in the form of a percentage of the value of its sales minus the value of imported components;

4. No substantial change may be made to the company without Suzuki's approval.

The restructuring plan covers the period 1995 to 1997 and expects the firm to break even in 1996 and to return a profit in 1997. Average annual production is estimated at 30 000 units. The provisional accounts for 1995 are already available and show that results are in line with the plan's forecasts; shortfalls are due above all to the delay in selling the Manzanares plant and a lower volume of sales. Losses are also greater owing to the fact that the company has not yet received most of the social aid promised by the State. Lower production can apparently be accounted for by the large volume of stocks built up during 1994, when the suspension of payments was announced. Nevertheless, financial statements and sales returns for the first quarter of 1996 are largely in line with the plan.

The main assumptions on which the success of the plan depends are: better workforce productivity, which the firm hopes to raise by 1997 to nearly double the 1993 level through greater flexibility of labour, a more flexible working day and less absenteeism; a larger proportion of European components, which will entail a steep cut in the costs of materials; and better final product quality, through a strict quality control programme at all stages in the production process. All these indicators have reached the targets laid down in the plan; the slight discrepancies observed in 1995 can be explained by lower than expected output.

The technological agreement allows Santana to explore new geographic markets outside the Community, which could generate new sales opportunities that were not taken into account in the plan. The company is at the same time trying to conclude agreements on assembly operations with other manufacturers of four-wheel drive vehicles.

Total costs of restructuring

The total cost of the restructuring (1994 to 1997) stands at Pta 60 567 million. This includes debt write-downs (Pta 20 089 million), social costs (Pta 12 762 million) and the investments required in order to boost the proportion of European components used (Pta 4 193 million). However, the final cost of the social restructuring package is not yet known, since the final details of the scheme for the 348 former workers laid off before the suspension of payments have still to be settled (insurance policy to be taken out for them).

IV

The market

The SUV segment, which constitutes the internal market for the purposes of this Decision, accounts for some 2,5 % of the overall market for passenger vehicles in the European Economic Area. In 1993, the last year of normal operations before restructuring, the share of total sales in this segment taken by Suzuki models was nearly 16 %; this year, Suzuki was the market leader.

Since that time, the motor manufacturing industry in the EEA as a whole has been suffering from a structural excess of production capacity, and this also applies to the SUV segment, which increased production capacity considerably in the late 1980s on expectations of a steep rise in demand. According to the Commission's calculations, capacity utilization in the EEA stood at around 60 % in 1993.

The SUV market segment is expected to expand in Europe, with an estimated growth in sales of around 23 % between 1993 and the year 2000⁽¹⁾. Sales are not expected to stagnate or fall before 1999 or 2000. During the period covered by the restructuring plan (1995 to 1997), sales are forecast to rise by 18 %. Capacity utilization is also expected to improve considerably in that time, although it will remain way below the 80 % level. Capacity will be affected during the period by the new manufacturers who have recently entered this market segment (AMC/Chrysler).

The Commission does not share the Spanish Government's view that Santana's vehicles belong to a separate subsegment formed by small-engined SUVs. Like the company itself in its restructuring plan, the Commission is convinced (see its decision initiating the procedure) that SUVs form a single market segment in which the substitutability of supply and demand is so high that further segmentation of the market is not justified. Furthermore, Santana is now focusing its production on more powerful vehicles (with 16-valve petrol engines and a new diesel engine) which are in direct competition with SUVs produced by other manufacturers in the EEA.

V

State aid*(1) Financial restructuring: the two equity loans*

When assessing whether a capital injection by the State into a company constitutes State aid within the meaning

of Article 92(1), the Commission applies the private-investor principle, that is to say, it compares the behaviour of the State with that of a private investor operating under normal market conditions⁽²⁾. More specifically, it deems such an injection to be State aid:

- (i) where the public authorities' holding involves the taking over or the continuation of all or part of the non-viable operations of an ailing firm through the formation of a new legal entity;
- (ii) where the amount of the holding exceeds the real value of the company.

As stated earlier, the loan granted by the IFA is to be converted into capital. This capital injection (one of two equity loans) must be deemed to constitute State aid since the State has acquired ownership of the company from a private investor, for a token amount, as part of a rescue operation intended to prevent it from going bankrupt. Although no new legal entity was formed, this operation fulfils the criterion mentioned at (i) above. The capital injection was necessary in order to provide the company with resources enabling it to stay in business and without which it would have been declared bankrupt and wound up.

As far as the loan granted by the ICO is concerned, the following points should be taken into account:

- like the IFA loan, provision of this loan is tantamount to owning company resources (quasi-capital) that are deemed sufficient for the company not to have to cover its losses by reducing its capital, even if the former are more than double the latter,
- the loan is interest-free and any reimbursement will be only in the form of a fixed percentage of profits,
- the terms of the loan are such that it is nearly impossible to determine a deadline for its reimbursement.

In the light of these considerations, the full amount of the ICO loan must be assigned the same status as the IFA loan and must therefore be deemed to constitute State aid.

Total aid: Pta 13 600 million.

(2) Social aid to redundant workers

Total cost of the social measures:	Pta 12 762 million
Total public contribution:	Pta 10 152 million
State aid:	Pta 8 412 million
Total number of workers:	1 034

⁽¹⁾ Projection by DRI/McGraw-Hill, October 1995.

⁽²⁾ 'Public authorities' holdings in company capital', Bull. EC 9-1984.

Voluntary redundancy scheme. The Autonomous Community contributed Pta 296 million. Clearly, this is not a general scheme but a normal cost which a company has to bear when reducing its workforce. The whole of the State contribution therefore constitutes State aid within the meaning of Article 92(1).

Early retirement scheme. The Autonomous Community is to contribute Pta 4 765 million. This amount is deemed to constitute State aid since the scheme does not come under a general law (such as the Law of 9 April 1986 on the AEJA — aid equivalent to early retirement — scheme) but was designed as a voluntary scheme and the State contribution was made on a discretionary basis.

Pre-retirement under the AEJA scheme. The contribution made by the Autonomous Community amounts to Pta 5 091 million. The general law on the AEJA provides for a contribution amounting to only 40 % of the normal costs, which corresponds to Pta 1 740 million. This latter amount can therefore be regarded as not constituting State aid within the meaning of Article 92(1). Payment of the extra allowances was made under a law allowing the State (in this case the Regional Government) to award selective grants. This cannot be regarded as a general measure and ranks as State aid. The public contribution of Pta 3 351 million therefore constitutes State aid.

Most of the social aid is consequently deemed to be State aid within the meaning of Article 92(1) because it was not paid under general schemes. The exact amounts of the benefits were negotiated between the workers and the company, and only when they had been agreed did the company request a public financial contribution.

(3) *Aid to partner companies*

As regards the companies linked to Santana, there was no relationship whatsoever between the aid granted and any possible participation of those companies in the vote taken at the Santana creditors meeting on 26 September 1994, which wrote off the company's debts and enabled the suspension of payments to be lifted. Moreover, since the aid was granted under authorized schemes, there is no need for the Commission to investigate the matter any further.

To sum up, the total State contribution towards the restructuring of Santana amounts to the following:

Total cost of the restructuring:	Pta 60 567 million
Public contribution:	Pta 23 752 million
State aid:	Pta 22 012 million
Aid intensity:	36,3 %

The public contribution of Pta 22 012 million granted to Santana by the national authorities and the Autonomous Community constitutes State aid for the purposes of Article 92(1) of the EC Treaty and Article 61(1) of the EEA Agreement.

VI

Compatibility of the aid

Article 92(1) of the Treaty establishes the principle that, except where otherwise allowable, aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market. However, Article 92(2) and (3) state the circumstances in which such aid is, or may be allowed.

Article 92(2) specifies certain types of aid which are compatible with the common market. Given the nature, location and purpose of the aid in this case, none of the headings is applicable.

Article 92(3) lists aid which may be compatible with the common market. Compatibility 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 principle established in Article 3(g) of the Treaty, the exceptions to the principle of Article 92(1) as set out in Article 92(3) must be construed narrowly when an aid scheme or any individual aid award is scrutinized.

In particular, the Commission has adopted for the motor vehicle industry a Community framework which lays down the criteria for evaluating the compatibility of aid in this sector with the common market, thereby limiting the scope for discretion allowed by Article 92(3).

The framework lays down that, in principle, rescue and restructuring aid should only be approved in exceptional circumstances. The aid must be linked to a satisfactory restructuring plan and only granted where it can be demonstrated that the Community interest is best served by keeping a manufacturer in business and reestablishing its viability. It will be necessary to ensure that the aid will not allow a beneficiary to increase its market share at the expense of its unaided competitors. In cases where certain companies still have excess capacity, such as in the commercial vehicle sector, the Commission may require reductions in capacity in order to contribute to the overall recovery of the sector.

The Community guidelines on State aid for rescuing and restructuring companies in difficulty⁽¹⁾ lay down the general principle that, irrespective of its form, restructuring aid will be authorized only where it is in the Community interest and is linked to a viable restructuring/recovery programme submitted in all relevant detail to the Commission. A restructuring plan will need to satisfy all the following conditions,

- (a) Restoration of viability. The restructuring plan must restore the long-term viability and health of the firm within a reasonable time scale and on the basis of realistic assumptions as to its future operating conditions. Aid for restructuring should therefore normally need to be granted only once.
- (b) Avoidance of undue distortions of competition through the aid. Where there is a structural excess of production capacity, the plan must contribute to the restructuring of the industry by irreversibly reducing or closing capacity.
- (c) Aid in proportion to the restructuring costs and benefits. The amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken. If aid is used to write off debt resulting from past losses, any tax credits attaching to the losses must be extinguished.
- (d) Full implementation of restructuring plan and observance of conditions. The company must fully implement the restructuring plan that was submitted to and accepted by the Commission and must discharge any other obligations laid down by the Commission decision;
- (e) Monitoring and annual report. The implementation, progress and success of the restructuring plan will be monitored by requiring the submission of detailed annual reports to the Commission.

Having examined the Santana restructuring plan and its implementation up to March 1996, the Commission has reached the conclusion that the abovementioned general and sectoral requirements are met.

(a) Restoration of viability

The plan expects the firm to become viable again, breaking even in 1996 and returning a profit from 1997 onwards. Results for the first quarter of 1996 are in line with the plan. Results for 1995 fall short of expectations because sales were slightly lower than forecast as a result of the high level of stocks built up during 1994 and the fact that the economic upturn was slower than antici-

pated. Social costs were also higher than estimated in the plan owing to the delay in selling the Manzanares plant to Suzuki (because of uncertainty surrounding the grant of investment aid and disagreements over the price of assets). Losses were also greater than expected owing to the fact that the company has not yet received most of the social aid promised by the Regional Government of Andalusia.

Experts consulted by the Commission are convinced that the company will achieve the other objectives and financial targets laid down in the plan, with special reference to the successful incorporation of more European components and the market response to the new diesel Vitara model. It can therefore be concluded that the assumptions on which the plan is based are valid and that the plan's forecasts with regard to the company's viability are realistic.

(b) Avoidance of undue distortions of competition

The Spanish authorities have stated that Santana is to dismantle the paint shops which are currently idle but constitute potential capacity that could be utilized in future without major new investment. The capacity of these facilities is 21 000 vehicles per year. Remaining production capacity will be 50 000 vehicles per year, which means that the company is reducing total capacity by 30 %. Santana is thereby making a substantial contribution to the restructuring of the motor manufacturing industry in Europe generally and the SUV segment in particular.

It should also be noted that Santana has based its restructuring plan on an average production of 30 000 units, which means that its share of the relevant market in SUVs will be gradually reduced. It is therefore expected that the adverse effects of the restructuring plan on Santana's competitors in the EEA will be limited.

When the IFA loan has been converted into capital and some of the losses have been offset, the company undertakes not to obtain any new tax concessions on the basis of those losses. The same applies to the assistance received as social aid, which can contribute to reducing losses, in particular in 1996.

(c) Aid in proportion to the restructuring

In assessing the compatibility of the aid to Santana, the Commission also has to take account of the fact that the company is located in an area where, in accordance with Article 92 (3) (a), regional aid may be granted up to an intensity of 60 % net. The province of Jaen has an unemployment rate of 35,12 %, as against 33,96 % for the Autonomous Community of Andalusia and 22,77 % for Spain as a whole. Net per capita income in the province

⁽¹⁾ OJ No C 368, 23. 12. 1994, p. 12.

stands at 95 % of that of the Autonomous Community and 66 % of that of Spain as a whole. The area in which the plant is located can therefore be regarded as one of the poorest in the Community and suffering from serious underdevelopment. Closure of the largest firm in the area would have considerable adverse repercussions on the local economy, partly due to the knock-on effects on suppliers in the same area.

Having due regard to the social situation of the region as outlined above and the fact that most of the costs (and the aid) under the plan are linked to the restructuring of the workforce and the small size of the company, which means that it cannot reduce capacity any further without jeopardizing its viability, the aid intensity of 36,3 %, albeit slightly higher than the reduction in capacity (30 %), can be deemed appropriate. In the Volkswagen, Saxony and Mercedes, Ludwigsfelde cases, which also involved plants located in areas covered by Article 92(3)(a), excess assistance was likewise allowed.

In the Commission's opinion, the volume of the aid (Pta 22 012 million) and the intensity (36,3 % of the total restructuring cost) are strictly necessary for the restructuring exercise.

Similarly, the Commission has verified that the measures on which the restructuring is based and for whose implementation the aid will be granted are necessary for the objectives pursued by the restructuring operation as a whole. In the Commission's opinion, the proposed volume of financing for the restructuring is necessary. The amount has been structured logically and represents a realistic effort with a view to re-establishing Santana's viability in the competitive automobile industry.

VII

Conclusions and conditions

To sum up, the Commission considers that the aid granted by the Spanish authorities to Santana satisfies the criteria laid down in the Community guidelines on State aid for rescuing and restructuring firms in difficulty and the Community framework for State aid to the motor vehicle industry.

In accordance with the Guidelines on State aid for rescuing and restructuring firms in difficulty and with its

usual practice in cases of restructuring aid in the motor vehicle industry, the Commission must ensure that its conclusions remain valid until the restructuring plan has been fully implemented. To this end it must make its final favourable decision subject to fulfilment of a number of conditions designed to prevent the aid from having adverse effects on the industry. The trade-distorting effect of the aid depends in part on whether the future restructuring is carried out in accordance with the plan and within the proposed time limit. In particular, the Spanish authorities should ensure that the company closes the idle paint shops by September 1997. In addition, the restructuring plan will have to be applied in full and be monitored. Lastly, no new State aid may be granted to Santana in support of the plan. Similarly, it should be noted that, in accordance with the Community guidelines on State aid for rescuing and restructuring firms in difficulty, restructuring aid must not normally be granted more than once.

HAS ADOPTED THIS DECISION:

Article 1

The aid for the Santana restructuring plan which is set out below is compatible with Article 92(3)(c) of the EC Treaty and with Article 61(3)(c) of the EEA Agreement:

- (a) a loan of Pta 6 800 million granted by the Spanish Instituto de Crédito Oficial (ICO) and paid illegally;
- (b) another loan of Pta 6 800 million granted by the Instituto de Fomento de Andalucía (IFA), a public body owned by the Regional Government of Andalusia, of which Pta 6 716 million was paid illegally. This loan is to be converted into capital;
- (c) social aid to redundant workers, totalling Pta 8 412 million, of which Pta 4 527 million was paid illegally:
 - a preretirement plan involving 348 workers (Pta 3 351 million),
 - an early retirement scheme involving 358 workers (Pta 4 765 million, of which Pta 4 231 million was paid illegally),
 - a voluntary redundancy scheme involving 148 workers (Pta 296 million, paid illegally),

provided that the following conditions are fulfilled.

1. The idle paint shops shall be dismantled by September 1997, as notified to the Commission. There shall be no increase in capacity, which is limited to 50 000 vehicles per year, before 1 January 1998.
2. There shall be no tax concessions in respect of the losses which are offset by the aid (social aid or capital increase).
3. No additional aid in the form of capital injections or discretionary aid shall be granted in support of the restructuring.
4. The Spanish Government shall send the Commission an annual report on the implementation of the restructuring plan, and in particular the evolution of the costs, the receipt of the aid by the company and the fulfilment of the conditions laid down. The report, together with Santana's annual report and accounts,

shall be forwarded by the end of May following the report year.

Article 2

Spain shall inform the Commission, within one month of the notification of this Decision, of the measures taken to comply with it.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 30 July 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission