

English edition

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I

(Information)

COUNCIL

COUNCIL RECOMMENDATION

of 22 December 1995

on harmonizing means of combating illegal immigration and illegal employment and improving the relevant means of control

(96/C 5/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular K.3 (2) thereof,

Having regard to the initiative submitted by the French Republic on 22 December 1994,

Having regard to the recommendation of the Ministers of the Member States of the European Communities with responsibility for immigration of 1 June 1993 concerning checks on, and expulsion of, third-country nationals residing or working without authorization,

Having regard to the recommendation of the Ministers of the Member States of the European Communities with responsibility for immigration of 30 November 1992 regarding practices followed by Member States on expulsion,

Whereas, pursuant to Article K.1 (2) and (3) of the EC Treaty, policy regarding nationals of third countries and in particular combating unauthorized immigration, residence and work are matters of common interest and therefore fall within the areas for cooperation between Member States referred to in Title VI of the Treaty;

Whereas the Member States, faced with an increase in illegal immigration, have already adopted specific measures to ensure better control of population flows and to avoid the continued unlawful presence in their territories of foreign nationals who have entered or are residing without authorization;

Whereas, however, the efficiency of that action implies the implementation of coordinated and consistent measures;

Whereas, although recommendations laying down guiding principles for practice with regard to expulsion have already been adopted, that effort at alignment needs to be reinforced by recommending Member States to comply with a number of principles designed to

ensure a better check on the situation of foreign nationals present within their territories;

Whereas this recommendation is in keeping with Community legislation, the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, and in particular Articles 3 and 14 thereof, and the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967,

HEREBY RECOMMENDS Member States to harmonize further the means for checking on foreign nationals to verify that they fulfil the conditions laid down by the rules applicable to entry, residence and employment on the basis of the following guidelines:

1. This recommendation does not extend to citizens of the European Union or to nationals of EFTA member countries party to the Agreement on the European Economic Area, or to members of their families entitled under Community law.
2. Where an identity check is carried out on a foreigner in accordance with national law, at least where a person appears to be residing in the country unlawfully, his residence situation should be verified. This may apply in particular in the following cases:
 - identity checks in connection with the investigation or prosecution of offences,
 - identity checks to ward off threats to public order or security,
 - identity checks in order to combat illegal entry or residence in certain areas (e.g. frontier areas and ports, airports and railways stations handling international traffic), without prejudice to border controls.

3. Third-country nationals should be in a position, according to national law, to present to the competent authorities confirmation, for example by way of papers or documents by virtue of which they are so authorized, of their authority to reside within the territory of the Member State where they are.
4. Where national law regards the residence or employment situation as a prerequisite for foreign nationals to qualify for benefits provided by a public service of a Member State in particular in the area of health, retirement, family or work, that condition cannot be met until it has been verified that the residence and employment situation of the person concerned and his or her family does not disqualify them from the benefit. Verification of residence or employment status is not required where intervention by a public authority is necessary on overriding humanitarian grounds.

Such verifications are carried out by the services providing the benefits, with the assistance, if necessary, of the authorities responsible in particular for issuing residence or work permits, in accordance with national law relating, in particular, to data protection.

Member States should inform the central or local authorities responsible for dispensing benefits to foreign nationals of the importance of combating illegal immigration in order to encourage them to report to the competent authorities, in accordance with national law, such cases of breaches of the residence rules as they may detect in the course of their work.

The attention of the authorities responsible for issuing residence permits should also be drawn to the risk of marriages of convenience.

5. Employers wishing to recruit foreign nationals should be encouraged to verify that their residence or employment situations are in order by requiring them to present the document(s) by virtue of which they are authorized to reside and work in the Member State concerned. Member States could stipulate that employers may, if necessary, under the conditions laid down by national law relating, in particular, to data protection, check with the authorities responsible in particular for issuing residence and work permits; the said authorities may

communicate the relevant information under procedures which guarantee confidentiality in the transmission of individual data.

6. Any person who is considered, under the national law of the Member State concerned, to be employing a foreign national who does not have authorization should be made subject to appropriate penalties.
7. The authorities competent to authorize residence should be empowered to take measures to check that persons who have been refused authorization to reside within the territory of the Member State have left that territory of their own accord.
8. Each Member State should consider setting up a central file of foreign nationals containing information on the administrative situation of foreign nationals with regard to residence, including any refusal of authorization to reside and any expulsion measures. Any file thus set up will operate in compliance with the standards laid down in Council of Europe Convention 108 of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data.
9. Member States should satisfy themselves that residence documents issued to foreign nationals are adequately secured against forgery and fraudulent use — particularly by colour photocopying — and, should, if necessary, amend them accordingly.
10. Member States should take the measures necessary to reinforce and improve means of identifying foreign nationals who are not in a lawful position and who have no travel documents or other documents by which they can be identified.

Where a foreign national who is not in a lawful position is, or is likely to be, detained under the circumstances provided for in Chapter II of the recommendation of 30 November 1992 of the Ministers of the Member States of the European Communities with responsibility for immigration regarding practices followed by Member States on expulsion, the period of detention should be used in particular to obtain the necessary travel documents for expelling foreign nationals who have no documents. The consular authorities of the country of origin or the country of the nationality of the

foreign national concerned should be encouraged to make additional identification efforts to obtain travel documents.

Foreign nationals who have deliberately brought about their illegal position, particularly by refusing to supply travel documents, should be subject to penalties. In appropriate cases, such penalties may fall under criminal law.

Member States will review the follow-up to Chapter III.2 of the recommendation of 30 November 1992 of the Ministers of the Member States of the European Communities with responsibility for immigration

regarding practices followed by Member States on expulsion.

The Council will review regularly, for example once a year, the progress made on harmonization in the fields covered by this recommendation.

Done at Brussels, 22 December 1995.

For the Council

The President

L. ATIENZA SERNA

COUNCIL RECOMMENDATION

of 22 December 1995

on concerted action and cooperation in carrying out expulsion measures

(96/C 5/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the recommendation of the Ministers of the Member States of the European Communities responsible for immigration of 30 November 1992 concerning transit for the purposes of expulsion and the addendum thereto of 1 and 2 June 1993,

Whereas Article K.1 (3) (c) of the Treaty on European Union stipulates that combating unauthorized immigration, residence and work by nationals of third countries on the territory of Member States are matters of common interest;

Whereas the Council has already adopted specific measures to secure better control of migratory flows and to prevent third-country nationals entering Member States' territory unauthorized and remaining there illegally;

Whereas expulsion measures in respect of third-country nationals whose presence is unauthorized cannot be carried out owing to the absence of travel or identity documents;

Whereas, in order to achieve the effective carrying-out of expulsion measures, recommendations addressed to the Member States of the European Union and aimed at better coordination of those measures should be adopted at Council level;

Whereas the provisions of this recommendation are without prejudice to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 or to the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967,

HEREBY RECOMMENDS MEMBER STATES' GOVERNMENTS:

to apply the principles set out below:

with a view to cooperation in the procurement of the necessary documentation

1. to implement specific mechanisms to improve the procurement of the necessary documentation from the consular authorities of the third State to which third-country nationals are to be expelled when they lack travel or identity documents;
2. where Member States experience repeated difficulties with certain third States in the matter of procuring documentation:
 - (a) to make a particular effort to arrange for persons to be expelled to be identified by the consular authorities;
 - (b) to issue repeated invitations to consular authorities to visit centres in which third-country nationals are being held, where appropriate, in order to identify them for the purpose of providing documentation;
 - (c) to urge the same authorities to issue travel documents with a period of validity sufficient for expulsion to be carried out;
3. in the first instance to make use of the provisions on presumption of nationality of the standard readmission agreement adopted by the Council on 30 November 1994;
4. to issue, where it is not possible to obtain the necessary travel documents by using the above means,

the standard travel document adopted by the Council on 30 November 1994;

with a view to cooperation in carrying out transit for expulsion purposes

5. to cooperate to facilitate transit for expulsion purposes when the decision has been adopted by another Member State on the basis of the principles set out herein:
 - (a) In accordance with the Ministers' recommendation of 30 November 1992 concerning transit for the purposes of expulsion and the addendum thereto of 1 and 2 June 1993, which are annexed hereto, any Member State may, at the request of another Member State, authorize the transit of a third-country national across its territory for expulsion purposes.
 - (b) The Member State requesting the transit shall notify the requested State whether it considers it essential for the person being expelled to have an escort.
 - (c) The requested State shall be free to decide on the transit procedures; whether the escort is to be provided by the Member State which decided on the expulsion, whether it will provide the escort itself during transit or whether escort during transit will be arranged jointly with the State which decided on the expulsion.
 - (d) In the case of unescorted transit, the Member State which adopted the expulsion measure may, giving sufficient notice, request the State which has authorized transit to take the necessary measures in order to ensure departure to the place of destination.
 - (e) In the event of a third-country national's refusal to embark in the transit Member State, the Member States concerned may consider, in accordance with their laws and lest expulsion prove impossible to carry out, the possibility of availing themselves of, or seeking to establish, the appropriate legal machinery for enforcing expulsion.
 - (f) The transit Member State may return the third-country national to the territory of the Member State which adopted the expulsion measure if, for any reason whatsoever, the expulsion measure cannot be carried out.
 - (g) Member States may determine bilaterally the circumstances in which it may be possible to forego the refunding of costs on a case-by-case basis and replace it with an annual settlement of expenses occasioned by expulsion operations at either party's request;

with a view to concerted action in carrying out expulsions

6. to carry out expulsions, in appropriate instances, as a concerted effort with other Member States on the basis of the following principles:

- (a) the Member State which adopts the expulsion measure shall assume responsibility for carrying out measures for the expulsion of a third-country national it has itself adopted and shall use the resources available on the air transport market or, if necessary, resources it has organized itself.
- (b) The Member State which adopts the expulsion measure may request cooperation from another Member State to locate seats available to carry out the expulsion by air.
- (c) The Member State whose cooperation has been requested for carrying out an expulsion measure by air shall be entitled to refuse to allow expulsion to be carried out from its territory.
- (d) With a view to coordinating the carrying-out of expulsion measures, each Member State shall inform other Member States which authority in its territory shall be responsible for:
 - centralizing information on seats available on flights for expulsion purposes,
 - contacting the competent authorities in the other Member States with a view to using seats available on flights,
 - requesting authorization from other Member States to use seats available on flights departing from them,
 - exchanging information with the authorities in other Member States in relation to carrying out expulsions by air,

with a view to monitoring the implementation of this recommendation

the Council shall regularly review the progress achieved in relation to the practical application of the cooperation and concerted action measures covered by this recommendation.

Done at Brussels, 22 December 1995.

For the Council

The President

L. ATIENZA SERNA

ANNEX I

RECOMMENDATION

concerning transit for the purposes of expulsion

(approved by the Ministers on 30 November 1992)

The Ministers with responsibility for immigration,

CONSIDERING Member States' practices regarding transit for the purposes of expulsion;

WHEREAS it is appropriate to standardize such practices with a view to their harmonization;

WHEREAS the measures to be applied should meet the criteria of speed, efficiency and economy,

RECOMMEND that the following guidelines be applied:

I

For the purposes of this recommendation 'transit' means the transit of a person who is not a national of a Member State through the territory or the transit zone of a port or airport of a Member State.

II

A Member State which has decided to expel a third-country national

- to a third country should in principle do so without the person transiting through the territory of another Member State,
- to another Member State should in principle do so without the person transiting through the territory of a third Member State.

III

1. Where there are special reasons to justify this and, in particular, in the interests of efficiency, speed and economy, Member States may ask another Member State to authorize entry into its territory or transit through its territory of third-country nationals who are the subject of an expulsion measure ⁽¹⁾.
2. The State which has adopted the expulsion measure shall prove, before such a request is made, that the expellee's right to continue his journey and to enter the country of destination are guaranteed in the normal way.
3. The State to which the request is made shall deal with it without prejudice to the cases referred to in section VI.

IV

The State taking the expulsion measure shall notify the transit State whether the person being expelled needs to be escorted. The transit State may:

- authorize the State which adopted the expulsion measure to provide the escort itself,
- decide to provide the escort itself, or
- decide to provide the escort in cooperation with the State which adopted the expulsion measure.

⁽¹⁾ Statement *re* Section III:

'Reasons of efficiency, speed and economy as referred to in Section III will include, *inter alia*, obligations resulting from the geographical situation of the Grand Duchy of Luxembourg.'

V

1. Requests for transit for purposes of expulsion must include information concerning:
 - the identity of the third-country national being expelled,
 - the State of final destination,
 - the nature and date of the expulsion decision, and the authority which took the decision,
 - factors enabling a judgment to be made as to whether the third-country national can be admitted to the country of final destination or the second transit country,
 - the travel documents or other personal documents in the possession of the person concerned,
 - the identification of the department making the request,
 - the conditions of transit through the requested State (timetable, route, means of transport, etc.),
 - whether an escort is required, and the details thereof.
2. Requests for transit for expulsion purposes must be submitted as soon as possible in accordance with the domestic legislation of the requested State to the authorities responsible for expulsion, who must reply to the request at the earliest opportunity.
3. The transit State may request information, particularly concerning the need for transit.

VI

Cases in which transit for expulsion purposes may be refused:

- where the third-country national who is the subject of a request for overland transit constitutes a threat to public order, national security or the international relations of the transit State,
- where the information referred to in Section V (3) is not considered satisfactory.

VII

If for some reason the expulsion measure cannot be carried out, the State through which transit is to take place may return the expellee, without any formalities, to the territory of the requesting State.

VIII

Where expulsion cannot be carried out at the expense of the third-country national or a third party, the requesting State shall be liable for:

- travel and other expenses, including escort costs, up until the departure from the territory of the Member State of transit of a third-country national whose transit has been authorized,
- the costs involved in any return.

IX

These recommendations shall not preclude closer cooperation between two or more Member States.

X

Member States which propose to conduct negotiations with another Member State or with a third State on transit for purposes of expulsion shall inform the other Member States in due time.

XI

This recommendation shall not contravene the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, nor those of the Convention on the Status of Refugees of 28 July 1951.

This recommendation shall not contravene the provisions of international conventions currently in force concerning extradition and extradition in transit.

This recommendation shall not replace extradition and transit extradition procedures by the transit procedure for expulsion purposes.

*ANNEX II***ADDENDUM****to the recommendation concerning transit for the purposes of expulsion**

(approved by the Ministers on 1 and 2 June 1993)

1. With a view to meeting the criteria of efficiency, speed and economy in connection with transit for purposes of expulsion a distinction may be made between the different expulsion measures, by air, sea or land, applied by the Member States.
2. Expulsion by air accompanied by transit through the transit zone of an airport should be excluded from the provisions requiring an entry and transit authorization (see Section III of the recommendation), so that in such cases it will be sufficient to notify the country of transit.
3. Notification of transit for expulsion purposes by air should contain the information required for transit requests indicated in Section V of the recommendation.
4. In the case of expulsion by land or sea, requests for and notifications of entry into the territory of a State or transit through that State shall be addressed to a central contact body designated by the transit State, in accordance with the recommendations set out in the recommendation.

If, in the case of expulsion by air, the transit State does not grant permission, that information must be communicated to the requesting State within 24 hours of the notification of transit.

5. Member States shall draw up a joint list of contact bodies.

In the case of expulsion by air, it would be desirable to contact directly the competent official(s) of the transit airport concerned or, in accordance with national procedures, any other competent official, provided that the 24-hour rule is observed (see point 4 above).

COMMISSION

Ecu (*)

9 January 1996

(96/C 5/03)

Currency amount for one unit:

Belgian and Luxembourg franc	38,7899	Finnish markka	5,70651
Danish krone	7,29637	Swedish krona	8,63930
German mark	1,88694	Pound sterling	0,843020
Greek drachma	308,361	United States dollar	1,30584
Spanish peseta	158,581	Canadian dollar	1,77986
French franc	6,46455	Japanese yen	137,439
Irish pound	0,817375	Swiss franc	1,52600
Italian lira	2058,14	Norwegian krone	8,30317
Dutch guilder	2,11350	Icelandic krona	85,5977
Austrian schilling	13,2738	Australian dollar	1,75587
Portuguese escudo	195,641	New Zealand dollar	1,98607
		South African rand	4,73791

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day. Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic telex answering service (No 21791) and an automatic fax answering service (No 296 10 97) providing daily data concerning calculation of the conversion rates applicable for the purposes of the common agricultural policy.

(*) Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

Information procedure — technical regulations

(96/C 5/04)

(Text with EEA relevance)

- Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations.
(OJ No L 109, 26. 4. 1983, p. 8).
- Directive 88/182/EEC of 22 March 1988 amending Directive 83/189/EEC.
(OJ No L 81, 26. 3. 1988, p. 75).

Notifications of draft national technical regulations received by the Commission.

Reference (*)	Title	End of three-month standstill period (*)
95/395/NL	Regulation governing noise generation by sports car engines	29. 2. 1996
95/396/UK	Weights and measures (de-prescription) Regulations	6. 3. 1996
95/397/FIN	The Decision by the Council of State on the use of the EEC type-approved tractors in dangerous conditions (815/95)	closed
95/398/FIN	The decision by the Ministry of Labour on the application of the Council of State's decision on the use of EEC type-approved tractors in dangerous conditions (1185/95)	closed
95/409/A	Telecommunications Regulation for ISDN telecommunications installations (FTV 312)	4. 3. 1996

(*) Year — registration number — Member State of origin.

(*) Deadline for comments from Commission and Member States.

(*) The usual information procedure does not apply to 'Pharmacopoeia'.

(*) No standstill period as the Commission has accepted the grounds for urgent adoption.

The Commission would point out that, under the terms of its communication of 1 October 1986 (OJ No C 245, 1. 10. 1986, p. 4), it considers that if a Member State adopts a technical regulation which comes under the provisions of Directive 83/189/EEC without communicating the draft to the Commission or respecting the standstill obligation, that regulation cannot be enforced against third parties under the terms of the legal system of the Member State in question. The Commission therefore considers that litigants have a right to expect national courts to refuse to implement national technical regulations that have not been notified as required by Community law.

Information on these notifications can be obtained from the national administrations, a list of which was published in *Official Journal of the European Communities* No C 67 of 17 March 1989.

Approval of a State aid pursuant to Articles 92 and 93 of the EC Treaty**Cases where the Commission does not raise objections****State aid N 241/95 — Belgium**

(96/C 5/05)

(Text with EEA relevance)

Summary of the Commission's decision not to oppose the aid which the Belgian Government intends to provide to Ford Werke AG in support of an investment project in Genk

By letter dated 3 March 1995 from its Permanent Representation, the Belgian Government notified the Commission of its intention to award State aid, on the basis of the economic-expansion Law of 30 December 1970, to Ford Werke AG, a wholly owned subsidiary of Ford Motor Company USA, for an investment project to launch the new Mondeo passenger car series in the Genk plant of the company and to expand the capacity of the plant for this purpose. Further aid was proposed for environmental investments linked to this project.

Ford's investment plans originate from its decision to launch a new upper middle class car, the Mondeo, to replace the old Sierra model which had been introduced in 1982, and thus to improve its competitiveness in this specific market segment. Furthermore, production of this new model was to be centralized in the Genk plant, while the Sierra production had been split between Genk and Dagenham, United Kingdom. A new engine with improved performance and lower emissions will be incorporated into the new model.

The introduction of the new Mondeo requires a completely new body construction line and significant investments in the paint shop. Further measures were undertaken to improve ergonomics in the final assembly and facilities were installed to allow simultaneous engineering of the new model to be undertaken in Genk. The new installations necessitated additional training for the workforce in technical as well as quality related aspects. Capacity has been expanded by the installation of a permanent night-shift which also requires modifications in the EDP system and the modernization of logistics. In connection with the project, various new JIT suppliers installed themselves in the vicinity of the plant and are linked to the plant by a computerized supply system.

The project takes place over the years 1992 to 1995 at a total cost of Bfrs 26,916 million, of which Bfrs 19,587

million are eligible for regional aid. The installation of a permanent night-shift will allow capacity to be increased from 1 550 to 1 970 units per day. As to the permanent employment, by launching the Mondeo, 785 new jobs will be created and existing employment will be safeguarded by 1995.

The environmental projects mainly concern investments in the paint shop to reduce the emission of solvents (volatile organic compounds) in reaction to new regional legislation and to improve the quality of exhaust air and water. Furthermore new systems of waste collection and disposal are introduced. The cost of these projects is Bfrs 270,3 million (ECU 7,1 million).

The proposed regional aid will take the form of a grant of Bfrs 916,4 million (ECU 24,1 million) to the project, which will be paid in three equal annual instalments between 1995 and 1997. In addition to that, the company will obtain an exemption from property tax for five years, the present value of which is estimated at Bfrs 171,8 million (ECU 4,5 million). Given the delay in payment of aid, the aid intensity of the two elements of regional aid expressed in grant equivalent is equal to 4,3 %. The environmental aid will be given in the form of a grant of 15 % on an eligible expenditure of Bfrs 270,3 million (ECU 7,1 million), leading to an aid amount of Bfrs 40,5 million (ECU 1,1 million).

The proposed aid is granted by application of an approved aid scheme (Law on Economic Expansion of 30 December 1970) and is notifiable under the Community framework for State aid to the motor vehicle industry. As there is a substantial intra-Community trade in passenger cars, the aid measures which relieve the company concerned from part of the investment costs clearly threaten to distort competition among vehicle manufacturers and affect trade within the Community within the meaning of Article 92 (1) of the EC Treaty and Article 61 (1) of the EEA Agreement.

The Community framework acknowledges the valuable contribution to regional development which can be made by investments in motor vehicle or engine production facilities in disadvantaged areas. This position is in keeping with the Commission's generally positive attitude towards investment aid granted in order to help overcome structural handicaps in disadvantaged areas of the Community.

The Ford plant, at which the investments have been realized, is located in Genk in the Limburg region of Belgium, which because of its high unemployment level (14,7 % in 1993) has been recognized by the Commission as a regionally assisted area in the sense of Article 92 (3) (c) of the EC Treaty. Furthermore, due to the effects from the closures of coal mines on the labour market, Limburg has been accepted as a region in industrial decline under the Community structural funds (Objective 2 and Rechar area).

The proposed investment helps to create 785 jobs and safeguard existing employment at the Genk production site. The Mondeo project is crucial to maintenance of volume car production at the Genk site. The project therefore contributes to safeguarding employment in this region of high and increasing unemployment and thus helps to overcome its structural handicaps. The proposed aid intensity falls significantly below the regional aid ceiling of 20 % nge.

However, as it is stressed in the motor vehicle framework, in evaluating proposals to grant regional aid in the automotive sector, the Commission has to assess the benefits for regional development against possible effects on the sector as a whole, such as the creation of important overcapacity. Moreover, in view of the sensitive nature of the motor vehicle sector and the high risk of unwarranted distortions of competition, it is necessary to ensure that the regional aid is in proportion to the regional problem it seeks to redress.

Whether or not the aided project contributes to overcapacity in the relevant segment of the Community car market, it has been the Commission's constant practice to approve in any case regional aid equivalent to the net regional disadvantages resulting from the investment in the assisted region ⁽¹⁾.

The Commission, with the help of its external automotive expert, has carried out a cost-benefit analysis of Ford's investment plan in Genk with a view to ascertain to what extent the aid proposed under the Law on Economic Expansion is in proportion to the regional problems it seeks to redress. This analysis attempted to identify all the additional costs and benefits arising for the Ford group from its decision in 1992 to locate the Mondeo production lines in Genk compared to the alternative location for the investment at Dagenham (UK), where the part of the former Sierra production was located in a non-assisted central region and where Ford continues to produce the Fiesta model, thereby identifying the region-specific handicaps facing the investor. The analysis related to additional investment cost as well as additional operating costs during three years of production.

The result of the Commission analysis, which draws in large part on data originating from Ford and supplied by the Belgian authorities, is that the net regional handicaps facing Ford when expanding the Genk plant, are estimated at 6,2 % of the eligible investment in discounted terms. As the proposed aid intensity of 4,3 % gge less than compensates for the level of regional handicaps, the aid will have no adverse effects on the sector.

The Framework also accepts aid for general pollution control in line with the Community guidelines on State aid for environmental protection. The latter ⁽²⁾ specifies that extra investment costs necessary 'to reduce or eliminate pollution and nuisances or to adapt production methods in order to protect the environment' may be subsidized up to 15 % in gross terms if the investments lead to compliance with new standards and up to 30 % if standards are significantly exceeded or if there are no standards. In assisted areas, aid can be granted up to the regional ceiling. In the case of adapting to new mandatory standards, aid may only be given to plants which have been in operation for at least two years when the new standards or obligations enter into force. The eligible projects lead to a reduction in solvent emissions (volatile organic compounds) or exhaust gases beyond the standards required by current regional legislation (Vlarem II) or to their observance within the required implementation period of five years from 1993. As concerns the waste treatment projects, no standards exist so far. The eligible costs are confined to extra investment costs necessary for these environmental objectives and do not contain general investment costs linked to the capacity expansion in the plant.

⁽¹⁾ See Commission decisions in the Opel Eisenach and SEAT Pamplona cases (OJ No C 43, 16. 2. 1993 and OJ No C 310, 16. 11. 1993).

⁽²⁾ See OJ No C 72, 10. 3. 1994.

The aid proposed by the Belgian authorities is limited to an intensity of 15 % gross, which is within the limits foreseen by paragraph 3.2.3.A, 3.2.3.B and 3.2.3.C of the Guidelines. Furthermore the plant, to which it is granted, was in operation before 1991. Accordingly, the aid is in proportion to the improvement of the environment achieved.

In conclusion, the regional aid proposed by the Belgian authorities for Ford Genk is compatible with Article 92 (3) (c) of the EC Treaty and Article 61 (3) (c) of the EEA Agreement, as it complies with the criteria for regional aid set out in the Community framework for State aid to the motor vehicle industry. The proposed

environmental aid is also compatible with Article 92 (3) (c) of the EC Treaty and Article 61 (3) (c) of the EEA Agreement, as it complies with the rules on investment aid of the Community guidelines on environmental aid.

Accordingly, the Commission has decided, on the basis of Article 92 (3) (c) of the EC Treaty, not to raise any objections to the proposal by the Belgian authorities to award regional aid of Bfrs 916,4 million in grants and 171,8 million in the form of a property tax exemption and environmental aid of Bfrs 40,5 million under the assumption that the notified aid intensities are respected.

Recapitulation of current tenders, published in the *Supplement to the Official Journal of the European Communities*, financed by the European Community under the European Development Fund (EDF) or the European Communities budget

(week: 2 to 6 January 1996)

(96/C 5/06)

Invitation to tender No	Number and date of 'S' Journal	Country	Subject	Final date for submission of bids
4111	S 1, 3. 1. 1996	Gaza	GZ-Rafah: sanitation and drainage project	8. 2. 1996
4053	S 1, 3. 1. 1996	Guyana	GY-Georgetown: computer equipment	1. 4. 1996
4083	S 1, 3. 1. 1996	Mauritania	MR-Nouadhibou: quaternary crushing plant (<i>additional information</i>)	15. 2. 1996