II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION
of 11 June 2003
on the State aid implemented by Spain for Volkswagen Navarra SA

(notified under document number C(2003) 1745)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(2004/244/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

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

Having called on interested parties to submit their comments pursuant to the provisions cited above [1],

Whereas:

I. PROCEDURE

(1) By letter dated 2 February 2001, the Spanish authorities notified a plan to grant regional aid to Volkswagen Navarra SA (hereinafter referred to as 'VW Navarra'). The Commission requested further information on 2 April 2001. After requesting an extension of the deadline for reply on 10 April and on 29 May 2001, the Spanish authorities submitted additional information by letter dated 31 August 2001.

(2) The Commission requested on site visits to the chosen site of Arazuri (near Pamplona, in the Navarre region), and the alternative site of Bratislava. The Spanish authorities proposed no date for the visit to the Bratislava site. A visit to the Arazuri site agreed for 8 November 2001 was cancelled by the Spanish authorities by letter dated 5 November 2001. The Commission addressed new questions to Spain by letter dated 8 November 2001, to which Spain responded on 11 December 2001.

(3) By letter dated 19 December 2001, the Commission requested anew for an on-site visit to the plant in Arazuri, and the Spanish authorities agreed to the date of 31 January 2002, by e-mail of 17 January 2002. After the visit, a further request for information was sent on 13 February 2002, to which Spain responded on 20 March 2002.

(4) The Commission decided on 22 May 2002 to initiate proceedings pursuant to Article 88(2) of the Treaty, decision to open the formal investigation procedure, as it found that doubts were raised as to the compatibility of the aid with the common market. Spain submitted its comments to the opening of proceedings on 26 June 2002.

(5) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* [2], with an invitation to interested parties to submit their comments on the aid. The Commission did not receive any comments from interested parties.

(6) An on-site visit to the Bratislava plant took place on 11 October 2002, after which the Commission addressed a new request of information to Spain on 22 October. After requesting an extension of the deadline for reply on 13 December 2002, the Spanish authorities submitted additional information by letter dated 20 December 2002. On 13 March 2003, the Commission requested further information, that was provided by Spain with a letter dated 31 March 2003.

[1] OJ C 161, 5.7.2002, p. 9.

[2] See footnote 1.

II. DETAILED DESCRIPTION OF THE AID

(7) VW Navarra is a Spanish subsidiary of the German automotive group Volkswagen AG (hereinafter referred to as 'VW group'). The notified project concerns production of the latest generation of the VW Polo model, codenamed VW 24X. The overall project started in May 2000 and will terminate in December 2004. Investments include a new press shop to manufacture sides, roofs and wings of the new car, a second body work production line, a new paint shop, and a second assembly line.

(8) According to the notified project, production of the new model would amount to 1 800 cars/day. Of this, 1 000 cars/day were initially destined for production in Arazuri (Navarra) and 300 cars/day at a Volkswagen plant in Bratislava (Slovakia). The remaining 500 cars/day, for which new lines would have to be built, constitute, according to Spain, the mobile project, for which the alternative sites of Arazuri and Bratislava have been considered. A study conducted by VW in February 2000 showed that Bratislava was a more attractive site than Arazuri for the project. According to the notification, the possibility of obtaining State aid to partially compensate for the higher costs led VW to the decision of favouring Arazuri for the location of the mobile 500 cars/day. The allocation of the project to Arazuri allows the Spanish plant to maintain its capacity constant at 1 500 cars/day after the model changeover.

(9) Production in Arazuri of the new Polo on the first new (not mobile project) production line for 750 cars/day started in July 2001. The existing Polo was produced on the old line until September 2001. The old line was then dismantled to make space for the construction of the new second line for 750 cars/day (of which 500 of the mobile project), in production since the end of 2001.

Legal basis; investment and aid amounts

(10) The notified aid is granted under the approved schemes provided for by Law: Decreto Foral 361/2000 'Nuevo régimen de ayudas a la Inversión y el Empleo' of 20.11.2000 [3].

(11) According to the notification, total investment for the mobile project in Arazuri will amount to EUR 368 500 000 in nominal terms, equal to EUR 335 300 000 in actualised values (base year 2001, discount rate 6,33 %).

(12) The planned aid in nominal values amounts to EUR 72 200 000 gross grant equivalent (gge), with an actual value of EUR 61 850 000. Therefore, the aid intensity would be 18,45 % gge. Arazuri (Navarra) is in a 87(3)(c) area with a regional ceiling of 20 % net grant equivalent (nge) for the period 2000 to 2006.

(13) No other Community aid or financing has been allocated to the project.

III. GROUNDS FOR INITIATING THE PROCEDURE

(14) In its decision of 22 May 2002 to initiate proceedings [4], the Commission expressed doubts on the necessity and proportionality of the proposed aid. In order to allay these doubts, the Commission asked for additional clarifications and documents, as well as for the possibility to visit the Bratislava plant.

(15) Regarding the necessity of the aid, the Commission doubted that Bratislava had been considered as a viable alternative to Arazuri for the project. Firstly, the Commission found that the information provided did not prove that Bratislava was actively pursued as an alternative location for the mobile 500 cars/day. Secondly, the Commission doubted that the mobile 500 cars/day could have been allocated to Bratislava in the period immediately before November 2000 (when the VW group officially chose Arazuri for the project). Indeed, the Bratislava site had already in September 1999 been chosen by VW for another project (production of the SUV 'Tuareg' model).

(16) Regarding the proportionality of the aid, the Commission expressed doubts on: (a) whether investment into 'supplier tooling' had been considered mobile; (b) whether all of the EUR […] (*) investment in the pretreatment installation in Arazuri that was considered mobile by Spain could be taken into account for the establishment of the 'eligible costs' basis and for the calculation of the regional handicap; and (c) whether redundancy costs in Arazuri had been properly accounted for in the cost benefit analysis.

(17) Finally, the Commission expressed the need to verify the notified capacity figures, in order to assess the impact of the project on the capacity problems facing the motor vehicle industry.

[3] The project of the scheme was approved by the Commission on 3 May 2000, case number N 141/2000, OJ C 284, 7.10.2000, p. 4.

[4] See footnote 1.

(*) Confidential information.

IV. **COMMENTS FROM SPAIN**

(18) On 26 June 2002, the Spanish authorities sent their comments to the opening of proceedings. Further information and documents where provided to the Commission during the visit to the Bratislava plant on 11 October 2002 and with the letter dated 13 December 2002. The Commission has taken the comments and information into account.

(19) Regarding the viability of Bratislava as an alternative plant, the Spanish authorities have submitted evidence detailing the various steps of the decision-making process that lead to the choice of Arazuri for the project.

(20) On the timing of the decision to locate the project in Arazuri, the Spanish authorities affirmed that the project to build the mobile 500 Polo/day in Bratislava was not incompatible with the project to build the SUV 'Tuareg' model at the same plant. According to Spain, the increase in Polo production in Bratislava would have been accommodated within the plant by building the production lines for the Tuareg to a piece of land next to the existing plant perimeter.

(21) Spain maintained that, although the land in question was not property of Volkswagen at the end of 2000, it could have been easily purchased. The land was already destined for industrial use, and Volkswagen could have made recourse to the Slovak law N. 175/99 on large investment projects, that foresees swift and effective procedures for land acquisition for major industrial projects.

(22) Spain provided information documenting that the Tuareg and Polo projects could have been carried out at the same time, and that the Tuareg model could have been completed in the programmed time-frame (July 2002), and with acceptable additional costs. Spain estimated that carrying out the Tuareg project outside the plant's current perimeter would have involved additional costs of EUR […] million, mostly for the acquisition of the land and for basic infrastructure. All other costs (buildings, machinery) were independent of the exact location within the Bratislava site. However, Spain did not insert these extra costs in the cost benefit analysis, as they do not relate directly to the decision on the location of the mobile 500 Polo/day.

(23) The Spanish authorities also provided additional information on the doubts expressed by the Commission in the opening of procedure for what regards the proportionality of the aid.

(24) Firstly, the Spanish authorities clarified that no investment into 'supplier tooling' was considered 'mobile' in the CBA.

(25) Secondly, regarding the investments in the new pre-treatment facilities in the Arazuri paint shop, the Spanish authorities argued that the VW group never considered the possibility to construct a pre-treatment hall for 1 000 cars/day, and therefore it was not possible to provide figures for this investment. The VW group was faced with the following two alternatives: (a) adapt the existing line for 1 000 cars/day (cost of EUR […]) and construct a new additional line for 500 cars/day (cost of EUR […]), giving rise to two distinct pre-treatment processes; (b) construct a new pre-treatment line for 1 500 cars/day (cost EUR […]) with one single pre-treatment process.

(26) The VW group chose the latter option, because it makes it possible to operate one single process, using a single technology and standardised quality, and because it requires fewer resources for maintenance. These advantages compensate in the long run for the greater investment cost.

(27) The Spanish authorities conclude that the mobile investment to be accounted for in the CBA should be of EUR […]. This figure is equal to EUR […] for new pre-treatment line for 1 500 cars/day minus EUR […] for the transformation of the existing line for 1 000 cars/day that would have been necessary in the event of the project being carried out in Bratislava. The Spanish authorities affirm that this is in line with the method applied throughout the CBA, that consists in calculating the investment required to manufacture 1 000 cars and then 1 500 cars, and taking the difference as the mobile investment volume.

(28) Secondly, the Spanish authorities provided a detailed breakdown of the redundancy costs for the […] workers that would have lost their job, had the alternative location been chosen. The figure of total costs of EUR […] million has been computed according to Article 51 of Statute of Workers Rights (*Estatuto de los Trabajadores*), that sets the indemnity in the event of collective lay-offs at 20 calendar days per year worked. Redundancy costs have been calculated for the workers with less seniority in the company, that were hired in 1998. The Spanish government also affirmed that VW Navarra does not have a redundancy plan, but a voluntary early retirement plan, that cannot be considered as reflecting the normal practice as regards major workforce lay-offs.

(29) Finally, the Spanish authorities confirmed that, according to the latest annual planning round (in 2002 for the 2003 to 2007 period) no capacity increases are foreseen at the level of the VW group in Europe until 2004.

V. **ASSESSMENT OF THE AID**

(30) The measure notified by Spain in favour of VW Navarra constitutes State aid within the meaning of Article 87(1) of the Treaty. It would be financed by the State or through State resources. Furthermore, as it constitutes a significant proportion of the funding of the project, the aid is liable to distort competition in the Community by giving VW Navarra an advantage over competitors not receiving aid. Lastly, there is extensive trade between Member States in the automobile market.

(31) Article 87(2) of the Treaty lists certain types of aid that are compatible with the Treaty. In view of the nature and purpose of the aid, and the geographical location of the firm, subparagraphs (a), (b) and (c) are not applicable to the plan in question. Article 87(3) specifies other forms of aid, which may be regarded as compatible with the common market. The Commission notes than the project is located in Arazuri, Navarre region, which qualifies for assistance under Article 87(3)(c) with a regional aid ceiling of 20 % net grant equivalent.

(32) The aid in question is intended for VW Navarra, which manufactures and assembles motor vehicles. The firm is therefore part of the motor vehicle industry within the meaning of the Community framework on State aid to the motor vehicle industry ([5]) (hereinafter 'the car framework').

(33) The car framework specifies that all aid which the public authorities plan to grant to an individual project under authorised aid schemes for a firm operating in the motor vehicle industry must, in accordance with Article 88(3) of the Treaty, be notified before being granted if either of the following thresholds is reached: (i) total cost of the project equalling EUR 50 million, (ii) total gross aid for the project, whether State aid or aid from Community instruments equalling EUR 5 million.

(34) Both the total cost of the project and the amount of aid exceed the notification thresholds. Thus, in notifying both the training aid and the regional aid proposed for VW Navarra, the Spanish authorities have complied with the requirements of Article 88(3) of the Treaty.

(35) According to the car framework, the Commission shall ensure that the aid granted is both necessary for the realisation of the project and proportional to the gravity of the problems it intends to solve. Both tests, necessity and proportionality, must be satisfied if the Commission is to authorise State aid in the motor vehicle industry.

([5]) OJ C 279, 15.9.1997, p. 1.

(36) According to point 3.2.(a) of the car framework, in order to demonstrate the necessity for regional aid, the aid recipient must clearly prove that it has an economically viable alternative location for its project. If there were no other industrial site, whether new or in existence, capable of receiving the investment in question within the group, the undertaking would be compelled to carry out its project in the sole plant available, even in the absence of aid. Therefore, no regional aid may be authorised for a project that is not geographically mobile.

(37) The Commission has, with the help of its external automotive expert, assessed the documentation and information provided by Spain, with the view to establish whether the project is mobile.

(38) Regarding the question whether Bratislava was a viable alternative for the project, the Commission is satisfied with the evidence provided by the Spanish authorities. The documents provided demonstrate that the VW group set an initial target for 1998 of […] cars/day for the new Polo model, that were to be built at the Arazuri, Bratislava, and Martorell (Spain) plants. Plans to build the car in Martorell were subsequently dropped, and the initial forecasts were lowered in June 1999 to […] cars/day, of which […] cars/day in Arazuri and the rest in Bratislava. At the same time, the VW group held contacts with the government of Navarre regarding possible State aid to secure the investment in Arazuri. In this phase, the VW group studied the technical feasibility and the necessary investment under the various hypotheses for the two sites. The formal decision to build 1 500 cars/day in Arazuri, and 300 cars/day in Bratislava was finally taken by the VW group in November 2000, after having received assurance from the government of Navarre regarding the possibility to aid the project.

(39) Regarding the possibility of carrying out the Polo project in Bratislava at the same time as the Tuareg project already earmarked for the Slovak site, the documentary evidence provided by the Spanish authorities and the on-site visit to the plant, demonstrate that such possibility effectively existed. Indeed, there was sufficient land readily available for an expansion to accommodate the Tuareg project in the immediate proximity of the plant, and no specific technical obstacles would have hindered its implementation.

(40) However, the Commission considers that the extra costs related to the implementation of the Tuareg project outside the current plant perimeter, that Spain quantified in EUR […] million, are to be considered as an additional cost to the alternative of locating the mobile 500 Polo/day in Bratislava. Indeed, these costs would have been incurred as a direct consequence of the decision not to carry out the project in Arazuri, and did not arise thanks to the eventual decision to locate the project in Arazuri.

(41) Based on the above information, the Commission concludes that Bratislava was effectively considered as a viable alternative to Azambuja for the project under consideration.

(42) Regional aid intended for modernisation and rationalisation, which is generally not mobile, is not authorised in the motor vehicle sector. However, an expansion or transformation, involving a radical change in production structures on the existing site could be eligible for regional aid.

(43) During the on-site visit to the Arazuri plant, the Commission, aided by an external automotive expert, could establish that the investment project in question concerns the transformation of an existing plant, on the occasion of the complete renewal of a model. The press shop and paint shop are completely new, and the level of change in the bodywork and assembly lines, together with the addition of a second bodywork production line and a second assembly line, indicate that the project concerns a radical refurbishment of an existing site. The Commission considers that the project in question could be regarded as a transformation.

(44) Based on the considerations above, the Commission concludes that the project is mobile in character and can therefore be considered eligible for regional aid, since the aid is necessary to attract the investment to the assisted region.

(45) According to point 3.2.(b) of the car framework, the Commission determines whether or not costs relating to the mobile aspects of the project are eligible. Consequently, non-mobile aspects of the project are not eligible for aid. Regarding this point, the Commission firstly takes note that no investment in vendor tooling was considered eligible for aid by Spain. Secondly, the Commission notes that Spain claimed in its comments to the opening of procedure that EUR […] [6] of the investment in the pre-treatment hall of the Arazuri paint shop should be considered mobile investment, and part of the eligible costs. The Commission however cannot agree with the estimation of the eligible costs for the pre-treatment installation proposed by Spain.

(46) The Commission considers that, for what concerns the pre-treatment installation, the Spanish authorities did not make the correct comparison between the investment volumes required to manufacture 1 000 cars/day (with the mobile project to Bratislava) and 1 500 cars/day (with the mobile project to Arazuri). In the former case the investments accounted for are those for the adaptation of an old installation for the non-mobile 1 000 cars/day. In the latter, the investments accounted for are those for a brand new installation for the non-mobile 1 000 cars/day, as well as for the mobile 500 car/day. Taking the difference between these two estimates inflates the costs of the investment for 500 mobile cars/day, by attributing to them also costs that are instead pertaining to the non-mobile 1 000 cars/day.

(47) In order to make a meaningful comparison, the Spanish authorities should have instead calculated the cost of a brand new pre-treatment installation for 1 000 cars/day, the cost of a brand new pre-treatment installation for 1 500 cars/day, and calculated the difference between the two.

(48) However, the Spanish authorities did not provide information on the investment necessary for a brand new pre-treatment installation for 1 000 cars/day, affirming that the VW group never considered this an option. The Commission finds that, even if the VW group did not consider this option, the fact that the Spanish authorities consider as mobile some costs that are in fact to be attributed to non-mobile aspects of the project is unchanged. By constructing as new pre-treatment installation in Arazuri, VW Navarra will benefit from a state-of-the-art facility, that will ensure higher quality standards, will lower maintenance costs, and will have a longer productive life that an adaptation of the old installation. These positive effects benefit to all the production of the new model, and not just the mobile portion of this production.

(49) For these reasons, the Commission concludes that only the investments truly pertaining to the 500 mobile cars/day can be considered as eligible costs. The Commission has therefore to ascertain which portion of the EUR […] investment in the pre-treatment installation pertains to the 500 mobile cars/day. This portion will then be considered as part of the eligible costs.

[6] That is, EUR […] for new pre-treatment line for 1 500 cars/day minus EUR […] for the adaptation of the existing line for 1 000 cars/day. See recital 27.

(50) In their comments to the opening of procedure, the Spanish authorities affirm that the cost of a new additional line for 500 cars/day would amount to EUR […]. However, the Commission considers that this figure would overestimate the true cost of the mobile investment. Indeed, this figure implies that the cost for the pre-treatment installation for the non-mobile 1 000 cars/day amounted to EUR […], or 31 % of the costs for 66 % of the cars produced. This is equivalent to imputing all the fixed costs of the new pre-treatment installation in Arazuri to the mobile part of the investment.

(51) The Commission, with the aid of its automotive expert, considers that, as the new pre-treatment installation will benefit equally the mobile and the non-mobile portion of the production, the investment costs should be in this case divided proportionally between the two parts. Consequently, the Commission considers that one third of the investment costs in the pre-treatment facility in Arazuri (or EUR […] in nominal amounts) can be considered mobile. This corresponds to EUR […] in actualised values, if the specific investment is carried out with the same timing as the rest of the project.

(52) The Commission therefore concludes that total eligible costs for the project amount to EUR 299 335 000 in actualised values.

(53) According to point 3.2.(c) of the car framework the Commission needs to ensure that the planned aid is in proportion to the regional problems it is intended to resolve. For that, a cost benefit analysis (CBA) is used.

(54) A CBA compares, with regard to the mobile elements, the investment and operating costs which an investor would bear in order to carry out the project in the region in question with those it would bear for an identical project in a different location. The comparison allows the identification of the specific handicaps of the assisted region concerned. The Commission authorises regional aid within the limit of the regional handicaps resulting from the investment in the comparator plant.

(55) Operating handicaps of Arazuri as compared to Bratislava are assessed over three years in the CBA since the project in question is an expansion project, not a greenfield site. The time period covered by the submitted CBA is 2002 to 2004, that is three years from the beginning of production in compliance with point 3.3 of Annex I to the car framework.

(56) The CBA provided by the Spanish authorities indicates a net cost handicap of EUR 61 020 000 for the location in Arazuri in comparison with the location in Bratislava, with a resulting 'handicap intensity' of 18,2 %.

(57) The Commission has, with the help of its external automotive expert, evaluated the notified CBA with a view to ascertaining to what extent the proposed regional aid is in proportion to the regional problems it seeks to solve. Taking into account the additional information received from Spain following the opening of procedure, the CBA was modified with respect to some elements detailed below.

(58) Firstly, the Commission has inserted as an extra cost to the Bratislava option the additional EUR […] that would have been necessary to carry out the Tuareg project outside the plant's current perimeter. Indeed, the Commission considers that these costs relate directly to the decision on the location of the mobile 500 Polo/day. These costs did not materialise because the Polo project was carried out in Arazuri and not in Bratislava. Consequently, the VW group must have considered them as a direct advantage of carrying out the project in Spain.

(59) Secondly, the Commission excluded from the comparison in the CBA the costs that do not pertain to mobile aspects of the pre-treatment installation (i.e the costs imputed to the non-mobile 1 000 cars/day). As detailed above, this led to the reduction of the costs for the pre-treatment installation from nominal EUR […] to nominal EUR […]. If the specific investment is carried out with the same timing as the rest of the project, this corresponds to a decrease of the investment costs in Arazuri of EUR […] in actualised values, and to a decrease of EUR […], also in actualised values, of the handicap for Arazuri with respect to Bratislava ([7]).

(60) Thirdly, as regards the redundancy costs, the Commission has assessed the additional information provided by the Spanish authorities after the opening of procedure. The new information details the rules for collective layoffs justified by economic, technical, organisational or production causes in Spain, as well as the seniority profile of the workers that would have been affected by the decision to carry out the project in Bratislava. Based on this information, the Commission considers that the redundancy costs' estimate of EUR […] is acceptable.

([7]) This figure results by taking the actualised value of the difference between the eligible costs proposed by Spain (EUR […]) and the eligible costs calculated by the Commission (EUR […]).

(61) The modifications introduced in the analysis produce cost-benefit results that differ from those notified by Spain. The modified CBA indicates a net cost handicap for Arazuri of EUR 16 235 000 at 2001 values (compared to initially notified EUR 61 020 000). The resulting handicap ratio of the project is 5,42 % (compared to initially notified 18,20 %).

(62) Finally, in accordance with point 3.2.(d) of the car framework the Commission considered the question of a 'top-up', which is an increase in the allowable aid intensity intended as a further incentive to the investor to invest in the region in question. The documentation provided shows that the capacity at the level of VW group in Europe is set to remain virtually constant in the 2000 to 2004 period, with a decrease from 4 257 300 to 4 247 700 vehicles/year. According to the car framework, the 'regional handicap ratio' resulting from the CBA is therefore increased by one percentage point ('moderate' impact on competition for an investment project in an 87(3)(c) region), resulting in a final ratio of 6,42 %.

(63) The Commission notes however that a small increase in the European capacity of the VW group at the end of the project from the levels foreseen would lead to a 'high' impact on competition [8]. In such a case, the 'regional handicap ratio' resulting from the CBA would be decreased by two percentage points, resulting in a final ratio of 5,42 %. In view of the potential distortion of competition resulting from an increase in capacity at the group level, the Commission considers it necessary that the Spanish authorities should monitor the evolution of the capacity situation of the VW group. The motor vehicle framework foresees that the Commission may require *ex post* monitoring and assessment of aid granted, the amount of detail varying according to the case and the potential distortion of competition. Accordingly, the Commission requests the Spanish authorities to send to it, by April 2005, a report on the outcome of the monitoring regarding the capacity situation at the level of VW group in Europe in December 2004.

VI. **CONCLUSION**

(64) The Commission finds that the regional aid that Spain plans to grant for VW Navarra for the project in question is compatible with the common market insofar as it does not exceed an aid intensity of 6,42 % of the eligible costs. The Commission finds that the eligible costs for the project in question amount to EUR 299 335 000 in 2001 values (discount rate 6,33 %). Therefore, the Commission finds that the regional aid that Spain plans to grant for VW Navarra for the project in question is compatible with the common market insofar as it does not exceed EUR 19 228 000 gge (at 2001 values, discount rate 6,33 %).

(65) Any additional State aid for the investment projects in question is incompatible with the common market.

(66) Although the Commission does not have doubts on the plausibility of the estimates provided, the Spanish authorities are requested to send to the Commission by April 2005 a report indicating the European capacity at the level of the VW group in December 2004. Should the capacity situation deviate from the notified data, the Commission reserves the right to reduce accordingly the amount of compatible aid,

HAS ADOPTED THIS DECISION:

Article 1

The regional investment aid which Spain has planned to implement for Volkswagen Navarra SA for the amount of EUR 19 228 000 gross grant equivalent in actualised values, base year 2001, discount rate 6,33 %, for the project relating to the production of the new VW Polo model in Arazuri is compatible with the common market within the meaning of Article 87 of the Treaty. This amount corresponds to an aid intensity of 6,42 % of the eligible investment of EUR 299 335 000 in actualised values.

Article 2

Any State aid in addition to the aid amount referred to in Article 1 that Spain plans to grant to Volkswagen Navarra SA for the project under scrutiny shall be incompatible with the common market.

Article 3

Spain shall inform the Commission, within two months of the date of notification of this decision, of the measures it has taken to comply with it.

Additionally, Spain will provide by April 2005 a report indicating the European capacity at the level of the VW group in December 2004.

[8] According to point 3.2.(d) of the car framework, the impact on competition is high when the ratio between the capacity of the group after and before the investment is higher or equal to 1,01. In this case, the impact on competition would be high if VW's capacity were, at the end of the project, of 4 299 873 vehicles/year or more.

Article 4

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 11 June 2003.

For the Commission
Mario MONTI
Member of the Commission