

## **MEMORANDUM TO THE COMMISSION**

By correspondence dated 27 June 2007 the German authorities applied for a contribution from the European Globalisation Adjustment Fund ('EGF') in order to assist workers made redundant in the two German subsidiaries of the Taiwanese enterprise BenQ Corporation, hereinafter "BenQ". This application was supplemented by additional information sent by the German authorities on 16 July 2007.

The application is based upon 3 303 job losses as a consequence of the withdrawal by BenQ of all financial support to its two German based subsidiaries, one manufacturing mobile phones and the other one providing repair services for such phones. These redundancies were brought about by major structural changes in the pattern of world trade, in particular a delocalisation of the manufacturing of mobile phones to Asia. The scope and the effects of these changes are of a sufficiently important nature to justify an application to the EGF according to the criteria laid down in Regulation (EC) No. 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the EGF.

The application has been thoroughly examined and assessed by the services of the Commission, in accordance with Regulation (EC) No 1927/2006, in particular with Articles 2, 3, 5 and 6 thereof. The application meets the intervention criteria of Article 2(a) ("redundancies in one enterprise and in its suppliers or downstream producers") and the proposed measures are active labour market measures made available to the workers affected for a limited period of time, in conformity with Article 3. Accordingly, it is proposed to mobilise the EGF in this case.

The actions proposed to assist the workers include i.a. short-term allowance, mobility allowance, basic and specific individual qualification, placement and counselling, in-depth counselling for setting up businesses, support for international job applications. These actions will be provided in the context of a transfer company, which is an instrument under German law that can be put in place in order to prepare redundant workers for a new job through qualification and placement activities.

The total annual budget available for the EGF is EUR 500 million. So far, 2 cases have been proposed for funding for an aggregated amount of EUR 3 816 280. The Commission proposes a contribution of EUR 12 766 150 from the EGF to co-finance a coordinated package of actions designed to assist the re-integration into employment of 2 400 redundant workers in the two German subsidiaries of BenQ as well as to cover administrative expenditure. The German state will contribute an equivalent amount.

### **THE COMMISSION IS INVITED TO**

- Approve the conclusions on application EGF/2007/003/DE/BenQ submitted by Germany as set out in the present Communication**
- Submit to the budgetary authority a proposal to authorise appropriations corresponding to EUR 12 766 150 and a request for a transfer of this amount in commitment appropriations from the reserve budget line 40.0243 to budget line 04.0501 (European Globalisation Adjustment Fund)**
- Authorise the transfer of an identical amount in payment appropriations from budget line 04.0201 to budget line 04.0501 (European Globalisation Adjustment Fund)**

## COMMUNICATION TO THE COMMISSION

### on an application EGF/2007/003/DE/BenQ received from Germany for a financial contribution from the European Globalisation Adjustment Fund

Germany submitted application EGF/2007/003/DE/BenQ for a financial contribution from the European Globalisation Adjustment Fund, hereinafter 'EGF', following the redundancies in the German subsidiaries of the Taiwanese enterprise BenQ Corporation, hereinafter "BenQ".

1. The application was presented by the German authorities to the Commission on 27 June 2007. It was based upon the specific intervention criteria of Article 2(a) of Regulation (EC) No 1927/2006<sup>1</sup> of the European Parliament and of the Council and was submitted within the deadline of 10 weeks referred to in Article 5 of that Regulation.
2. The application, as completed by additional information on 16 July 2007, meets the conditions for mobilising the EGF set out in Article 2 of Regulation (EC) No 1927/2006.

#### SUMMARY OF THE APPLICATION, AND ANALYSIS

##### (a) Analysis of the link between the redundancies and major structural changes in world trade patterns:

3. The application relates to redundancies in the 2 German subsidiaries of BenQ, i.e. BenQ Mobile GmbH & Co OHG (production of mobile phones) and Inservio GmbH (provision of repair services for Siemens and BenQ mobile phones). The redundancies were caused by the withdrawal by BenQ of all financial support to its two German subsidiaries, causing their insolvency. In order to establish the link between the redundancies and the major structural changes in world trade patterns, Germany indicates that the redundancies follow from a general trend amongst mobile phone manufacturers towards a delocalisation of their production to Asia, primarily China. The main reasons for this delocalisation to China are in the first instance comparative manufacturing cost advantages, but also the proximity of technology partners and a strong increase in local demand. Between 2005 and 2008 the world-wide demand for mobile phones is estimated to increase by 9%, for the same period this increase is estimated at around 5% in Europe and about 13% in China.
4. As regards comparative factor cost advantages the German authorities indicate in their application that the assembly costs for a mobile phone amount to about EUR 8 to 10 per unit for production in countries with high wages such as Germany, whereas in China these costs are about EUR 1.50 per phone.
5. Between 2001 and 2006 the world production of mobile phones increased from 400 million up to 991 million units. In 2001 production in China reached 80 million units or 20% of world production. In 2006 China produced 450 million units or 45% of

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<sup>1</sup> OJ L 406 of 30.12.2006, p. 1

world production. In 2002 46% of the Chinese mobile phone production was exported, in 2006 the export share increased up to 75%, i.e. 340 million units out of the 450 million produced.

6. Before the closure of its German production site, the production capacity of BenQ (in mobile phone units) was distributed as follows: China: 30 million, Taiwan: 5 million, Brazil: 15 million and Germany: 15 million units. The production capacity utilization was 75% in China, 40% in Taiwan, 45% in Brazil and 60% in Germany. BenQ has announced its decision to shift production from Germany towards its manufacturing sites in China, Taiwan and Brazil. From data provided by BenQ Corporation<sup>2</sup> the trend towards a delocalisation of production is also visible in the employment figures: in 2003 Europe represented 31 % of the number of employees and China 15%, in 2006 Europe dropped to 24% and China increased to 18%.
7. In conclusion, the appreciation of the Commission services is that the redundancies in BenQ Mobile GmbH & Co OHG (production of mobile phones) can be linked to major structural changes in world trade patterns, in particular a delocalisation of the production of mobile phones to countries in Asia, in particular China. The redundancies in Inservio GmbH, a company providing repair services for mobile phones produced in the former can be linked to the delocalisation of BenQ Mobile GmbH & Co OHG as Inservio GmbH is one of its downstream producers.

(b) Demonstration of the number of redundancies:

8. Germany submitted this application under the intervention criterion of Article 2(a) of Regulation (EC) No 1927/2006, which requires at least 1000 redundancies over a 4-month period in an enterprise including workers made redundant in its suppliers and downstream producers. The application demonstrates a total of 3 303 redundancies in the two German subsidiaries of BenQ during the 4-month period of reference (from 22 December 2006 to 21 April 2007), of which 2828 occurred in BenQ Mobile GmbH & Co OHG and 475 in Inservio GmbH.
9. On 28 September 2006 BenQ formally announced the discontinuation of funding for its two German subsidiaries. On 1 January 2007 the insolvency proceedings were adjudged. Simultaneously agreements on a reconciliation of interests were signed in which the modalities for the closure of the two German subsidiaries of BenQ were laid down. These agreements provided i.a. for the possibility for the employees to terminate their contract with the insolvent companies and to be incorporated into a transfer company ("Transfergesellschaft"). The employees started receiving by post from 22 December 2006 onwards individual offers to terminate their current labour contract and to enter into the transfer company. It was also made clear that those who did not accept to enter into the transfer company would be dismissed. The employees who did not accept to be moved to the transfer company were dismissed by the insolvency administrator by mid-January 2007.

A transfer company is an instrument provided for under German law which can be put in place in case of restructuring with ensuing job losses. The transfer company makes it possible to prepare redundant workers for a new job through qualification

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<sup>2</sup> BenQ company factsheet: <http://benq.com/page/?pagelid=5>

and placement activities. There is no legal obligation to create a transfer company; it is left at the discretion of the social partners, nor is there an obligation for the workers to move to the transfer company once it has been created. The concept itself of a transfer company shows clearly that it can only intervene once the contract with the previous employer has been terminated.

10. The number of 3 303 job losses in the two German subsidiaries of BenQ is more than sufficient to comply with the requirement set out in Article 2 of Regulation (EC) No 1927/2006.

(c) Explanation of the unforeseen nature of those redundancies:

11. BenQ Corporation took over the mobile phone division from Siemens in October 2005. Less than one year after this takeover BenQ decided to withdraw all its financial commitments towards its German subsidiaries: BenQ Mobile GmbH & Co OHG and Inservio GmbH, thus causing the insolvency of both subsidiaries. In their application the German authorities state that, given the very short time period between the takeover and the insolvency, the redundancies were of an unforeseen nature. In addition, it appeared impossible to find a potential investor to continue even partially the mobile phone division.

(d) Identification of the dismissing enterprises, suppliers or downstream producers, sectors, and the categories of workers to be targeted:

12. The application concerns the redundancies as a consequence of their insolvency of two German based subsidiaries of the Taiwanese enterprise BenQ corporation: BenQ Mobile GmbH & Co OHG and Inservio GmbH. BenQ Mobile GmbH & Co OHG manufactured mobile phones and Inservio GmbH provided repair services for Siemens and BenQ mobile phones.

Of the workers to be targeted for assistance 63% are male and 37 % are female. The largest part, i.e. 95%, belong to the 25 to 54 years age group, 4 % are over 55 years old and 1% are under 25 years of age. In terms of professional categories<sup>3</sup> 25% fall within the group "technicians and associate professionals", 21% within the group "craft and related trades workers", 15% within the group "clerks", 11% within the group "elementary occupations", 10% within the group "legislators, senior officials and managers", 9% within the group "professionals", 7% within the group "plant and machine operators and assemblers" and 2% within the group "service workers and shop and market sales workers".

(e) Description of the territory concerned and its authorities and stakeholders:

13. The two BenQ subsidiaries are located in three sites : München (Bavaria) with 1342 redundancies, Kamp-Lintfort (administrative district Düsseldorf in Nordrhein-Westfalen) with 1719 redundancies and in Bocholt (administrative district Münster in Nordrhein-Westfalen) with 242 redundancies.

The responsible authorities are the regional employment offices within which the enterprises are located. The other relevant stakeholders are IG Metall metal workers

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<sup>3</sup> Categories based on the International Standard Classification of Occupations, 1 digit, (ISCO-88)

union, Siemens AG, the insolvency administrators for each of the 3 locations and the transfer companies TRAIN (redundancies in München) and PEAG (redundancies in Nordrhein-Westfalen).

(f) Expected impact of the redundancies as regards local, regional or national employment:

14. The application describes the situation of the different local labour markets in which the redundancies have taken place. The situation is different for the 3 locations and is determined by the type of activities that were taking place at each of these locations.

The management and R&D department of BenQ Mobile GmbH & Co OHG were located in München, whereas the production of mobile phones took place in Kamp-Lintfort. Inservio GmbH was located in Bocholt. In München highly skilled workers, such as engineers and developers, constituted a large part of the labour force. In Bocholt and Kamp-Lintfort workers with lower qualifications represented a larger part of the labour force.

15. In München the labour market situation made it possible to limit the negative impact of the BenQ redundancies. There is a pull on demand for qualified labour force, in particular engineers, whereas it is more difficult for administrative and commercial staff to find a new job rapidly. In Kamp-Lintfort BenQ provided 1700 jobs. It was the second biggest employer and represented 13% of local employment. The situation in this region is further aggravated by the expiry of the subsidies for coal, as mining is the most important employer in this region occupying 3500 workers. Given the absence of major employers in the manufacturing sector in this area and the low qualification level of the workers made redundant following the BenQ bankruptcy, the placement options are potentially low. The unemployment rate for the region at NUTS II level, i.e. administrative region Düsseldorf, reached 12.1% by end December 2006. This is significantly above the German and EU average. The labour market situation in Bocholt is comparable to that in Kamp-Lintfort. The unemployment rate for the region at NUTS II level, i.e. administrative region Münster, reached 10.3% by end December 2006<sup>4</sup>.

The different labour market situation in Munich compared to the 2 other BenQ production sites in Germany is illustrated as follows in the application: In Munich 54 % of the workers who were made redundant by BenQ accepted to move to the transfer company, in Kamp-Lintfort this was 91% and in Bocholt 83%. Between 1 January and 20 April 2007 41% of the workers in the transfer company in Munich had already found another job, against 15% in Kamp Lintfort and 14% in Bocholt for the same period.

16. In conclusion, in such circumstances, the redundancies can be seen to have a significantly negative effect on the local economy, in particular in and around Bocholt and Kamp-Lintfort.

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<sup>4</sup> Statistics established by the Bundesagentur für Arbeit. According to the same source the unemployment rate for Germany reached in December 2006 10.7%. For the same month Eurostat indicators gave an unemployment rate of 7.8% for Germany and 7.5% for EU-27

(g) Co-ordinated package of personalised services to be funded and a breakdown of its estimated costs, including its complementarity with actions funded by the Structural Funds:

17. The following types of measures are proposed, all of which combine to form a co-ordinated package of personalised services aimed at re-integrating workers into the labour market:
- Short-term allowance: this is intended to secure the means of subsistence for workers who accept to enter into a transfer company where they are obliged to participate in the qualification measures in view of their re-integration in the labour market.
  - Mobility allowance. This benefit is offered to workers who have been unemployed for more than 6 months in order to stimulate them to accept less attractive job offers both in terms of geographical remoteness, where the workers may need to contemplate moving, and lower salaries; this will be particularly relevant for workers in the Kamp-Lintfort area, where the average salary is significantly lower than the one previously offered by BenQ.
  - Training measures: The basic qualification aims at giving low skilled workers both practically oriented theory as well as practice in order to enhance their possibilities to find a new job in another sector, in this case the metal sector. The specific individual qualifications offered, are intended to meet the specific needs expressed by some of the workers, e.g. qualification as lorry driver or mechatronics technician.
  - Placement and counselling. This includes providing additional job coaching for specific target groups, specialised counselling for workers who envisage setting up their own businesses and specific language support for workers, in particular engineers from the München area, who wish to apply for jobs abroad.
  - Other support measures. These cover support for workers during the probation period, in particular for workers who have accepted a job in a new professional area in order to help them to avoid conflicts that might make them lose their job again as well as specific support for workers who are still unemployed upon termination of the transfer company, i.e. after 31 December 2007. In order not to lose the benefits of already initiated placement activities it is proposed to continue to support them until 31 May 2008.
18. The administrative expenditure, which is included in the German application, in accordance with Article 3 of Regulation (EC) No. 1927/2006, covers preparatory activities, administrative follow-up of the services provided, information and publicity activities and control activities.
19. The personalised services that are part of the co-ordinated package presented by the German authorities, are active labour market measures that fall within the eligible actions as defined in Article 3 of Regulation (EC) No. 1927/2006. The total costs of these services are estimated by the German authorities at EUR 25 532 300, and the administrative expenditure at EUR 1 100 000. The total requested contribution from the EGF is EUR 12 766 150 (50% of the total costs).

Actions	Estimated Number of workers targeted	Estimated cost per worker targeted (in EUR)	Total costs (EGF and national cofinancing) (in EUR)
<b>Personalised services (Article 3(1))</b>			
Transferkurzarbeitergeld (short-time allowance)	2 400		17 000 000
Mobilitätshilfen (mobility allowance)	750	4 200	3 150 000
Grundlagenqualifizierung (basic qualification)	500	5 471	2 735 500
Vermittlung und Beratung (placement and counselling)	350	815	285 250
Spezielle Einzelqualifizierungen (specific individual qualifications)	140	4 000	560 000
Vertiefte Existenzgründungsberatung (in-depth counselling for setting up businesses)	50	480	24 000
Förderung internationaler Bewerbungen (support for international job applications)	70	215	15 050
Nachbetreuung bei Arbeitsaufnahme (support at the start of employment)	250	450	112 500
Nachbetreuung nach Beendigung Transfergesellschaft (support after the completion of the transfercompany)	550	1 000	550 000
<b>Subtotal personalised services</b>			<b>24 432 300</b>
<b>Technical assistance for implementing EGF (Article 3(3))</b>			
Total administrative expenditure			1 100 000
<b>Subtotal technical assistance</b>			<b>1 100 000</b>
<b>Total estimated costs</b>			<b>25 532 300</b>
<b><i>EGF contribution (50 % of total costs)</i></b>			<b><i>12 766 150</i></b>

(h) Date(s) on which the personalised services to the affected workers were started or are planned to start:

20. Personalised services to the affected workers included in the co-ordinated package proposed for co-financing through the EGF were started by Germany on 01/01/2007. This date therefore represents the beginning of the period of eligibility for any assistance that might be awarded from the EGF.

(i) Procedures followed for consulting the social partners:

21. The German authorities confirmed that the workers' representatives were informed in conformity with German law about the forthcoming closure of the BenQ subsidiaries. Negotiations took place between the insolvency administrators representing the employer and the regional works councils with a view to reaching agreement on a co-ordinated package to be offered by the transfer companies. Agreement was reached on 1 January 2007 on a package of measures. This package was further completed in March/April 2007 by the Federal Ministry for Labour in collaboration with Siemens AG, the insolvency administrators, the BenQ Mobile GmbH & Co OHG works council, IG Metall, the transfer companies, the Federal employment services and the ministries for labour of Bayern and Nordrhein-Westfalen.
22. As regards the compliance with national and Community legislation concerning collective redundancies, the application explains how the regional employment office was involved at a very early stage with a view to safeguarding the interests of the workers to be made redundant.

(j) information on actions that are mandatory by virtue of national law or pursuant to collective agreements

23. As regards the fulfilment of the criteria set out in Article 6 of Regulation (EC) No 1927/2006 Germany provided the following elements:
- Germany has confirmed that the financial contribution from the EGF does not replace measures which are the responsibility of companies by virtue of national law or collective agreements. In Germany enterprises are obliged to adopt a social plan in order to attenuate the possible negative economic impact on the workers of a change in operations. However, this obligation does not apply to new enterprises during the first four years following their establishment. This is the case for the two German subsidiaries of BenQ. In cases of restructuring, German labour law provides for transfer instruments, such as a transfer company, in order to support redundant workers in a structured manner in their search for a new job. However, there is no legal obligation to create a transfer company. It is left at the discretion of the restructuring enterprise and depends on its financial capacity.
  - In order to demonstrate the complementarity with measures taken at national or local level, the application distinguishes between the complementary EGF package and the initial package of active labour market measures, mainly financed by the national authorities and Siemens AG. The key component of this initial package was the creation of a transfer company that is operational for one year from 1 January to 31 December 2007. The Commission welcomes the creation of

the transfer companies. Improving the skills and employability of vulnerable workers in a structured manner will facilitate their reintegration into the labour market and help to overcome the current lack of skilled labour. It is crucial to invest in adequate skills development and skills up-grades to react to structural change and facilitate the shift of resources to higher value added uses. Therefore, particular attention should be put on improving the possibilities of low skilled employees for finding new and better jobs, thus ultimately serving the general goals of the renewed Lisbon strategy.

- In their application, the German authorities provide evidence that the actions provide support for individual workers and are not used for restructuring of companies or sectors.
- Germany has confirmed that the eligible actions referred to under points 17 and 19 above do not receive assistance from other Community financial instruments. The European Social Fund will intervene for 2 separate, clearly identified measures that are not part of the co-ordinated package referred to in point 17 above.

#### 24. Management and control systems

Germany has notified the Commission that the financial contribution will be managed and controlled by the bodies inside the Bundesministerium für Arbeit und Soziales already designated in respect of the European Social Fund, in accordance with Regulation (EC) No. 1083/2006.

#### Conclusion

25. In conclusion, for the reasons set out above, it is proposed to accept application EGF/2007/003/DE/BenQ submitted by Germany relating to the redundancies in the two German subsidiaries of the Taiwanese enterprise BenQ Corporation, as evidence has been provided that these redundancies result from major structural changes in world trade patterns which have led to a serious economic disruption, which affects the local economy. A co-ordinated package of eligible personalised services has been proposed. Therefore, it is proposed to deploy the EGF.

### **FINANCING**

The total annual budget available for the EGF is EUR 500 million. So far, 2 cases have been proposed for funding, for an aggregated amount of EUR 3 816 280.

Article 12 (6) of Regulation (EC) No. 1927/2006 states that on 1 September of each year, at least EUR 125 million should remain available in order to cover the needs arising until the end of the year. After deduction of the amount already proposed for commitment, an amount of EUR 496 183 720 remains available.

It is proposed to deploy EUR 12 766 150 from the EGF.

### **THE COMMISSION IS THEREFORE INVITED TO:**

- approve the conclusions on application EGF/2007/003/DE/BenQ submitted by Germany as set out in this Communication.

- submit to the budgetary authority a proposal to authorise appropriations corresponding to EUR 12 766 150, as specified in point 19 as well as a request for the transfer of this amount in commitment appropriations to budget line 04.0501 (European Globalisation Adjustment Fund) in accordance with Article 12 (3) of Regulation (EC) No 1927/2006.
- authorise the transfer of the identical amount in payment appropriations from budget line 04.0201 (Completion of the European Social Fund) to budget line 04.0501 (European Globalisation Adjustment Fund).