

***Case No COMP/M.2832 -
GENERAL MOTORS /
DAEWOO MOTORS***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 22/07/2002

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, **22/07/2002**

SG (2002) **D/230877**

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

To the notifying parties

Dear Sir/Madam,

**Subject: Case No COMP/M.2832 – General Motors/Daewoo Motors
Notification of 20.06.2002 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 20.06.2002 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the undertaking General Motors Corporation (“GM”, US), acquires within the meaning of Article 3(1)(b) of the Council Regulation sole control of parts of Daewoo Motor Company, Ltd. (“Daewoo”, Korea).

I. THE PARTIES

2. GM is a global company based in US active in the design, manufacture and supply of motor vehicles through more than 200 major subsidiaries, joint ventures and affiliates around the world. GM also has interests in telecommunications, aerospace and defence, financial and insurance services, locomotives, automotive systems and heavy-duty automatic transmissions.
3. Daewoo, based in the Republic of Korea, is active in the design, manufacture, and supply of motor vehicles. Only certain of Daewoo’s passenger car and light commercial vehicle assets are part of the transaction. Following prolonged financial difficulties, Daewoo filed for and entered into receivership under Korean insolvency law in November 2000.

¹ OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

II. THE OPERATION

4. The proposed operation is the acquisition by GM of sole control of part of the assets and liabilities of Daewoo, the Acquired Daewoo Automotive Business (“ADAB”). These assets are related to the design, engineering, manufacturing, marketing and sale of specified Daewoo automotive vehicles, including certain passenger cars and light commercial vehicles.
5. The transaction will be effected through the establishment of a newly created company, General Motors - Daewoo Auto and Technology Company (“GMDAT”), which will be controlled by GM (42,1% stake). The other shareholders of GMDAT will be Suzuki Motor Corporation (“Suzuki”, 14,9%), [...]² [...] and the Daewoo creditors, organised in the Daewoo Motor Creditor Committee and represented in the transaction through the Korea Development Bank (“The Creditors”, 33%).
6. The principal business to be acquired are: (i) two manufacturing plants in Korea (Changwon and Kunsan), (ii) the passenger car manufacturing operations in Vietnam, (iii) certain of the assets related to the Bupyong motor vehicle manufacturing plant in Korea, (iv) nine Daewoo overseas sales subsidiaries³, and (v) the exclusive worldwide right (except with regard to automotive parts, which is not exclusive) to use the Daewoo name and logo in connection with the ADAB.
7. The Bupyong plant may be acquired by GMDAT in a later stage if certain objective performance requirements are achieved. Meanwhile, the Bupyong plant will be transferred by Daewoo and The Creditors to a new company, Newco B⁴, that will operate independently from GMDAT and will provide it with assembling services.

III. THE CONCENTRATION

8. In GMDAT’s Board of Directors, GM will be entitled to appoint 5, Suzuki 1, [...] 1 and The Creditors 3 directors respectively. To make a decision concerning the business and commercial policy of GMDAT a minimum of 6 out of 10 directors is needed in order to constitute a quorum, so that GM, with its 5 directors, is the only one who can unilaterally create a deadlock.
9. None of the agreements between the stockholders provide for any shareholder to have specific rights concerning the annual budget, business plan, investments or other strategic decisions. Only GM has the capability to create a deadlock in these issues, exercising decisive influence on GMDAT.
10. GM also expects to appoint the senior management of GMDAT, including the President and Chief Executive Officer, the Chief Financial Officer and the director of sales and marketing.

2 [...]]

3 Austria, Belgium, Netherlands, Luxembourg, France, Germany, Italy, Spain and Switzerland, and the centralized European spare parts organisation (“Europarts”) based in the Netherlands.

4 Master Transaction Agreement, Article 2.1 (g).

11. In the light of the above, it can be concluded that GM has the possibility of exercising decisive influence on GMDAT, having sole control of it, and the operation constitutes a concentration within the meaning of the article 3(1)(b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

12. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion⁵ and a Community-wide turnover in excess of EUR 250 million, but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

V. COMPETITIVE ASSESSMENT

A. The relevant product markets.

The manufacture and supply of passenger cars and Light Commercial Vehicles ("LCVs").

13. Passenger cars serve the general purpose of individual transport of passengers on public roads, and unlike commercial vehicles, are not primarily designed for commercial use. In previous decisions concerning the car sector⁶, the Commission has left it open as to whether the market for all passenger cars can be considered the relevant product market, or whether it might be appropriate to subdivide this market in several segments. The narrowest possible segmentation of the passenger car market previously identified by the Commission is the following: mini cars, small cars, medium cars, large cars, executive cars, luxury cars, sport coupes, multi purpose vehicles and sports utility vehicles.
14. The market for commercial vehicles is commonly subdivided into three sub-segments: light commercial vehicles (LCV), medium trucks and heavy trucks. In the present case, only a certain part of Daewoo's LCV assets is included in the transaction. LCV's are not primarily designed for the transport of persons and lack the car-like comfort, handling, speed and flexibility that characterises, for instance, multi-purpose vehicles.
15. The boundaries between segments are blurred by factors other than the size or length of cars. These factors include price, image and the amount of extra accessories. Customers choose their cars using a combination of parameters, such as brand, size, equipment and price. On the other hand, segmentation is generally used by the industry and it still seems to be regarded as an important indicator for the positioning of a car in the market place.

⁵ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25).

⁶ Case IV/M.1036 – Chrysler/Distributors of 22.12.1997, Case IV/M.1204 – Daimler-Benz/Chrysler of 22.07.1998, Case IV/M.Toyota/Daihatsu of 6.11.1998 and Case IV/M.1452 – Ford/Volvo of 23.03.1999.

16. In the present case, the exact definition of this relevant product market can be left open since, in all the alternative market definitions considered, effective competition will not be significantly impeded in the EEA or any substantial part of that area.

Wholesale and retail distribution of passenger cars and LCVs.

17. In previous decisions⁷ the Commission has distinguished between the wholesale and retail distribution of motor vehicles. At the wholesale level, distributors or importers distribute vehicles to dealers, which latter retail the vehicles to final customers.
18. The wholesale function is often carried out by subsidiaries of the manufacturers themselves. Some vehicle brands (mostly Asian brands like Daewoo), are distributed by independent distributors/importers, although independent importers have to ensure consistency with the central marketing strategies developed by manufacturers.
19. At the retail level, vehicles are sold to final customers by dealers, who are often independent, although they may be subject to exclusive and selective distribution agreements with manufacturers (under Commission Regulation (EC) No 1475/95).
20. In previous decisions the Commission has also distinguished between the distribution of passenger cars and commercial vehicles.
21. In the present case, the exact definition of this relevant product market can be left open since, in all the alternative market definitions considered, effective competition will not be significantly impeded in the EEA or any substantial part of that area.

B. Relevant geographic markets.

The manufacture and supply of passenger cars and LCVs.

22. The notifying party submits that the relevant geographic market for the manufacture and supply of passenger cars and LVCs is at least European-wide. It supports its statement in the following considerations: (i) there are no tariffs or other obstacles to trade within the Member States, (ii) all major passenger car suppliers distribute their products on a EEA-wide basis, including European countries where they have no local production facilities, (iii) technical and qualitative requirements for passenger cars are common throughout the EEA and indeed subject to regulation at EEA-level and (iv) the proximity of a producer to its customers is unimportant, with transport costs within the EEA accounting for less than 1% of the price.
23. In previous decisions and from a supply-side perspective, the Commission has suggested that production in the car industry could be regarded as international or even global⁸. In the present case, the exact definition of the relevant geographic market can be left open since, in all the alternative geographic market definitions considered, effective competition will not be significantly impeded in the EEA or any substantial part of that area.

⁷ Case IV/M.182 – Inchape/IEP of 26.01.1992

⁸ Decision of 24 May 1996, Case IV/M.741 – Ford/Mazda and Decision of 23 March 1999, Case IV/M.1452 – Ford/Volvo.

Wholesale and retail distribution of passenger cars and LCVs.

- 24. From a customer perspective, although there has been a progressive harmonisation of the competitive environment within the EU with regard to technical barriers, restrictions concerning distribution systems and the transparency of car pricing, differences still remain with regard to prices, vehicle taxation, distribution systems and penetration rates of major competitors within the Member States.
- 25. In previous cases⁹ the Commission has left open the question of whether the geographical market for these activities is European-wide or national. In the present case it is not necessary to determine the exact geographic market since irrespective of the geographical market taken into account the operation will not give rise to any serious doubts as to its compatibility with the Common market.

C. Competitive assessment.

Manufacture and supply of passenger cars and LCVs.

- 26. Unlike GM, which is active in all of the above-mentioned passenger car segments, ADAB is active in only five of the nine identified segments, namely mini cars, medium cars, large cars, executive cars and multipurpose vehicles (“MPV”).
- 27. In the overall market for passenger cars at EEA level, the operation will lead to an increase of GM’s market share of [0-5]%, from [10-20]% to [10-20]%. If the market in the EEA is considered at a segment level, the market shares after the operation will remain under 15% in all segments except in MPV, where it will be [10-20]% ([10-20]% for GM and [0-5]% for the ADAB).

Assessment by segments.

- 28. As far as the **mini car** segment is concerned, at EEA level, the GM market share post merger will grow from [0-10]% to [10-20]%. At national level GM’s market shares will become more than 15% in the following countries (data in %):

	Finland	Greece	Ireland	Italy	Netherlands	Norway	Portugal	Spain	Sweden	UK
GM	[20-30]	[0-10]	[0-10]	[0-10]	[10-20]	[10-20]	[0-10]	[0-10]	[20-30]	[0-10]
ADAB	[0-10]	[10-20]	[10-20]	[0-10]	[0-10]	[10-20]	[20-30]	[0-10]	[0-10]	[0-10]
Total	[20-30]	[20-30]	[20-30]	[10-20]	[10-20]	[20-30]	[20-30]	[10-20]	[20-30]	[10-20]

- 29. The increase in market share in Finland and Sweden is only marginal. In the rest of countries there are two to four main competitors (mainly Fiat, Hyundai, Ford and

⁹ Case IV/M.182 Inchape/IEP; Case IV/M.326 Toyota Motor Corp/Walter Frey/Toyota France; Case IV/M.1452 Ford/Volvo.

Volkswagen). In fact, GM will become the leader brand only in three countries: (i) Netherlands, where there are four competitors with a market share of more than 10%¹⁰, (ii) Norway, where there are two competitors with a market share of more than 15%¹¹, and (iii) Portugal, with three competitors with a market share of more than 13%¹². No dominance will be created as a result of the operation, since the competitors active in the market would be able to jeopardise any potential anti-competitive outcome.

30. In the **medium car** segment, the GM 's market share through the operation will be more than 15% only in seven countries: Belgium/Luxembourg ([10-20]%), Finland ([10-20]%), Germany ([10-20]%), Greece ([10-20]%), Netherlands ([10-20]%) and United Kingdom ([10-20]%). The contribution of ADAB will exceed [0-5]% only in Greece ([10-20]% from GM and [0-10]% from ADAB). This is due to the Daewoo Lanos, a car that will not be part of the transaction but will be replaced in the near future by the Daewoo Kalos, which will be included in the transaction. Most car manufacturers are active in this market which will ensure that it will remain competitive after the operation. The total combined share of medium passenger car sales on the EEA market, on the assumption that sales figures for the Kalos will be similar to those for the Lanos, will be below 15% ([10-20]%).
31. Concerning the **large car** segment, the combined shares are not such as to cause dominance concerns. In all the EEA countries the combined market shares are below 15%.
32. In the **executive segment** the market shares of GM are only beyond 15% in Finland ([20-30]%), Sweden ([20-30]%), Norway ([10-20]%) and United Kingdom ([10-20]%). And it is only in UK where there is an increase of shares due to the ADAB ([0-5]%), resulting in a combined UK market share in this segment after the operation of [20-30]%. The combined shares in this segment after the operation at EEA level will be well below 15%.
33. Concerning the market for **multipurpose vehicles**, the combined market shares will be above 15% in all the Member States and Contracting Parties other than France, Iceland and Sweden, but in no country will be beyond 25%. The market shares added to GM from ADAB are very low in all countries, always less than [0-5]% except for Greece ([0-5]%) and Netherlands ([0-5]%). The combined share of sales after the merger at EEA level will be [10-20]% ([10-20]% from GM and [0-5]% from ADAB). Furthermore the market for MPV's faces significant competition from a number of competitors, mainly Renault ([30-40]%), Ford/Volvo/Jaguar ([0-10]%), Fiat group ([0-10]%) and Volkswagen/Audi/Seat/Skoda ([0-10]%).
34. In both the executive and the multipurpose segments, no dominance concerns will arise.
35. Regarding the **LCV** segment, the combined market share after the operation will be [0-5]% at EEA level, with a marginal presence in all the Member States.

¹⁰ Ford ([10-20]%), Renault ([10-20]%), Fiat ([10-20]%) and Hyundai ([10-20]%).

¹¹ Ford ([10-20]%) and Hyundai ([20-30]%).

¹² Volkswagen ([10-20]%), Renault ([0-10]%), Fiat ([10-20]%) and Hyundai ([10-20]%).

Wholesale and retail distribution.

36. With regard to the wholesale market, it is mainly developed through subsidiaries or, in the case of ADBA, also through a small number of independent importers¹³. Since neither of the parties undertakes wholesale or retail distribution of competitive brands and have limited interest in undertakings active at retail level, the market shares are at the highest a function of their upstream positions. The estimated market shares after the operation will be [10-20]% for the wholesale market ([10-20]% for GM and [0-5]% for ADAB), and less than [0-5]% for the retail distribution of passenger cars and LCVs.
37. In the light of the above, whatever combination is taken for the different product and geographic market definitions, the combined shares are not such as to give rise to any dominance concernssince there are a sufficient number of competitors in order to ensure the competitiveness of the markets.

VI. CONCLUSION

38. In the light of the above, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission
Mario MONTI
Member of the Commission

¹³ ADAB distribute through both subsidiaries and small independent importers in Denmark, Greece, Iceland, Ireland, Luxembourg, Norway, Portugal and Sweden.