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In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...].

PUBLIC VERSION

WORKING LANGUAGE

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Subject: State aid N 158/2005 GETRAG FORD Transmissions Slovakia (MSF 2002)

Your Excellency,

1. PROCEDURE

- (1) By letter dated 18 March 2005, registered at the Commission on 23 March 2005, the Slovak Republic notified, pursuant to Article 88(3) of the EC Treaty, an *ad hoc* aid for a large investment project in favour of GETRAG FORD Transmissions Slovakia, s.r.o.
- (2) By letters of 4 May 2005 (D*/53532), 10 August 2005 (D*/56201), 23 September (D*/57406) and 28 October 2005 (D*/58597) the Commission asked for complementary information concerning the above mentioned measure.
- (3) The Slovak authorities transmitted additional information by letters dated 15 June 2005, 12 August 2005, 7 September 2005, 3 October 2005, 20 October 2005, 28 November 2005, 15 December 2005, 9 January 2006 and 27 January 2006 registered on 16 June 2005 (A/34816), 17 August 2005 (A/36597), 12 September 2005 (A/37164), 3 October 2005 (A/37867), 21 October (A/38609), 2 December 2005 (A/40061), 20 December 2005 (A/40628), 16 January 2006 (A/30394) and 30 January 2006 (A/30765) respectively.
- (4) In addition, at the request of the Slovak authorities, on 12 July 2005, a technical meeting with the Commission services took place in order to provide further clarifications on the measure in question.

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2. DESCRIPTION OF THE AID MEASURE

- (5) The Slovak authorities intend to provide aid to GETRAG FORD Transmissions Slovakia, s.r.o (GFTSK) in the nominal amount of EUR 53,5 million, for the setting up of a manufacturing and assembly site for the production of dual clutch automotive transmissions as well as motorcycle transmissions in the Slovak Republic. The total cost of the investment will amount to EUR 345 million with eligible cost of EUR 265 million
- (6) The investment is to take place in Kechnec, situated in the region of Košice (Eastern Slovakia), an Article 87(3)(a) region with an aid intensity ceiling of 50% NGE, according to the regional aid map established for the Republic of Slovakia and in force till the end of 2006¹.

2.1 The beneficiary

- (7) GFTSK, a limited liability company, with its registered office in Košice, Slovakia, is a 100% affiliated company of GETRAG FORD Transmissions GmbH (GFT) in Germany².
- (8) GFT, founded on 1 February 2001, is a 50%-50% joint venture in the field of manual transmissions created from the alliance between GETRAG, a supplier of manual transmissions and drive train components, and the FORD Group.
- (9) GFT is located in Cologne in Germany (headquarters, product development activities and production), Bordeaux in France (production), Halewood in the United Kingdom (production) and Gothenburg in Sweden (product development).

2.2 The project

2.2.1 Products

- (10) The investment concerns the setting up of a new establishment for the production of dual clutch automotive transmissions as well as transmissions for motorcycles³. The following products will be manufactured at the plant in Kechnec: GFT Modular Powershift 6 car transmissions (MPS6), GFT Short Powershift 6 car transmissions (SPS6), GETRAG [...] motorcycle transmissions, and GETRAG [...] motorcycle transmissions.
- (11) Powershift is the brand name of GFT for the dual clutch transmission technology (DCT). DCT combines manual and automatic transmission

¹ State Aid SK 72/2003 – Slovak Republic – “Regional State aid map of the Slovak Republic – prolongation until 31 December 2006”.

² In order to comply with the Slovak Law on the ownership of participation interest by limited liability companies having a sole shareholder, GFT shall in the near future split its 100% participation interest in GFTSK, keep a participation interest of app. 99,3% and transfer the remaining interest of app. 0,7% to one of GFTSK’s directors.

³ 29.14 NACE code – Manufacturing industry: bearings, gears, gearing and driving elements.

functionality⁴. The application of DCT technology is fairly new but it does not constitute genuine innovation⁵. It is considered that DCT is 10% more fuel efficient than a conventional automatic transmission.

2.2.2 Project implementation

- (12) Works on the project started in 2005, and will be carried out in two phases. As from 2007, production will start for the following products: MPS6 for [...] and [...], SPS6 for [...], motorcycle transmissions for [...], and motorcycle transmissions for [...]. From 2010 GFTSK will start producing SPS6 transmissions for [...].
- (13) Full production will be reached by 2012 as regards automotive transmissions ([...] units per year), and by 2007 concerning motorcycle transmissions ([...] units per year).

2.3 Legal basis

- (14) With regard to the cash grant, the aid is based on the Slovak Act N° 231/1999 Coll. on State Aid; Section 8(2) of the Act N° 523/2004 Coll. on Budget Rules of the Public Administration; Decree N° 1/2005 of the Slovak Ministry of Economy from 1 March 2005 on the providing of grants within the competence of the Ministry of Economy; and Decision of the Slovak government N° 119 dated 9 February 2005⁶.
- (15) Concerning tax relief, the aid is based on Act N° 231/1999 Coll. on State Aid; Act N° 565/2001 Coll. on Investment Incentives, and Income Tax Act N° 366/1999 Coll⁷.

⁴ Dual clutch transmission is composed by two separate clutches and shafts for uneven and even gears, with just one engaged. The system pre-selects the following gear based on the driving style and signals coming from the Electronic Control Unit. There is no torque interruption, since decoupling of one clutch is followed by immediate re-coupling of the other clutch in higher and lower gear. The advantages of dual clutch technology are the following: high performance, no torque interruptions and highest engine efficiency.

⁵ Volkswagen already produces transmissions based on this technology since 2003.

⁶ Zákon č. 231/1999 Z.z. o štátnej pomoci, v znení neskorších predpisov; § 8 ods. 2 zákona č. 523/2004 Z.z. o rozpočtových pravidlách verejnej správy; Výnos č. 1/2005 Ministerstva hospodárstva SR z 1. marca 2005 o poskytovaní dotácií v pôsobnosti Ministerstva hospodárstva Slovenskej republiky; Uznesenie Vlády Slovenskej republiky č. 119 zo dňa 9. februára 2005.

⁷ Zákon č. 231/1999 Z.z. o štátnej pomoci, v znení neskorších predpisov; Zákon č. 565/2001 Z.z. o investičných stimuloch v znení neskorších predpisov, najmä §2 ods. 1 písm.a) zákona č. 565/2001 Z.z. o investičných stimuloch v znení neskorších predpisov ; stanovuje, že investičnými stimulmi je štátna pomoc na počiatočné investície poskytovaná na obstaranie hmotného investičného majetku a nehmotného investičného majetku potrebného na začatie výroby vo forme daňovým úľavy.; Zákon č. 595/2003 Z.z. o dani z príjmov, v znení neskorších predpisov, v znení účinnom k 31. decembru 2003, najmä §52 ods. 4 zákona č. 595/2003 Z.z. o dani z príjmov, v znení neskorších predpisov , za podmienok uvedených v §35b zákona č. 366/1999 Z.z. o daniach z príjmov, v znení účinnom k 31. decembru 2003.

2.4 Financing of the investment

- (16) The aid constitutes an ad hoc aid. The total nominal amount of aid is EUR 53,5 million. The aid is given in the form of a cash grant (EUR [...] million) and in the form of a tax relief (EUR [...] million)⁸. It is expected that the beneficiary will claim tax relief in the following years and amounts: in [...] tax relief in the amount of EUR [...] million; in [...] tax relief in the amount of EUR [...] million; and in [...] tax relief in the amount of EUR [...] million. In any event, the beneficiary may claim the tax relief during a period of maximum ten consecutive tax years (at the latest until 2019) after it has recorded the first positive income tax liability.
- (17) The Slovak Republic also plans to provide the beneficiary with training aid in the amount of EUR 1 million. The training aid will be granted as an exempted aid pursuant to Commission Regulation (EC) N° 68/2001 on the application of Articles 87 and 88 of the EC Treaty⁹.
- (18) The project involves a public land sale to the beneficiary. The Slovak authorities confirmed that the sale of land to the beneficiary will follow the procedure set out in the Commission Communication on State aid elements in sales of land and buildings by public authorities¹⁰ and therefore will not constitute State aid. In case there is any doubt as to the question of State aid in the transfer of the above mentioned land to any beneficiary, the Slovak authorities will notify the case to the Commission.
- (19) The eligible expenditure amounts to EUR 265 million. The value of the investment is established as a percentage on the basis of land, buildings and equipment. Land represents [...] % of the total investment (EUR [...] million), buildings represent [...] % of the total investment (EUR [...] million) and equipment (plant and machinery) represents [...] % of the total investment (EUR [...] million).

⁸ The Slovak authorities used an exchange rate of 1 EUR = 38,125 SKK, which was applicable on 15 February 2005 (day of submitting the application for aid by the beneficiary) to transfer the nominal total aid of EUR 53,5 million into SKK.

⁹ OJ L 10, 13.1.2001, p. 20, as amended by Commission Regulation (EC) No 363/2004 (OJ L 63, 28.2.2004, p. 20).

¹⁰ OJ C 209, 10.7.1997, p. 3.

Table 1: Breakdown of the project costs (in millions of EUR)

	2005	2006	2007	2008	2009	2010	2011	2012	Total
	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls
Planned Local Project Investment									
Land & Building	[...]	[...]							[...]
	[...]	[...]	[...]	[...]					[...]
	[...]	[...]	[...]	[...]					[...]
	[...]	[...]	[...]	[...]					[...]
	[...]	[...]	[...]	[...]					[...]
Total Machines, Facilities & Other Equipment	[...]	[...]	[...]	[...]					[...]
	[...]	[...]	[...]	[...]					[...]
	[...]	[...]	[...]	[...]					[...]
	[...]	[...]	[...]	[...]					[...]
Total Land & Building, M&F, Tooling	[...]	[...]	[...]	[...]					[...]
Later Project									
	[...]					[...]		[...]	[...]
	[...]			[...]	[...]	[...]	[...]		[...]
	[...]			[...]	[...]	[...]	[...]	[...]	[...]
	[...]			[...]	[...]	[...]	[...]	[...]	[...]
Total Later Project				[...]	[...]	[...]	[...]	[...]	[...]
Subtotal Land & Building	[...]	[...]							[...]
Subtotal Motorvehicle transmissions	[...]	[...]	[...]	[...]	[...]	[...]	[...]		[...]
Subtotal Motorbike transmissions		[...]				[...]		[...]	[...]
Total Planned Local Project Investment	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	265 €
On top of the local investments there are further investments required for the development of the Powershift by GFT outside Slovakia and associated tooling at vendros which lead to a total project investment of € Mio. 345.									
	up to								
	2005 +								
	2005	2006	2007	2008	2009	2010	2011	2012	Total
	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls	€ mlls
Auxiliary (non-local) Investment									
	[...]	[...]	[...]	[...]	[...]	[...]			[...]
	[...]	[...]	[...]	[...]	[...]	[...]	[...]		[...]
Total Auxiliary Investment	[...]	[...]	[...]	[...]	[...]	[...]	[...]		[...]
Total Planned Project Investment	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	345 €

- (20) Part of the investment project (the production of [...] and [...] motorcycle transmissions) involves the relocation of existing production activities from Germany (Neuenstein in Baden-Württemberg) to Slovakia. The cost of

transferring, overhauling and re-installing the existing motorcycle transmissions production will amount to EUR [...] million.

- (21) The Slovak authorities confirmed that no aid has been granted previously to the motorcycle transmissions facility in Germany. Moreover, the relocation of the motorcycle transmissions production will not lead to a reduction of staff at the Neuenstein plant. The existing staff of about 100 people involved in the production of motorcycle transmissions will be transferred to a car transmission production line in Germany.
- (22) According to point 8.1(c) of the investment agreement, the investor is obliged to finance at least 25% of the investment project from its own sources.
- (23) The Slovak authorities confirmed that the investment will not be combined with additional aid from other local, regional, national or Community sources calculated on the basis of the same investment costs or wage costs of jobs created.
- (24) The beneficiary applied for the aid before works have started on the project.

2.5 Maintenance of the assisted activity

- (25) The investment agreement contains in its point 8.1(f) an obligation for the investor to operate the manufacturing facility at the site for a minimum period of ten years following the start of production at the site. If this obligation is not respected, the investor is obliged to compensate the Slovak Republic and the municipality of Kechnec for any losses (within the meaning as defined in the investment agreement) arising as a result of or in connection with such breach.

2.6 Contribution to regional development

- (26) GFT intends to create at least 450 new jobs through GFTSK by 2008 and a total of 750 new jobs by 2012 with the principal place of work in the municipality of Kechnec. It is foreseen that almost all of the labour force will be provided by recruitment of employees from the Košice region. It is expected that 1000 to 1500 additional new jobs should be created in the subcontractors' network.
- (27) The project will also have a positive effect on employment in the sphere of services, trade, development industry, transport etc.
- (28) The project will lead to the establishment of a completely new industrial park, which will attract additional investors and therefore support the creation of new jobs and economic development in the Košice region where GDP is only 44,7% of EU-25 average and which has the highest unemployment rate in Slovakia (270% of EU-25 average).

2.7 Other conditions

- (29) The Slovak authorities have confirmed to submit to the Commission a copy of the aid contract, annual reports (including information on the subsidies already paid) as well as a final report (indicating to what extent the objectives

have been realised in terms of the timetable, the investments and compliance with any specific conditions laid down by the authority granting the aid).

3. ASSESSMENT OF THE AID MEASURE AND COMPATIBILITY

3.1 Existence of aid

- (30) A direct grant and tax relief is provided by the Slovak Government. This constitutes State resources within the meaning of Article 87(1) of the EC Treaty.
- (31) As the aid is granted to one company, the measure is selective.
- (32) The aid relieves GFTSK from costs which it would have to bear under normal market conditions and therefore the company benefits from an economic advantage over its competitors.
- (33) The measure concerns a company acting in the car and motorbike transmission markets, which are subject to extensive competition and trade between Member States. Thus, there is a risk that the aid could distort competition and affect intra-Community trade.
- (34) Consequently, the Commission considers that the notified measure constitutes State aid to GFTSK within the meaning of Article 87(1) of the EC Treaty.

3.2 Notification requirement

- (35) By notifying the measure, the Slovak authorities complied with the individual notification requirement expressed in point 24 of the Multisectoral framework on regional aid for large investment projects¹¹ (hereafter: MSF).
- (36) The Commission has therefore assessed the aid measure in accordance with the provisions of the Guidelines on national regional aid¹² (hereafter: RAG) and the MSF.

3.3 Compatibility with the RAG

- (37) The proposed aid measure is in line with the provisions of the RAG. In particular, the project comprises an initial investment within the meaning of the RAG, the costs eligible for investment aid are defined and rules on cumulation are respected. Furthermore the beneficiary has applied for aid before starting work on the project.
- (38) Although as a general rule the Commission does not favour the award of *ad hoc* regional aid, in the present case the Commission is satisfied from the

¹¹ OJ C 70, 19.3.2002, p. 8, as amended in OJ C 263, 1.11.2003, p. 3.

¹² OJ C 74, 10.3.1998, p. 9.

information given in point 2.6 above that the project will produce substantial positive spill-overs which should provide a major contribution to the development of one of the poorest regions in the EU.

3.4 Compatibility with the MSF provisions

3.4.1 Aid intensity

- (39) With nominal eligible expenditure of EUR 265 million¹³ and an applicable standard regional aid ceiling of 50% in net grant equivalent (NGE), the adjusted maximum aid intensity permitted in accordance with point 21 of the MSF is 26,02% NGE.
- (40) The foreseen nominal aid amount of EUR 53,5 million, which represents an aid intensity of 18,14% NGE is below this ceiling. Therefore, the proposed aid intensity is in line with the scaling down mechanism foreseen by point 21 of the MSF.
- (41) The project does not fall under the definition of motor vehicle industry for the purposes of the MSF (Annex C), as it is not an “overall project”¹⁴. Therefore, there is no need to make a further adjustment to reduce the aid intensity according to point 42 of the MSF¹⁵.

3.4.2 Compatibility with the rules under point 24(a) and (b) of the MSF

- (42) In accordance with point 19 of the MSF, certain types of investments are likely to cause serious distortion of competition, and their beneficial effects on the region concerned are more doubtful. This is true in particular for investments where a single company has a high market share, or where the existing sectoral production capacity increases significantly, without a corresponding increase in demand for the products concerned.

¹³ EUR 227,34 million in present value

¹⁴ According to Annex C, point (e) of the MSF an “overall project” means a project where a car manufacturer in fairly close geographical proximity integrate one or more projects of first-tier component suppliers. An investment of one first-tier component supplier is integrated within the definition of a global project if at least half the output resulting from that investment is delivered to the manufacturer concerned at the plant in question. In the present case, no car manufacturers belonging to the FORD Group or production facilities of FORD are currently located in Slovakia.

¹⁵ As modified by Commission communication on the modification of the Multisectoral Framework on regional aid for large investment projects (2002) with regard to the establishment of a list of sectors facing structural problems and on a proposal of appropriate measures pursuant to Article 88(1) of the EC Treaty, concerning the motor vehicle sector and the synthetic fibres sector, OJ C 263, 1.11.2003, p. 3.

- (43) Accordingly, paragraph 24 of the MSF provides that individually notifiable large investment projects are not eligible for aid in either of the two following situations¹⁶:
- (a) the beneficiary accounts for 25% of the sales of the product concerned before, or on completion of the investment;
 - (b) the capacity created by the project is more than 5% of the size of the market using apparent consumption data of the product concerned, unless the average annual growth rate of its apparent consumption over the past five years is above the annual growth rate of the EEA's GDP.
- (44) To carry out the relevant tests under point 24(a) and (b) of the MSF, the Commission has to establish appropriate geographic and product market definitions. To this end, a distinction has to be made between automotive transmissions¹⁷ and transmissions for motorcycles, as they are intended for clearly distinct uses and are not substitutable products.

3.4.2.1 Automotive transmissions

Downstream products

- (45) According to point 52 of the MSF 2002, the product concerned will be deemed to include the downstream products (in this case: passenger cars and light trucks) when the project concerns an intermediate product and a significant part of the output is not sold on the market.
- (46) The Commission notes in this respect that the beneficiary is partially owned by the FORD Group and that a significant part (over [...]%) of the products concerned will be delivered to car manufacturers belonging to this group (Powershift MPS6 for [...], Powershift MPS6 and SPS6 for [...]). In order to establish whether market conditions apply for the delivery to the FORD Group, it is necessary to analyse whether sales are at arm's length.
- (47) In this respect, the information submitted by the Slovak authorities indicates that the pricing for dual clutch transmission for FORD Group is not subject to [...]. However, there is no obligation for FORD to [...]. To win the order GFT [...]. The conditions of sales (including [...]) are laid down in long-term agreements.
- (48) As the above information does not allow the Commission to establish without doubts that sales to FORD Group take place under market conditions, the downstream market for cars and light trucks has also been examined.

¹⁶ The burden of proving that the situations to which points 24(a) and (b) of MSF refer do not obtain lies with the Member State.

¹⁷ Automotive transmissions include transmissions for cars and light trucks. The market for transmissions of heavy trucks is not included because of the different technology.

- (49) According to independent statistics¹⁸, the FORD Group has in the market for passenger cars and light trucks a market share of approximately 11,1% in Europe and 10,9% world-wide, so the 25% threshold is clearly not exceeded. Therefore, the Commission will henceforth focus its investigation on the market for automotive transmissions.

Relevant product market

- (50) According to point 52 of the MSF ‘product concerned’ means the product envisaged by the investment project and, where appropriate, its substitutes considered to be such, either by the consumer (by reason of the product’s characteristics, prices and intended use) or by the producer (through flexibility of the production installation).
- (51) On the market for automotive transmissions, five different transmission types can be distinguished on the basis of the underlying technical principles: manual transmissions, automated manual transmissions (AMT), automatic transmissions, continuous variable transmissions (CVT) and dual clutch transmissions (DCT). As the investment project under scrutiny concerns the production of dual clutch transmissions, it is necessary to examine what other transmission types could be considered as substitutes of DCT within the meaning of point 52 of the MSF.
- (52) In a previous merger decision¹⁹, the Commission considered the market for automatic transmissions a clearly distinct market from that of manual transmissions in the light of prices (automatic transmissions are more expensive than manual ones), customer preferences and supply-side substitutability (i.e. equipment, production lines and technology differ significantly).
- (53) CVT belongs to the market for automatic transmissions, as their technology allows for a smooth variation of transmission ratio so that the driver perceives no shift. In addition, CVTs are more expensive than manual transmissions. This categorisation is also in line with the aforementioned merger decision.
- (54) AMT, on the other hand, can be seen as akin to manual transmissions in view of the torque interruption during gear change having a negative impact on driver comfort. Also, supply-side substitutability is important as this transmission type is the automation of a standard manual gearbox, which makes it relatively simple to switch from the production of traditional manual transmissions to manufacturing automated manual ones.
- (55) When deciding whether DCT belongs to the broad market for manual transmissions (including manual transmissions and AMT) or to the broad market for automatic transmissions (including automatic transmissions and CVT), the following aspects should be considered:

¹⁸ www.acea.be, www.oica.net.

¹⁹ Case No IV/M.1368 – FORD/ZF.

- With DCT, the working principle and therefore the comfort for the driver are similar to conventional automatic transmissions: the engine and the transmission are not completely cut off from each other during gear shift and drive to the wheels remains uninterrupted. This is not the case with manual transmissions.
 - The average per-unit costs of DCT (EUR 950) are more similar to that of automatic transmissions (EUR 1050) and are clearly around 50% above those of manual transmissions (EUR 600).
 - GFT, so far only involved in the production of manual transmissions, clearly wants to break with DCT into the automatic transmission segment.
 - However, the introduction of DCT may blur the boundaries between the two main categories: as the driver may choose if he wants to drive the car as a manual or as an automatic transmission, the Slovak authorities considered in the notification that it is a substitute in both categories, and that the relevant market should be considered as the whole automotive transmission market. It should be noted in this respect that, at the time of the merger decision establishing distinct markets for automatic and manual transmissions, DCT was not yet on the market.
 - Performance characteristics for DCT such as top speed and acceleration are essentially the same as those of a manual gearbox, which represents an advantage over standard automatic transmissions.
 - DCT includes typical manual components and therefore, it is possible to utilize many parts of machinery already installed for manual gearboxes. Nevertheless, supply-side substitutability with manual transmissions is low, as, according to an independent study²⁰, substantial investments are required to switch production (the gearbox must be redesigned; it cannot be just an evolution of the manual one).
- (56) As the definition of the relevant product market is not straightforward, the Commission has assessed the operation in all three alternative product markets, namely:
- the broad market for automatic transmissions (including automatic transmissions, CVT and DCT);
 - the broad market for manual transmissions (including manual transmissions, AMT and DCT); and
 - the overall transmission market (including all the above transmission types).
- (57) On the basis of the data presented in paragraphs 64-69 below, it appears that the beneficiary fulfils the criteria laid down in point 24(a) and (b) of the MSF in all alternative markets, the question of the relevant product market in this case can be left open.

Definition of the relevant geographic market

²⁰ *Key trends in European transmission market. Executive summary.* A.T. Kearney, April 2004.

- (58) The Slovak authorities consider that the relevant market is world-wide in the case of automotive transmissions. The beneficiary has world-wide operations and customers do not have a limited geographic pattern of purchase.
- (59) However, according to the data submitted by the Slovak authorities, the major part ([..]%) of DCT produced will be sold to car manufacturing sites in the EEA ([..] and [..] factories in Europe) and only production for [..] ([..]%) will be sold outside Europe. Moreover, [..]% of GFT's turnover is currently realised in the EEA.
- (60) Accordingly, for the purposes of this decision, the Commission defines the applicable geographic market as the EEA market²¹. Considering EEA as the relevant market is also in line with the position taken in a number of merger decisions concerning automotive systems and components²², insofar as no different technical standards or regulatory barriers to trade exist within the EEA territory.

Market data

- (61) The Slovak authorities provided independent forecasts²³ for the evolution of sales in different automotive transmission sub-markets in volume terms. In addition, an independent estimate²⁴ of per-unit production costs for different transmission types was also made available to the Commission, which allows the calculation of value figures.
- (62) The Slovak authorities also provided data on the beneficiary's current and expected future production volumes and capacities. When calculating market shares, the beneficiary's production of automotive transmissions is taken into account at group level. This includes, besides GFTSK, production data of GFT and its two mother companies, GETRAG and FORD.
- (63) FORD Group produces automatic transmissions at its plant in Bordeaux for export to the US and exports automatic transmissions and CVT from its US-based plants to Europe. As the aid measure is assessed in the EEA, only products sold in Europe should normally be taken into account. However, it can be assumed that the Bordeaux plant, currently producing only for the US, could also supply the European market with little or no additional costs because of its location. Therefore, its production is also taken into consideration when calculating group-level market shares.

²¹ For reasons of data availability, data for Europe (Eastern and Western Europe) were taken into account when assessing compliance with points 24(a) and (b) on the EEA market.

²² Case No IV/M. 1368 - FORD/ZF; Case No IV/M. 1196 – Johnson Controls/Becker.

²³ *A global market review of automotive transmissions* – forecasts to 2012, 3rd edition. Just-auto.com, 2005.

²⁴ Estimates made by CSM Worldwide.

Market shares

- (64) The beneficiary's market share is assessed at group level in the alternative product markets and in the geographic market described above. The Commission's calculations result in market shares in volume and in value terms in the EEA (see table 2) which do in no case exceed or approach 25%. Therefore, for the automotive transmissions production, the project is in line with point 24(a) of the MSF.

Table 2: The beneficiary's market share in the EEA at group level.

	Market share in 2004 (%)		Market share in 2012 (%)	
	In volume terms	In value terms	In volume terms	In value terms
Broad market for manual transmissions*	[10-20%]	[15-25%]	[15-25%]	[15-25%]
Broad market for automatic transmissions**	[10-20%]	[10-20%]	[10-20%]	[10-20%]
Overall transmission market***	[10-20%]	[10-20%]	[10-20%]	[10-20%]

* Including manual transmissions, automated manual transmissions and dual clutch transmissions
 ** Including automatic transmissions, continuous variable transmissions and dual clutch transmissions
 *** Including all the above transmission types

Production capacity

- (65) Similarly to market share, capacity created by the project is also assessed in relation to the size of the alternative product markets described above. Data in both volume and value terms are considered (see table 3). Full capacity will be reached by 2012.

Table 3: Capacity created by the project compared to the size of the market.

	Capacity created as a % of market size	
	In volume terms	In value terms
Broad market for manual transmissions*	[0-5%]	[0-5%]
Broad market for automatic transmissions**	[5-10%]	[5-10%]
Overall transmission market***	[0-5%]	[0-5%]

* Including manual transmissions, automated manual transmissions and dual clutch transmissions
 ** Including automatic transmissions, continuous variable transmissions and dual clutch transmissions
 *** Including all the above transmission types

- (66) The project creates additional capacity exceeding 5% of the size of one of the alternative markets, the broad market for automatic transmissions.

- (67) However, this specific market experienced strong growth over the last five years. Measured in volume terms, its average annual growth rate between 2000 and 2004 amounts to 6,7%. The average year-on-year volume growth of the EEA's GDP²⁵ in the same period was clearly lower: 2,1%.
- (68) The Slovak authorities also provided data concerning growth of the automatic transmission market in value terms. These data were calculated at constant 2004 prices, but changes in the structure of demand (i.e. a shift towards higher, 5 and 6-speed segments of automatic transmissions) were taken into account. Average annual growth in value terms between 2000 and 2004 calculated on the basis of these assumptions amounts to 13%. Demand in Europe for automatic transmissions is expected to grow dynamically also in the years to come.
- (69) Consequently, for the automotive transmissions production, even though the capacity created exceeds 5% of the size of the broad automatic transmission market, the project is in line with point 24(b) of the MSF. The high growth rate of this particular market limits the likely distortions of competition resulting from the aid measure.

3.4.2.2 Motorcycle transmissions

Relevant product market

- (70) GFTSK will produce in Slovakia transmissions for large motorcycles above 250cc. According to the Slovak authorities the market for motorcycle transmissions can at least be separated between the market for transmissions that are used in larger more powerful motorcycles above 250cc and the market for transmissions for smaller and less powerful motorcycles up to 250cc. As regards motorcycles themselves, there is a considerable price difference between larger motorcycles and smaller ones that are primarily used in emerging economies as family or work vehicles.
- (71) Due to lack of information and data availability the Commission is not in a position to take a final view on the definition of the relevant product market. However, as GFTSK will produce only transmissions for larger motorcycles above 250cc, an analysis based solely on data for larger motorcycles above 250cc represents a worst-case scenario.

Definition of the relevant geographic market

- (72) The Slovak authorities argue that regarding the geographical scope the market for larger motorcycles above 250cc is concentrated in the industrialised Triad (US, Japan and Europe), where motorcycles are seen as pleasure vehicles by consumers that have already one or more cars. The other, in unit terms larger, market for smaller motorcycles is mainly located in emerging economies in the Asian/Pacific region.

²⁵ For reasons of data availability, EU-25 figures are used as a proxy.

- (73) The new plant in Slovakia will produce about [...] motorcycle transmissions per year. Out of these around [...] are for [...] motorcycles and [...] for [...]. GFTSK will supply production plants for [...] in Europe and for [...] in the US. Sales of these motorcycles are concentrated in the Triad (US, Japan and Europe).
- (74) For the purposes of the present decision, the Commission decided to base the market analysis on the Triad market as proposed by the Slovak authorities and at the same time on the European market as a worst-case scenario.

Market data

- (75) The Slovak authorities provided data based on statistics from manufacturers and sector associations for the production of motorcycles. They consider these data as a good proxy for the production and sales of motorcycle transmissions, as independent data on transmissions itself would not be available or existing. The Commission verified the data with a report by the sector association ACEM²⁶.
- (76) On the basis of the method used, replacement transmissions are excluded by definition as only production figures for new motorcycles were taken into account. This method narrows the market size of transmissions and makes thereby the application of the MSF criteria stricter.
- (77) The calculations in the following section are based on production figures (volume) as the Slovak authorities claim that no value data are available. To derive some value estimations, the beneficiary provided average prices for GETRAG motorcycle transmissions. A price of EUR [...] per transmission was used to calculate the value of the overall market.

Market shares

- (78) The Commission assessed the beneficiary’s market share in the market for transmissions for large motorcycle above 250cc in the Triad (U.S., Japan and Europe) market and in the European market only.
- (79) As shown in table 4, in all cases, the market shares are far below the 25% threshold.

Table 4: The beneficiary’s market share for motorcycle transmissions²⁷.

	Market share in 2004 (%)	Market share in 2007 (%) ²⁸

²⁶ ACEM Yearbook 2005. Facts and Figures on PTWs in Europe.“ ACEM represents the motorcycle industry in Europe. This data foresees a split at 50cc between mopeds and motorcycles. The yearbook can be downloaded from www.acembike.org.

²⁷ Figures are based on volume information. Due to the assumption of a constant and similar average price for the motorcycle transmissions, market shares in volume and value terms would be similar.

²⁸ For the motorcycle transmission part of the project, full capacity is reached in 2007.

Triad (Europe, US, Japan)	[0-5%]	[0-5%]
Europe	[5-10%]	[5-10%]

Production capacity

- (80) The Slovak authorities argue that since GFT's production of motorcycle transmissions ([...] per year) is simply relocated from Germany to Slovakia, the implementation of the investment project does not lead to an increase in existing capacity.
- (81) The Commission notes, nevertheless, that if the new production capacity created at Kechnec has to be considered separately from the transfer of capacity at Neuenstein to other uses, the project would, on the basis of the data submitted by the Slovak authorities, result in an increase of capacity of [0-5%] in both volume and value terms for the Triad group and [5-10%] in Europe. Furthermore, since according to the Slovak authorities, reliable historical data on the evolution of the market in large motorcycles is simply not available, it is not possible for the Commission to verify that growth in this market is above the average annual growth rate of GDP in the EEA.
- (82) However, in cases where large corporate groups are restructuring their operations, in particularly by transferring production from one site to another, and by redeploying the resources freed up at the former site for other purposes, it appears unrealistic to artificially subdivide this activity into a series of different projects.
- (83) Furthermore, among the types of investment which are identified in paragraph 19 of the MSF as likely to cause serious distortions of competition are those where the existing sectoral production capacity increases significantly, without a corresponding increase in demand. The reference to existing capacity necessarily refers to the capacity existing shortly before the new investment project begins, and therefore includes the capacity at the existing site where production will be discontinued once the relevant investments are completed. In this respect, it appears that the MSF has maintained the approach taken in the 1998 Multisectoral Framework, which it replaced, according to which "for the purpose of determining whether the investment will result in a capacity expansion, the relevant capacity is the total viable capacity of the beneficiary (and/or if appropriate, the group to which it belongs".²⁹ Furthermore, this approach of looking at the capacity of the aid beneficiary as a whole is also followed in other fields of State aid control, where capacity considerations are relevant, such as aid for rescue and restructuring.
- (84) For these reasons, the interpretation proposed by the Slovak authorities, according to whom the investment at Kechnec does not lead to a capacity

²⁹ OJ C 107, 7.4.1998, p. 7, point 3.5.

increase for motorcycle transmissions within the meaning of point 24(b) of the MSF appears correct.

- (85) Nevertheless the Commission does not consider it necessary to take a final position on this issue for the purposes of this decision. The Slovak authorities have provided the following breakdown of the eligible costs of the project between the production of automotive transmissions and motorcycle transmissions:

▪ machinery/equipment for automotive transmissions	EUR [...] million
▪ machinery/ equipment for motorcycle transmissions	EUR [...]million
▪ buildings/land	EUR [...]million
▪ total	EUR 265 million

Thus the Commission notes that even if the aid were limited to the eligible expenses concerning machinery and equipment for automotive transmissions, the aid intensity would be [...] % NGE, which is below the maximum allowable level as specified in paragraph 39.

3.5 Conclusion

- (86) The notified aid is in line with the RAG and respects the conditions of the MSF. Consequently, the aid measure is compatible with Article 87(3)(a) of the EC Treaty.

4. DECISION

- (87) The Commission has accordingly decided to consider the nominal aid amount of EUR 53,5 million representing an aid intensity of 18,14% NGE to be compatible with the EC Treaty.
- (88) The Commission reminds the Slovak authorities of their commitment to submit to the Commission a copy of the aid contract, annual reports as well as the final report concerning the measure in question.
- (89) If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://europa.eu.int/comm/secretariat_general/sgb/state_aids/

Your request should be sent by registered letter or fax to:

European Commission

Directorate-General for Competition
State Aid Greffe
B-1049 Brussels
Fax No: 32 2 296 12 42

Receive the evidence of my highest consideration,

Yours faithfully,
For the Commission

Neelie KROES
Member of the Commission