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1. Procedure

(1) By electronic notification registered 29 December 2008 at the Commission (SANI 1899), the Hungarian authorities notified their intention to grant regional aid under the Guidelines on national regional aid ("RAG") to Mercedes-Benz Manufacturing Hungary Korlátolt Felelösségű Társaság for its investment project in Kecskemét in the Southern Great Plain (Dél-Alföld) region of Hungary.

(2) By letters of 13 February 2009 (D/50598) and 18 May 2009 (D/52139), the Commission requested supplementary information on the notified aid measure. The Hungarian authorities submitted the requested additional information by letters registered at the Commission on 13 March 2009 (A/5968), 20 March 2009 (A/6620), 26 May 2009 (A/12598) and 25 June 2009 (A/15279).

1 OJ C 54, 04.03.2006, p. 13.

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2. **DESCRIPTION OF THE AID MEASURE**

(3) The Hungarian authorities intend to promote regional development by providing regional aid to Mercedes-Benz Manufacturing Hungary Kft. for the establishment of a new production plant for passenger cars in Kecskemé.

2.1. **The beneficiary**

(4) The beneficiary of the aid will be Mercedes-Benz Manufacturing Hungary Körlátolt Felelősségű Társaság ("Mercedes-Benz Hungary") which will operate as a manufacturer for Daimler AG or its affiliated entities, *i.e.* the final products will be taken over by affiliated entities. Mercedes-Benz Hungary will sell the cars produced in Kecskemé (*i.e.* the final product) to Daimler AG.

(5) Mercedes-Benz Hungary is a 100 per cent subsidiary of Daimler AG. Daimler AG is a holding company of a group of companies which are divided into the following four worldwide divisions: Mercedes-Benz Cars, Daimler Trucks, Daimler Financial Services and Vans, Buses. Daimler AG is a German stock corporation with its registered seat in Stuttgart, Germany.

(6) The products supplied by the Mercedes-Benz Cars division range from the high-quality small cars of the smart brand to the premium automobiles of the Mercedes-Benz, Mercedes AMG and Mercedes-Benz McLaren brands and to the Maybach luxury sedans. Most of these vehicles are produced in Germany, but the division also has production facilities in the United States, France, South Africa, Brazil, India, Vietnam and Indonesia and since the year 2005 also in China. Worldwide Mercedes-Benz Cars has 17 production sites.

(7) Daimler AG has around 20 manufacturing and/or sales joint venture agreements. In addition to own production/sales and production/sales through joint ventures, Daimler AG also outsources a very limited part of its production to third parties through business agreements. The Hungarian authorities confirm that the submitted market share data include all passenger cars manufactured and/or sold through joint venture agreements, through outsourcing or business agreements.

(8) In 2008, the Group sold 2.1 million vehicles and employed a workforce of over 270,000 people; revenues totalled EUR 95.9 billion and earnings before interest and taxes (EBIT) amounted to EUR 2.7 billion².

(9) The company is not in financial difficulties as the conditions laid down in the Community guidelines on State aid for rescuing and restructuring firms in difficulty³ are not fulfilled.

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² [http://www.daimler.com/dccom/0-5-7155-1-630866-1-0-0-0-0-0-8-7145-0-0-0-0-0-0-0.html](http://www.daimler.com/dccom/0-5-7155-1-630866-1-0-0-0-0-0-8-7145-0-0-0-0-0-0-0.html)

³ OJ C 244, 1.10.2004, p. 2. In particular, the following conditions laid down in paragraph 10 of the rescue and restructuring guidelines are not fulfilled: (a) in the case of a limited liability company, where more than half of its registered capital has disappeared and more than one quarter of that capital has been lost over the preceding 12 months; (c) whatever the type of company concerned, where it fulfills the criteria under its domestic law for being the subject of collective insolvency proceedings.

* Covered by the obligation of professional secrecy.
2.2. The investment project

The new investment project of Mercedes-Benz Hungary in Kecskemét

(10) The investment project concerns the construction of a new car manufacturing plant in Kecskemét for a regular annual capacity of passenger cars of $[100000-200000]$. The maximum possible production output will be reached at $[150000-200000]$ cars including extra shifts as well as overtime during the week and Saturday.

(11) Mercedes-Benz Hungary will produce in the factory cars in the C-segment (according to Global Insight\(^4\) classification): in particular models of the next generation of the Mercedes-Benz A-/B-class, which are both built on the Mercedes Front Wheel Architecture platform (“MFA-platform”). It is planned that the new plant in Kecskemét will – from 2012 onwards – produce two MFA-models: the B-class successor Multi-Purpose Vehicle “[…]” (C-MPV segment) and one of the A-class successor models, a 4-door coupe “[…]” (C-2 segment).

(12) The plant will include a body shop, a paint shop, final assembly and final testing.

Timing of Mercedes-Benz Hungary's investment project in Kecskemét

(13) The investment project for the vehicle production started in September 2008. In the aided facilities, it is planned to start the production of vehicles in 2012. The planned date of completion and full production for the project is expected in 2013. This timeline is represented in the table below.

Table I: Timing of the investment project

<table>
<thead>
<tr>
<th>Project</th>
<th>Start of project</th>
<th>Start of production</th>
<th>End of project</th>
<th>Full production</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project</td>
<td>[...] [...] 2008</td>
<td>[...] [...] 2012</td>
<td>[...] [...] 2013</td>
<td>[...] [...] 2013</td>
</tr>
</tbody>
</table>

(14) In addition, the aid is granted under the condition that the beneficiary will maintain the investment in the assisted region for a minimum period of five years after the completion of the investment project.

2.3. Legal basis

(15) The indicated national legal basis for the financial support to Mercedes-Benz Hungary under existing aid schemes is the following:

a. The Ministry of Economy and Transport will give a grant on the basis of the aid scheme XR 47/2007\(^5\) which is exempted pursuant to Commission Regulation (EC) No 1628/2006\(^6\). This scheme has as its legal basis

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\(^4\) Global Insight is a major forecasting and consulting company in the car sector.

\(^5\) The summary information sheet on the scheme XR 47/2007 (A Kormány egyedi döntésével megítélhető támogatás) was published in OJ C 180, 02.08.2007, p. 6.

"Government Decree 8/2007 (I. 24.) of the Minister of Economy and Transport on Investment Subsidies Granted by Individual Government Decision".

b. The Ministry of Finance will grant a tax allowance based on the scheme “Development Tax Benefit”. This scheme was established by “Act LXXXI of 1996 on Corporate Tax and Dividend Tax” and by "Government Decree 206/2006 (X.16.) on Development Tax Benefit".


2.4. Costs of the investment project

The project's total estimated investment costs in nominal value amount to HUF [250 000 000 000-300 000 000 000] (EUR [940-1.300] million). The total eligible investment costs of the project are HUF 183 421 700 000 (EUR 688 million) in nominal value. In present value this amount is HUF 146 213 347 000 (EUR 548.4 million). These figures do not include the development costs of the railway connection (see below) which are estimated to be an additional amount of HUF 1 500 000 000 (EUR 5.6 million) in nominal terms, i.e. ca. HUF 1.26 billion (EUR 4.7 million) in present value. Table II provides a breakdown of the total eligible costs by year and category.

Table II: Eligible investment costs

<table>
<thead>
<tr>
<th>Nominal value</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>Total In thousand HUF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
</tr>
<tr>
<td>Buildings</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
</tr>
<tr>
<td>Machinery/equipment</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
</tr>
<tr>
<td>Total eligible costs</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>183,421,700</td>
</tr>
<tr>
<td>Estimated eligible costs of railway connection</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>[…]</td>
<td>1,500,000</td>
<td></td>
</tr>
</tbody>
</table>

(17) The Hungarian authorities confirm that no aid will be requested for used equipment, and that any such equipment is not included in the eligible expenses for the project. It should be noted in this respect that part of the body shop of the Kecskemét production facility will be based on an existing body shop used for the production of the current Mercedes-Benz […]-class.

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8 Figures expressed in EUR are given in this decision on the basis of an exchange rate of 266.64 HUF/EUR (as published in OJ C 330, 30.12.2008, p. 4) applicable at the time of notification.
9 The present values in this decision are calculated on the basis of a discounting rate of 9.58%, applicable at the time of notification.
However, in this case only the technical adaptation and refurbishment costs (for example, costs of new supplementary parts or spare parts, costs of programming of robots) directly related to the implementation of the body shop in Kecskemét are included in eligible costs, and not the costs of body shop elements which are re-used.

(18) The Hungarian authorities indicate that immaterial assets are not included in the total eligible costs.

2.5. Financing of the investment

(19) The Hungarian authorities confirm that the own contribution by the beneficiary exceeds 25 per cent of the eligible costs, which is free of any public support. Mercedes-Benz Hungary will finance the project using own equity and bank loans, amongst other an investment loan of ca. EUR 400 million provided by the European Investment Bank, which is not covered by a State guarantee.

2.6. Regional aid ceiling

(20) Kecskemét is situated in the Southern Great Plain (Dél-Alföld) region, which is an assisted area in virtue of Article 87(3)(a) of the EC Treaty with a standard regional aid ceiling for large enterprises of 50 per cent Gross Grant Equivalent (GGE) according to the Hungarian regional aid map 2007-201310.

2.7. Aid amount

(21) The aid to Mercedes-Benz Hungary is granted in the form of the following aid instruments:

i. a cash grant which will be paid in yearly instalments from 2009-2014;

ii. a corporate tax allowance (i.e. development tax allowance) that is planned to be used from 2013-2017;

iii. an infrastructural aid to support the development of the railway infrastructure outside the boundaries of the beneficiary's property (the latter form of aid was notified by the Hungarian authorities for reasons of legal certainty);

iv. compensation mechanism covering significant exchange rate HUF/EUR fluctuations.

(22) This decision does not prejudice the outcome of the Commission's ongoing investigation concerning the conditions of the land plot sale to Mercedes-Benz Hungary, which is being examined in the light of the Commission communication concerning aid elements in land sales by public authorities11.

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11 OJ C 209, 10.7.1997, p. 3.
The Hungarian authorities intend to grant a nominal aid amount of HUF 45 328 887 000 (EUR 170 million). The Hungarian authorities plan to pay out the aid for the project from 2009 to 2017. This results in an aid amount in present value of HUF 29 739 574 000 (EUR 111.5 million). These figures do not include the aid to be granted for the development of the railway connection, which will not exceed 17% of the final eligible costs related to this development. Table III below presents a breakdown of the aid amount by the aid instrument in nominal and present values.

Table III: Aid amount in nominal and present values

<table>
<thead>
<tr>
<th>Aid instruments</th>
<th>Nominal value (thousand HUF)</th>
<th>Present value (thousand HUF)</th>
<th>Nominal value (thousand EUR)</th>
<th>Present value (thousand EUR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash Grant</td>
<td>22,153,530</td>
<td>17,225,003</td>
<td>83,084</td>
<td>64,600</td>
</tr>
<tr>
<td>Development tax allowance</td>
<td>23,175,357</td>
<td>12,514,571</td>
<td>86,916</td>
<td>46,934</td>
</tr>
<tr>
<td>Total</td>
<td>45,328,887</td>
<td>29,739,574</td>
<td>170,000</td>
<td>111,534</td>
</tr>
</tbody>
</table>

The Hungarian authorities confirm that the amount of the State aid in present value will be proportionally reduced if the present value of the eligible cost amount in HUF decreases compared to the forecast amount.

The Hungarian authorities also confirm that the aid for the project will not be cumulated with aid received for the same eligible costs from other local, regional, national or Community sources.

Moreover, before works on the project started, the beneficiary applied for the aid and the Hungarian authorities replied in writing that, subject to the Commission's approval, State aid up to the maximum allowable aid amount will be granted.

Support for railway infrastructure

In addition to the notified aid package the Hungarian authorities also notified for the reasons of legal certainty an infrastructural aid to support the development of the railway infrastructure outside the boundaries of the beneficiary's property.

The Hungarian authorities indicate that the railway infrastructure will be developed outside the investment site in order to create an access route to the public railway network. The railway tracks will not be in the ownership of Mercedes-Benz Hungary. The Hungarian authorities also indicate that it has not yet been decided whether MÁV ("Hungarian Railway Company"), or an entity belonging to Daimler AG or a third party will operate the industrial trains from and to the investment site. The Hungarian authorities confirm however that Daimler AG or a third party operator would pay market prices for the use of the tracks to the owner, and in case of a third party operator, Daimler AG would pay market price for the services. Thus, given the fact that Daimler AG or a third party operator will pay market prices for the use of the tracks, the Hungarian authorities consider this support not to constitute State aid within the meaning of Article 87(1) of the EC Treaty in favour of Daimler AG.
(29) The Hungarian authorities argue that despite the specific purpose of the rail link (*i.e.* to connect the plant to the general network), its use is open to all potential users on an equal and non-discriminatory basis and therefore constitutes an item of general infrastructure. Thus the extension of the link to serve other potential sites located close to the Mercedes-Benz Hungary plant is not excluded.

(30) With respect to the granting of the future concession to operate the industrial trains, the Hungarian authorities confirm that the future concession-granting will comply with the principles of equal treatment non-discrimination on grounds of nationality and transparency. Furthermore, the Hungarian authorities confirm that the access to the railway infrastructure will be charged at a rate in accordance with Community legislation (*i.a.* Directive 2001/14/EC). 

(31) In any case the Hungarian authorities confirm that the support for the railway development expressed in HUF terms will not exceed 17% of the present value of the eligible investment costs of the railway development concerned in HUF. The eligible costs include acquisition costs of tracks and equipment, construction costs of the railway and connecting station(s), and machines and equipment necessary for the operation of the railway connection, such as railway signalling equipment. As it is estimated that the costs of the infrastructure development will not exceed HUF 1.5 billion (EUR 5.6 million) in nominal terms, which amounts to ca. HUF 1.26 billion (EUR 4.7 million) in present value, the expected maximum amount of the support in present value is HUF 214,370,000 (EUR 0.8 million).

The compensation mechanism covering significant exchange rate HUF/EUR fluctuations

(32) In addition to the notified aid package and in light of the current financial and economic crisis, the Hungarian authorities have decided to compensate Mercedes-Benz Hungary for possible significant adverse effects of the HUF/EUR exchange rate fluctuations.

(33) The Hungarian authorities explain that as Mercedes-Benz Hungary will incur most of its eligible investment costs in EUR, it is important for the company to receive a given amount of State aid expressed in EUR terms as a percentage of the present value of the eligible costs incurred in EUR. However, according to the Hungarian national legislation, the aid amount and aid intensity should be calculated and paid in HUF.

(34) The compensation (if any) will be paid in HUF based on the additional investment volume in HUF terms resulting from the EUR/HUF exchange rate fluctuations (*i.e.* if the EUR gains value over the HUF). The compensation is limited to the maximum State aid intensity (17%) which would be applicable for the increased investment volume in HUF terms after scaling down in the 50% GGE region concerned. As a further condition, the compensation shall

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be paid only if the increase of the eligible costs in HUF equals or exceeds [5-20]% of the initially calculated eligible investment volume.

Thus the mechanism aims to compensate for the fact that the State aid in HUF is determined *a priori* on the basis of eligible costs calculated at a "fixed" exchange rate of 238.21 HUF/EUR (which was applicable at the time of the application for the aid). The mechanism provides compensation for a possible decrease in the aid amount in EUR terms in a situation when the planned investment volume in EUR is achieved. To establish whether the conditions for compensation are met, the eligible cost amounts incurred in EUR are converted into HUF at the EUR selling rate quoted by Mercedes-Benz Hungary's account keeping bank on the day the invoice is settled. These eligible cost amounts are cumulated over the lifetime of the project and their final sum is determined after completion of the investment, *i.e.* in 2014. It will be possible to see only at this stage whether Mercedes-Benz Hungary is entitled to the compensation. The mechanism ensures that only increases in eligible costs are compensated which are solely due to a weaker HUF. Any increase in the eligible costs in EUR terms will not be compensated.

It is also ensured that there is a "negative compensation" (*i.e.* a decrease in the aid amount in HUF) if eligible costs in HUF are lower than planned (be it because of a stronger HUF or lower than planned eligible costs in EUR). This "negative compensation" applies for any decrease in eligible costs, *i.e.* it is not linked to a [5-20]% or larger decrease.

2.8. **Contribution to regional development**

The Hungarian authorities indicate that because of the investment project 2,500 jobs will be directly created in the new facility.

In addition, the beneficiary expects that the project will attract investments by industrial suppliers\(^{14}\) in order to provide just-in-time delivery and minimize transport costs. Thus it is expected that the investment project will create an additional indirect employment of 10,000-14,000. Consequently, the Hungarian authorities emphasize that this job creation will help to decrease significantly the present regional unemployment rate of 8.3% which is higher than the national average national unemployment rate of 7.8%\(^{15}\).

In addition to these regional employment effects, the investment project will also promote knowledge transfer to Hungary as the new production plant will be designed on state-of-the art technology in the automotive sector.

The Hungarian authorities also indicate that due to its economic size the investment will also stimulate other regional economic activities, in particular, the construction and building industry.

\(^{14}\) The Hungarian authorities commit to notify to the Commission any aid to investments of suppliers in the immediate geographic proximity to the manufacturing plant of Mercedes-Benz Hungary in case these investments may have to be considered to be regarded as a single investment project with the notified one within the meaning of paragraph 60 of the Regional aid guidelines.

\(^{15}\) Europolitics, N 3608, 2.10.2008, p. 12.
Overall, the Hungarian authorities estimate that the investment project will contribute to the Hungarian GDP by ca. 0.4% per year at the planned annual capacity.

2.9. **General provisions**

The Hungarian authorities have committed to submit to the Commission:

- within two months of granting the aid, a copy of the relevant acts concerning this aid measure;
- on a five-yearly basis, starting from the approval of the aid by the Commission, an intermediary report (including information on the aid amounts being paid, on the execution of the aid contract and on any other investment projects started at the same establishment/plant);
- within six months after payment of the last tranche of the aid, based on the notified payment schedule, a detailed final report.

3. **Assessment of the aid measure and compatibility**

3.1. **Existence of aid**

The financial support to Mercedes-Benz Hungary will be given by the Hungarian authorities (in the form of a direct grant, a corporate tax allowance, in the form of an infrastructural support for railway access to the public railway network and in the form of a compensation mechanism covering significant exchange rate HUF/EUR fluctuations) and is financed through the general budget of the state. The support can thus be considered as given by the Member State and through State resources within the meaning of Article 87(1) of the EC Treaty.

As the aid is granted to a single company, Mercedes-Benz Hungary, the measure is selective.

The financial support in the form of a cash grant and a corporate tax allowance given to Mercedes-Benz Hungary will relieve the company from costs which it normally would have had to bear itself and therefore the company benefits from an economic advantage over its competitors.

The financial support in the form of a cash grant and a corporate tax allowance by the Hungarian authorities will be given for an investment resulting in the production of vehicles. Since this product is subject to trade between Member States, the support given is likely to affect trade between Member States.

The favouring of Mercedes-Benz Hungary and its production by the Hungarian authorities means that competition is distorted or threatened to be distorted.

Consequently, the Commission considers that the aid in the form of a cash grant and a corporate tax allowance given to Mercedes-Benz Hungary constitutes State aid to Mercedes-Benz Hungary within the meaning of Article 87(1) of the EC Treaty.
Support for railway infrastructure

(49) The Commission observes that the new railway track constructions will be outside the investment site of Mercedes-Benz Hungary and will not be in the ownership of the company. Further, market prices will be paid (either by Daimler AG or a third party operator) for the use of the tracks to an owner, and, in case of a third party operator, Daimler AG would pay market price for the services. Furthermore, with respect to the granting of the future concession to operate the industrial trains, the Hungarian authorities confirm that the future concession-granting will comply with the principles of equal treatment non-discrimination on grounds of nationality and transparency and the access to the railway infrastructure will be charged at a rate in accordance with the relevant Community legislation.

(50) Although it is confirmed that the railway constructions will be open to all potential users on an equal and non-discriminatory basis, at present the new railway link serves only Mercedes-Benz Hungary's plant, thus the railway infrastructure at present is dedicated to Mercedes-Benz Hungary.

(51) As the support for railway access to the public railway network is granted to a single company, Mercedes-Benz Hungary, the measure is selective.

(52) The financial support given by Hungary to Mercedes-Benz Hungary for construction of railway infrastructure providing access to the public railway network is to be considered as constituting State resources within the meaning of Article 87(1) of the EC Treaty.

(53) Mercedes-Benz Hungary will be relieved from costs which it normally would have had to bear itself and therefore the company benefits from an economic advantage over its competitors.

(54) The favouring of Mercedes-Benz Hungary active in production of motor vehicles, which is subject to trade between Member States means that the support given is likely to affect trade between Member States and competition is distorted or threatened to be distorted.

(55) Consequently, the Commission considers that the aid in the form of a financial support for railway access to the public railway network given to Mercedes-Benz Hungary constitutes State aid to Mercedes-Benz Hungary within the meaning of Article 87(1) of the EC Treaty.

The compensation mechanism covering significant exchange rate HUF/EUR fluctuations

(56) Regarding the intention of the Hungarian authorities to compensate Mercedes-Benz Hungary for possible significant adverse effects of the HUF/EUR exchange rate fluctuations in the context of the current financial

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and economic crisis, the Commission observes that the purpose of such mechanism is ensure that the ratio between the aid amount and eligible costs at the moment of granting the aid is maintained in monetary terms. Thus, it is important for Mercedes-Benz Hungary to receive a given amount of State aid expressed in EUR terms as a percentage of the present value of the eligible costs incurred in EUR. However, the Commission notes that according to the Hungarian national legislation, the aid amount and aid intensity have to be calculated and paid in HUF.

The compensation mechanism ensures that the aid intensity remains the same as in a situation when both the eligible costs and the aid amount are fixed in EUR terms. It therefore respects the aid intensity as approved in this decision. Moreover, the mechanism ensures that only increases in eligible costs are compensated which are solely due to a weaker HUF. Any increase in the eligible costs in EUR terms will not be compensated. It is also ensured that there is a "negative compensation" (i.e. a decrease in the aid amount in HUF) if eligible costs in HUF are lower than planned. Thus the mechanism applies in both ways ("positive" and "negative" compensation) to ensure that no one-sided advantage occurs.

The compensation mechanism ensures that the aid intensity remains the same as in a situation when both the eligible costs and the aid amount are fixed in EUR terms. It therefore respects the aid intensity as approved in this decision. Moreover, the mechanism ensures that only increases in eligible costs are compensated which are solely due to a weaker HUF. Any increase in the eligible costs in EUR terms will not be compensated. It is also ensured that there is a "negative compensation" (i.e. a decrease in the aid amount in HUF) if eligible costs in HUF are lower than planned. Thus the mechanism applies in both ways ("positive" and "negative" compensation) to ensure that no one-sided advantage occurs.

Given the purpose and conditions concerning the compensation mechanism, the Commission accepts it as a necessary instrument intended to ensure that the overall aid intensity is maintained despite possible significant fluctuations in the HUF/EUR exchange rate over the duration of the investment project, i.e. 2008-2013. In light of the above, the Commission considers that the mechanism does not involve any additional advantage for Mercedes-Benz Hungary and thus it does not constitute State aid.

3.2. Legality and compatibility of the aid measure

By notifying the planned aid measure before putting it into effect, the Hungarian authorities respected their obligations under Article 88(3) of the EC Treaty.

As the measure relates to a regional investment aid, the Commission assessed it on the basis of the Guidelines on national regional aid ("RAG"). The measure was notified as aid which exceeds the thresholds defined in paragraphs 64 and 68 of the RAG. Therefore the Commission took into account the provisions of the RAG and, specifically, the provisions of section 4.3 of the RAG relating to large investment projects.

3.3. Compatibility with the general provisions of the RAG

The aid is granted on the basis of, and in conformity with, the provisions of approved and block-exempted aid schemes which respect the standard compatibility criteria of the RAG. In particular, the project comprises an initial investment within the meaning of the RAG as it concerns the setting-up of a new establishment. The costs eligible for investment aid (see Table II above) are defined in line with the RAG, and the rules on cumulation are respected.
In compliance with paragraph 38 of the RAG, Mercedes-Benz Hungary has applied for aid before starting works on the project in 2008 and the Hungarian authorities confirmed in writing that the project meets the conditions of eligibility and agreed to grant State aid subject to the Commission's approval.

Mercedes-Benz Hungary also has the obligation to maintain the investment in the region for a minimum of five years after completion of the project. The beneficiary provides a financial contribution of at least 25% of the eligible costs in a form which is free of any public support.

The Commission therefore considers that the aid complies with the general compatibility criteria laid down in the RAG.

3.4. **Compatibility with the provisions for aid to large investment projects**

3.4.1. **Aid intensity (paragraph 67 of the RAG)**

The planned total eligible expenditure in present value for the vehicle production project is HUF 146.2 billion (EUR 548.4 million) in present value. According to the scaling down mechanism laid down in paragraph 67 of the RAG, this leads to a maximum allowable aid intensity of 20.74% GGE (Gross Grant Equivalent) for the project. In addition, the eligible development costs of the railway connection are estimated to be HUF 1 500 000 000 (EUR 5.6 million) in nominal terms, i.e. ca. HUF 1.26 billion (EUR 4.7 million) in present value.

The planned total eligible expenditure in present value for the project (excluding the costs of the railway development) is HUF 146 213 347 000 and the planned total aid amount in present value (excluding the aid for the railway development) is HUF 29 739 574 000. Therefore, the GGE is 20.34%. Furthermore, it is recalled that the support in present value for the railway development will not exceed HUF 214.4 million (EUR 0.8 million) in present value, i.e. 17% of the present value of the costs related to the construction of the railway connection.

Since the aid intensity for the project (20.34% GGE) does not exceed the maximum allowable aid intensity (20.74% GGE), the proposed aid intensity for the project complies with the RAG. The additional State aid for the railway construction also complies with the applicable aid intensity resulting from paragraph 67 of the RAG (i.e. the aid intensity of 17% applied to this part of the project complies with the scaled down maximum aid intensity applicable to the part of eligible costs exceeding EUR 100 million).

3.4.2. **Compatibility with the rules under paragraphs 68(a) and (b) of the RAG**

The Commission’s decision to allow regional aid to large investment projects falling under paragraph 68 of the RAG depends on the market power of the beneficiary before and after the investment and on the capacity created by the investment. To carry out the relevant tests under paragraph 68(a) and (b) of the RAG, the Commission has first to establish appropriate product and geographic market definitions.
**Product concerned**

(69) According to paragraph 69 of the RAG, the product concerned is normally the product covered by the investment project. In the present case Mercedes-Benz Hungary will produce cars in the C-segment, in particular models of the next generation of the Mercedes-Benz A-/B-class, are both built on the Mercedes Front Wheel Architecture platform (“MFA-platform”).

(70) The Hungarian authorities indicate that from a technical point of view, models of the same MFA-platform may be generally integrated in the production process as the basic technical structure will remain the same. However, from an economic point of view, the integration of a different model still requires rather complex and comprehensive adjustments of the production equipment (especially in the body shop and the assembly line), no matter if this model would be part of the existing MFA portfolio or an addition to the portfolio.

(71) Depending on the market situation in the next years, in particular with regard to developments, such as an increased demand for certain car types, Daimler AG may decide to produce additional models in Kecskemét in [...] years. [...] At present, however, there are no plans for such additional or future car models. The Hungarian authorities commit to notify to the Commission if additional models not belonging to the C-segment will be produced at the aided facilities in Kecskemét.

(72) Consequently, the Commission considers motor vehicles to be the product concerned for the purposes of this decision.

**Relevant product market**

(73) Mercedes-Benz Hungary plans to produce two MFA-models: the B-class successor Multi-Purpose Vehicle “[...|]” and one of the A-class successor models, a 4-door coupe “[...]” in Kecskemét.

(74) The newly developed compact car coupe “[...]” (one of the A-class successors) belongs to the C segment (small family cars) of the overall passenger car market and within this, to the C2 segment. Mercedes-Benz B-class belongs to the C-MPV segment which can be viewed both as part of the wider C segment or part of the multi purpose vehicle (MPV) market (which includes MPVs in the B, C, D and E segments).

(75) The Hungarian authorities argue that all cars belonging to the C-segments concerned may be considered substitutes for the two models to be produced in Kecskemét in view of the main product characteristics and the intended use. According to Global Insight, the C segment covers in general medium and compact car types. It includes the C 1 segment, i.e. „Lower-medium sized passenger cars” (examples of car models belonging to this segment: Ford Focus, Opel Astra, Mazda 323), the C 2 segment, i.e. “Medium-sized

18 The C 2 segment includes medium sized passenger cars usually determined by brand and/or bodystyle, esp. sedan, with a size of 4000-4500 mm and a price between 28-33 000 CHF.

19 The C-MPV segment is characterised with a higher aspect ratio, i.e. a production structure which is much more detailed and sophisticated. Sizes vary between 4000-4500 mm and the price is between 24-36 000 CHF.
passenger cars” (Audi A3, Volvo C 30, Mitsubishi Lancer), the C-MPV segment, i.e. cars with a “higher aspect ratio” (a production structure that is much more detailed and sophisticated: Mazda 5, Citroen C4 Picasso, Opel Zafira), and the C-SUV segment, i.e. compact "Sports Utility Vehicles" (Audi Q3, Honda CR-V, Nissan Qashqai). However, the Hungarian authorities admit that not all cars belonging to the concerned C segments are close substitutes.

(76) According to paragraph 69 of the RAG, the relevant product market includes the product concerned and 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 installations).

(77) The Commission recognised in its merger decisions that, although the car market has traditionally been segmented on the basis of a number of objective criteria like engine size or length of car, the boundaries between segments are blurred by other factors. These factors include price, image and the amount of extra accessories. Therefore, until now all merger decisions left open the question whether, for the purposes of the competitive analysis, the passenger car segment should be considered as one product market or should be further subdivided.

(78) The Commission notes that Prodcom codes\(^{20}\) are not relevant for a further segmentation in this case, among others because there are too many overlaps and the classification is not generally used in the industry to assess markets.

(79) The Commission considered several other classifications such as the ones used by the European Association of Manufacturers (ACEA), the European New Car Assessment Programme (NCAP), the US department of energy, and other large car manufacturers on their website.

(80) These classifications differ because they are used for different purposes (crash tests for example), because of geographic differences (US market is more dominated by large cars) and because no generally agreed classification exists.

(81) Global Insight, a major forecasting consultancy, proposes a narrow segmentation of passenger cars (27 segments) and is used as a common reference in the sector. It allocates cars to different segments, based on a hybrid combination of all factors: interior/exterior dimensions, price, competitor models, brand, etc. The Global Insight segmentation is accepted by the Hungarian authorities for the assessment of the project at hand and they provided market data based on this segmentation. The Commission considers that the Global Insight market classification can be considered as an appropriate and sufficiently detailed reference and applies this segmentation for the purposes of the assessment of the aid project at hand.

(82) The Commission notes that some possibility for demand-side substitution at the margins of each of the types of passenger car exists, for example, between A segment and B segment cars or between the luxury segments. It considered

\(^{20}\) 29.10.21, 29.10.22, 29.10.23 and 29.10.24.
the possibility of a chain of substitution\textsuperscript{21} on the demand-side across the different segments. However, it might be difficult to argue for the substitutability of vehicles at the extreme ends of the possible segmentations, for example, the cheapest passenger cars are not direct substitutes for more expensive passenger cars.

(83) When looking at the supply side, the Commission observes that the producers for passenger cars and even for Light Commercial Vehicles (LCVs) are basically the same. Producers of passenger cars are generally present in many of the different segments. Producers can switch from one type of passenger car to another because many cars are based on the same platform. Car segments overlap.

(84) For the present case, the Commission will leave the precise definition of the relevant product market open and will consider all plausible alternative market definitions (including the narrowest segmentation for which data are available). This approach is also in line with recent State aid decisions of the Commission (N 767/07 Ford Craiova\textsuperscript{22}, N 635/2008 Fiat Sicily\textsuperscript{23} and N 473/2008 Ford Espana\textsuperscript{24}).

(85) Therefore, the Commission considers the C 2 segment, the C-MPV segment, the C segment, the total MPV segment, and the total passenger car market as relevant plausible markets for this case.

Relevant geographic market

(86) The Commission also needs to define the relevant geographic market for the purpose of the assessment of the project under paragraph 68(a) of the RAG.

(87) Paragraph 70 of the RAG stipulates that for the purposes of carrying out the tests under paragraph 68 of the RAG, markets should normally be defined at EEA level.

(88) From a supply side perspective, production in the car sector is at least EEA wide or even global. The major car manufacturers are global players. They have manufacturing facilities and distribution systems in different continents and countries. Daimler AG is at least a European player. It is selling on all European markets, and regarding the new production plant, Daimler AG estimates that ca. [65-100]\% of the production will be sold in EEA countries.

(89) From a customer perspective, conditions of competition have significantly improved in the EU, in particular as regards technical barriers and distribution systems, although differences in prices and taxation systems are still limiting factors and penetration rates of major competitors differ across Member States and in particular continents. Low transportation costs and the presence of all major manufacturers in almost all Member States and the largest countries worldwide are indicators of an EEA or even worldwide market.


For the purpose of State aid decisions on aid to production facilities, which assess the effects of aid on distortions of competition between manufacturers and on trade between Member States, the manufacturing aspects are decisive.

Therefore, given that the notified aid concerns the manufacturing of passenger cars, for the purpose of the assessment of the present case, the Commission considers that the relevant geographic market for the products concerned is at least EEA-wide. Market shares are calculated both at the EEA and worldwide levels.

\textit{Market shares}

To examine whether the project is compatible with paragraph 68(a) of the RAG, the Commission has to analyse the market share of the aid beneficiary before and after the investment and check if the market share exceeds 25%.

The beneficiary’s market share is assessed at group level in the relevant in the relevant product and geographic markets. As the new investment project of Mercedes-Benz Hungary started in 2008 and full production is foreseen to be reached in 2013, the Commission will examine the market share of Daimler AG at group level (including all the brands belonging to the group) on the relevant markets between 2007 and 2013\textsuperscript{25}.

As confirmed by the Hungarian authorities, the data submitted takes account of the relevant business- and marketing agreements regarding the manufacturing and sales of vehicles between Daimler AG and other companies.

Considering significant differences in production costs and prices of different passenger car and difficulties in obtaining reliable price estimates, volume data are commonly used in the sector to define markets and market evolutions. The Hungarian authorities provided market share data in volume terms originating from Global Insight. They are as follows:

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|c|c|c|c|}
\hline
\hline
EEA market share of Daimler & [0-5]\% & [0-5]\% & [0-5]\% & [0-5]\% & [0-5]\% & [0-5]\% & [0-5]\% \\
\hline
WW market share of Daimler & [0-5]\% & [0-5]\% & [0-5]\% & [0-5]\% & [0-5]\% & [0-5]\% & [0-5]\% \\
\hline
C-MPV & & & & & & & \\
\hline
\end{tabular}
\caption{Market shares of Daimler AG}
\end{table}

\textsuperscript{25} Full capacity is to be reached in 2013. Data for 2014 were not yet available, except for the total passenger car market where Daimler AG is forecast to have a market share of [0-10] \% in the EEA and [0-5] \% worldwide in 2014.
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<tr>
<th></th>
<th>2007</th>
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<td><strong>EEA market share of Daimler</strong></td>
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<td><strong>MPV-Total</strong></td>
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<td><strong>Total passenger cars</strong></td>
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<td><strong>EEA market share of Daimler</strong></td>
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(96) On the basis of the above figures, market shares in all plausible alternative markets are substantially below the 25% threshold.

(97) Therefore, the notified aid for the investment project is in line with paragraph 68(a) of the RAG.
Production capacity

(98) The Commission also has to examine whether the investment project complies with paragraph 68(b) of the RAG. It needs to verify whether the capacity created by the project is less than 5% of the size of the market measured using apparent consumption data of the product concerned, unless the average annual growth rate of its apparent consumption over the last five years is above the average annual growth rate of the EEA's GDP.

(99) The Commission should thus first assess if the market is underperforming in the EEA based on the average annual growth rate of the apparent consumption of the product concerned.

(100) Considering that works on the project started in 2008, the Commission has to consider the Compound Annual Growth Rate (CAGR) of the relevant product markets in the EEA and of the EEA's GDP for the period 2002-2007.

(101) The CAGR of apparent consumption (measured as sales) in the EEA in the period 2002 to 2007 was 5.59% in C2 segment, 5.49% in C-MPV segment, 0.95% in C segment, 8.93% in the MPV-total segment and 0.93% in the total passenger car segment.

(102) The CAGR of the EEA's GDP in years 2002-2007 (expressed in constant prices) was 2.36%.

(103) It can thus be concluded that the CAGR of the apparent consumption in the EEA in the period 2002 to 2007 is below the CAGR of the EEA's GDP in the same period for the C and the total passenger cars segments.

(104) Because the Commission considered that the C and total passenger car segments are underperforming relative to the EEA's GDP, it carried out the second part of the test in point 68(b), verifying whether the capacity created by the project does not exceed 5% of the size of the relevant segment.

(105) The maximum possible annual production output at the Kecskeméť plant will be reached at [150 000-200 000] cars including extra shifts as well as overtime during the week and Saturday as a reaction to peak demand periods. This maximum production capacity amounts to only [0.9-1.3]% of the total passenger car market and [2.6-3.5]% of the size of the C segment.

(106) In conclusion, for all relevant plausible markets, either the CAGR of its apparent consumption over the last five years is above the average annual growth rate of the EEA's GDP or the capacity created by the project is less than 5% of the size of the market.

(107) Therefore, the Commission concludes that the aid for investment project is compatible with paragraph 68(b) of the RAG.

3.5. Conclusion

(108) The notified aid is in line with the RAG. Consequently, the aid measure is compatible with Article 87(3)(a) of the EC Treaty.
4. **DECISION**

(109) The Commission has decided, on the basis of the foregoing assessment, that the regional aid in the amounts of HUF 29 739 574 000 (EUR 111.5 million) in present value with the respective aid intensity of 20.34% GGE in favour of Mercedes-Benz Manufacturing Hungary and the additional aid in present value amounting to 17% of the final eligible costs in present value of the railway development is compatible with the EC Treaty. The Commission recalls that due to the compensation mechanism, the aid in HUF terms may be higher but only to compensate for additional eligible costs in HUF terms which are solely due to a weaker HUF/EUR exchange rate.

(110) The Commission reminds the Hungarian authorities of their commitment to submit to the Commission a copy of the final relevant acts concerning the aid measure, possible intermediary reports as well as a final report concerning the measure in question.

(111) This decision does not prejudice the outcome of the Commission's ongoing investigation concerning the conditions of the land plot sale to Mercedes-Benz Hungary, which is being examined in the light of the Commission communication concerning aid elements in land sales by public authorities\(^{26}\).

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://ec.europa.eu/community_law/state_aids/index.htm](http://ec.europa.eu/community_law/state_aids/index.htm)

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

Yours faithfully,  
For the Commission

\(^{26}\) OJ C 209, 10.7.1997, p. 3.