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In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]		PUBLIC VERSION This document is made available for information purposes only.

Subject: State Aid SA.58633 (2020/N) – Hungary
LIP – regional investment aid to SKBM Hungary

Excellency,

1. PROCEDURE

(1) On 15 September 2020, Hungary pre-notified to the Commission its intention to grant regional aid to SK Battery Manufacturing Kft. ("SKBM") (the "measure"). On 29 September 2020, a meeting took place between the Commission services, the Hungarian authorities, and representatives of the beneficiary. On 21 October 2020, the Commission requested further information from the Hungarian authorities, which Hungary provided on 30 December 2020.

(2) By electronic notification, registered on 30 December 2020, Hungary formally notified the measure to the Commission.

(3) On 23 February 2021 and 9 April 2021, the Commission requested further information from the Hungarian authorities. On 24 March 2021 and 6 May 2021, the Hungarian authorities provided that information.

(4) By letter of 6 May 2021, the Hungarian authorities agreed to have the present decision adopted and notified in the English language.

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2. DETAILED DESCRIPTION OF THE MEASURE

2.1. Objective of the measure

(5) Hungary intends to promote the development of the region in question by providing regional aid for a large investment project, code-named "Project Sirius I". The project consists of the establishment of a new electric / hybrid vehicle ("EV") battery cells plant in Komárom, which is in the NUTS 2 region of HU21, Közép-Dunátúl (hereinafter "Central Transdanubia") (the "project"). This area is eligible for regional aid under Article 107(3)(a) of the Treaty on the Functioning of the European Union (TFEU), with a standard regional aid ceiling of 35 % under the applicable Hungarian regional aid map[1].

(6) The project aims to create 1 000 direct jobs, which will be maintained in the region for at least five years.

2.2. The beneficiary

(7) The recipient of the aid is SKBM, which is fully owned by SK Innovation ("SKI"). SKI belongs to the SK Group, a global South Korean energy and chemicals group composed of 125 companies in the energy and chemicals, semi-conductors and materials, information and communications technology, logistics and services and bio sectors. SK Group has over 110 000 employees worldwide. SKI acts and makes decisions independently from SK Group, and had 12 215 employees worldwide as of Q1 2020. The consolidated sales and revenue figure of SKI as of 2019 was EUR 37.1 billion.

(8) SKI's activities include those in the field of battery manufacturing for EV. SKI started research and development of batteries for vehicles in 1992. It began with energy storage battery business, which SKI thought was necessary to survive in the future given a decreasing attractiveness of petroleum business and increased environmental awareness. The first production of batteries started in 2006. The Hungarian authorities explained that SKI's technological prowess is highly recognised by major global automakers, and SKI has built solid relationships with Volkswagen AG, Daimler AG, BAIC Group, and Hyundai Motor Group. Of the currently three types of battery cells commonly used in the market, SKI has selected the production of pouch cell batteries. SKI pursues a global expansion strategy focussing on the main automotive production markets, i.e., Asia, Europe, and North America. A large part of the targeted production capacities for battery manufacturing will be located in Europe.

(9) SKBM forms part of SKI's battery business. SKI first established a battery plant in Europe in 2017, through SK Battery Hungary Gyártó Kft. ("SKBH"), which is also involved in battery production in Komárom. SKBH's plant has a production capacity of 7.5 gigawatt hours (GWh), and is dedicated to the programme of a certain original equipment manufacturer ("OEM") (for further details on SKBH's plant, see recitals (23) and (24)).

[1] Commission decision C(2014) 1298 final of 11.3.2014 in case SA.37718 (2013/N), as amended by Commission decision C(2016) 6427 final of 11.10.2016 in case SA.46346 (2016/N), and as prolonged by Commission decision C(2020) 6769 final of 7.10.2020 in case SA.58164 (2020/N).

(10) The Hungarian authorities have confirmed that the beneficiary is not an undertaking in difficulty as defined in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty[2].

2.3. The investment project

2.3.1. The notified project

(11) The project involves an initial investment for the establishment of a new battery cells manufacturing plant that will be dedicated to the manufacturing of Lithium ion ("Li-ion") pouch cells, for use in EV. Pouch cells allow for lighter and thinner cell fabrication and design flexibility in order to fit different capacities and space requirements for different EV models. Electric charge is stored in the cells by Li-ions, which glow to the graphite anode when charged and back to the metal-oxide cathode by discharge. The production of Li-ion pouch cells takes place in three technical steps: (1) electrode manufacturing, (2) assembly, and (3) formation.

(12) The project was established following SKI's nomination by an OEM[3] to produce and deliver EV batteries in Europe. In […]* 2018, SKI entered into discussions with the OEM for a joint venture ("JV"). In August 2018, the OEM requested a quotation ("RfQ") for the production and delivery of EV batteries in Europe. The RfQ provided for the production and delivery of […] battery modules with an overall capacity of […] GWh, in the period of […]. SKI prepared the quotation, in particular, to consolidate its market position by winning a new customer and expanding its production capacities. SKI concluded that existing production capacities could not cover the scope of the RfQ, and that an investment in additional production capacities of [15-20] GWh per annum would be required in case of winning the nomination.

(13) In […] 2018, SKI won the nomination. While it was originally planned that the project for establishing the necessary additional production capacity would be undertaken by SKI and the OEM as a JV, the terms of such a JV were not finalized at the time. In order to meet the requirements of the nomination, SKI, therefore, decided to undertake the project without/before a final decision on the JV. Subject to the outcome of the negotiations, […].

(14) In order to meet the time schedule for production, SKI decided to divide the establishment of the new production capacity into two plants: one with a production capacity of [5-10] GWh per annum, and one with a production capacity of at least [>5] GWh per annum. This would allow SKI to expedite the establishment of the [5-10] GWh plant, as it would be possible to use the design of an existing […] plant as a model, and so reduce design time. The notified investment project concerns the plant with the [5-10] GWh capacity. The originally planned capacity of [5-

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2 OJ C 249, 31.7.2014, p. 1.

3 The Hungarian authorities indicated that the OEM is not the same OEM as the one to which the SKBH plant is dedicated.

* *Confidential information*

10] GWh was increased to 10.2 GWh[4], thanks to technical upgrades, which permitted assembly speed to be escalated, without additional costs.

(15) The investment will be into tangible assets, including the construction of buildings, and the acquisition of equipment such as production lines (mixer, coater, press/slitter, packaging machine) and utility equipment (chiller, air compressor, cooling tower). The total site area of the SKBM battery cells plant is […] m^2 while the plant gross floor area is […] m^2 (the physical separation with the SKBH plant, required for the JV, increases the gross floor area needed for the plant which was initially […] m^2). The plant will run in a […] operation cycle, with constant product output throughout the year. Planned working days are […] per year for assembly and formation lines.

(16) The plant subject of this notification will be set up next to SKBH's existing plant on a plot already owned by SKBH. The Hungarian authorities indicated that it is common for industrial enterprises investing in Hungary to acquire plots of land larger than required to meet their immediate project needs, in order to secure expansion options, without any specific expansion plans. This is because, firstly, the costs incurred for the purchase of land are usually marginal in relation to the total investment costs[5], and, secondly, that land usually retains its value. In addition, for SKBH, in terms of optimal layout and logistics, the acquisition of the whole land plot was a better option than acquiring only parts of it. While SKBH and SKBM share SKI as a parent company, they are, and act as, two independent companies. The plants will be physically separated and have no common spaces, buildings, machinery, equipment or employees. SKI explained that, as the SKBH plant and the SKBM plant will service different OEMs, any mixing would raise confidentiality issues, and so the plants will be kept completely separate.

(17) Works on the project began on 7 March 2019, after the beneficiary introduced the relevant aid application. The Hungarian authorities presented the following timeline:

Date of application for the aid	21 February 2019 (registration)
Start of works on the investment project	7 March 2019
Planned date of the start of production	[…] 2022
Planned date of full production capacity	[…]
Planned end date of the investment project	[…] 2022

2.3.2. Eligible costs

(18) The total notified eligible investment costs for the project amount to about HUF 199 097 million (EUR 630.31 million)[6] in nominal value. In discounted

4 The Hungarian authorities note that this increase in capacity of the first plant will lead to a corresponding reduction in capacity of the second plant. The second plant will be subject to a further investment and location decision, at a later date.

5 The Hungarian authorities indicated that, for SKBH, the land purchase costs represented only around [1-2] % of the entire investment costs.

6 HUF conversions to EUR in this decision are indicative and rounded, based on an exchange rate of 1 EUR = 315.87 HUF, applicable as of 31 January 2019, which was the rate applicable when the incentive offer of aid to the beneficiary was drafted by the Hungarian authorities.

value [7] the eligible expenditure is about HUF 199 082 million (EUR 630.26 million). The eligible costs result from costs for buildings, plant, machinery, and other equipment. Eligible investment costs do not include the purchase of the land plot as the factory will be located on a land plot already bought by SKBH (and for which SKBM will pay a monthly fee to SKBH).

Table 1: Breakdown of eligible investment costs (nominal and discounted in million)

Total eligible costs in million	Nominal		Discounted	
	HUF	EUR	HUF	EUR
Buildings	[…]	[…]	[…]	[…]
Plant/machinery/equipment	[…]	[…]	[…]	[…]
Total eligible cost	**199 097.93**	**630.31**	**199 082.31**	**630.26**

(19) The Hungarian authorities confirmed that only new assets are accepted as eligible expenditure.

2.4. Form of aid, aid granting authority, and national legal basis for granting the aid

(20) The notified public support will take the form of a cash grant, on the basis of a grant agreement between the Ministry of Foreign Affairs and Trade (granting authority) and SKBM. The national legal basis for this grant is the *210/2014. (VIII.27) Government Decree on Earmarked Scheme for Investment Promotion*, a regional aid scheme [8] implemented under the General Block Exemption Regulation [9] ("GBER"), allowing aid for initial investments in a variety of economic sectors. The cash grant constitutes an individually notifiable case of application of that aid scheme and is conditional upon the Commission's approval of the aid. The terms of the individually granted aid are defined in a bilateral agreement between the beneficiary and the Hungarian Government.

(21) The aid is financed by the general budget of the State.

2.5. Aid amount

(22) The total notified aid amounts to HUF 28 495 million (EUR 90.21 million) in nominal value and HUF 27 918 million (EUR 88.38 million) in discounted value. The aid is planned to be paid out in several instalments over the period […]. Tables 2 and 3, below, provide an overview of the aid amount.

[7] The nominal amounts have been discounted to the 2020 value. The discount rate used is 1.93 %, applicable for Hungary as from 1 September 2020.

[8] SA.50393 (2018/X).

[9] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p.1), as amended by Regulation (EU) No 2017/1084 (OJ L 156, 20.06.2017, p.1.).

Table 2: Breakdown of aid amount

		20[…]	**20[…]**	**20[…]**	**Total**
(million HUF)	Nominal	[…]	[…]	[…]	**28 494.95**
	Discounted	[…]	[…]	[…]	**27 918.45**
(million EUR)	Nominal	[…]	[…]	[…]	**90.21**
	Discounted	[…]	[…]	[…]	**88.38**

2.6. Aid intensity and cumulation with other investment aid

(23) The Hungarian authorities note that there was an investment at group level in the same NUTS 3 region in a period of three years from the date of start of works of the notified investment. In 2018, SKBH, a sister company of SKBM and fully owned by SKI, received aid for an initial investment in Komárom, located next to SKBM's notified project (see recital (16)). SKBH started works on […], and Hungary granted aid on 8 November 2018. The nominal eligible costs and the aid amounts are summarized in the table below. The aid was granted under the regional aid scheme which is the legal basis of the measure[10].

Table 3: Previous investment: eligible costs and aid amount

		Eligible costs	**Aid amount**
(million HUF)	Nominal	97 519.83	8 174.78
	2018 discounted value[11]	96 307.30	8 007.96
(million EUR)	Nominal	313.15	26.25
	2018 discounted value	309.25	25.71

(24) For calculating the maximum aid amount of the notified investment, the Hungarian authorities, therefore, considered SKBH's investment project in Komárom as a Single Investment Project ("SIP")[12] within the meaning of paragraph 20(t) of the Guidelines on regional State aid for 2014-2020 ("RAG")[13] and applied the scaling-down mechanism for the adjusted aid amount according to paragraph 20(c) RAG[14].

10 SA.50393 (2018/X)

11 Discount rate of 1.56 % applicable for Hungary as of November 2018.

12 'Single investment project' means any initial investment started by the same beneficiary (at group level) in a period of three year from the date of start of works on another aided investment in the same NUTS 3 region.

13 Guidelines on regional State aid for 2014-2020 (OJ C 209, 23.7.2013, p. 1), as prolonged by Communication from the Commission concerning the prolongation and the amendments of the Guidelines on Regional State Aid for 2014-2020, Guidelines on State Aid to Promote Risk Finance Investments, Guidelines on State Aid for Environmental Protection and Energy 2014-2020, Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, Communication on the Criteria for the Analysis of the Compatibility with the Internal Market of State Aid to Promote the Execution of Important Projects of Common European Interest, Communication from the Commission – Framework for State aid for research and development and innovation and Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance 2020/C 224/02, C/2020/4355 (OJ C 224, 8.7.2020, p. 2).

14 The adjusted aid amount means the maximum permissible aid amount for a large investment project, calculated according to the following formula: maximum aid amount = R x (50 + 0.50 x B + 0.34 x C),

Thereafter, the maximum total aid amount for the two projects (SKBH and SKBM investments) cannot exceed HUF 39 043.10 million (EUR 121.43 million) in 2018 discounted value. SKBH had been granted HUF 8 007.96 million (EUR 24.91 million) in 2018 discounted value. The Hungarian authorities confirm that the currently notified aid amount for the SKBM investment does not exceed the remaining part of the adjusted aid amount for the SIP, which is HUF 31 035.14 million (EUR 96.52 million) in 2018 discounted value. The aid intensity for the SKBM investment is 14 %.

(25) The Hungarian authorities confirmed that the beneficiary will not receive further State aid for the investment, and that the aid cannot be cumulated with aid or *de minimis* aid to cover the same eligible costs.

2.7. Own contribution by the aid beneficiary

(26) The Hungarian authorities confirmed that the beneficiary will contribute with at least 25 % of the total eligible costs from its own resources, i.e. free of any public support.

2.8. Maintenance of the investment in the assisted region

(27) The Hungarian authorities confirmed that the aid is awarded under the condition that the beneficiary will maintain the investment in the assisted region for a minimum period of five years after completion of the investment project.

2.9. Contribution to regional development and territorial cohesion

(28) The investment project is being carried out in Central Transdanubia, which is a region eligible for regional aid under Article 107(3)(a) TFEU. The Hungarian authorities explained that the investment will contribute to the regional development of Central Transdanubia for the following reasons:

(a) the aided investment project will create at least 1 000 direct jobs in the region, out of which about [10-150] jobs ([1-15]%) will require employees with higher education (with a university or college degree). It is also estimated that the investment will create at least 500 indirect jobs, across the whole battery production value chain. This counteracts the population decline, the ageing of the population, and the employee emigration within the region. Moreover, the average salary of an operator at SKBM will be above the regional average, so this will generate significant additional regional household income;

(b) the investment will facilitate the transfer to the European Union of the technical knowledge and necessary skill-set for the production of pouch batteries. The battery-manufacturing sector for EV is technology intensive, and, due to CO_2 regulation, is growing. This new sector requires skilled workers, but those special skills are not yet widely available. The

where R is the maximum aid intensity applicable in the area concerned, excluding the increased aid intensity for SMEs, B is the part of eligible costs between EUR 50 million and EUR 100 million and C is the part of eligible costs above EUR 100 million.

beneficiary plans to offer comprehensive training in these skills to employees, which will be provided in cooperation with vocational schools;

(c) the training provided by the beneficiary will also contribute to the creation of a qualified workforce within the region, while the creation of 1 000 direct jobs could help both retain qualified workforce in the region, and attract qualified workforce from other regions. This would be beneficial to a region that is faced with significant labour emigration;

(d) the investment will create synergy and spill-over effects, due to its proximity to several OEMs, and an electric bus manufacturing plant. The frequent mutual exchange of products and human resources is likely if supplier and customer are located within reach of each other. This will not only enhance technology transfer, but also promote the development of related industries, such as logistics and transportation. The investment concerns the establishment of the third EV battery / cells manufacturing plant in Hungary. It will also bring synergies with regard to the expertise and technological knowledge throughout Central and Eastern Europe ("CEE"), in light of the location of an EV battery manufacturing plant and battery separator manufacturing company in Poland;

(e) the investment will also contribute to environmental protection, by supporting the ongoing clean energy transition, through responding to the growing demand for EV batteries.

(29) As mentioned above (recital (20)), the notification concerns an individual application for aid under a scheme. According to the Hungarian authorities, the aid also contributes to the scheme's objectives. Through a foreign direct investment ("FDI") strategy for modernisation, the region is highly dependent on foreign investments. Nevertheless, the stock of FDI in the region is not yet considered to be outstanding. It is expected, however, that the technology transfer and clustering effect from the notified project will attract further technology-driven FDI to the region.

2.10. Appropriateness of the measure

(30) The Hungarian authorities indicate that State aid is needed, and non-financial means are not sufficient, as the region of Central Transdanubia is an area entitled to assistance under Article 107(3)(a) TFEU, and it has a GDP below the national, and far below the EU-27, average. The Hungarian authorities are of the opinion that the aid in the form of a cash grant is an appropriate aid measure to achieve the above-mentioned objectives. The cash grant is needed to respond to the dependency on FDI, and to induce technology transfer. Since other aid instruments, for example, tax instruments, pay off only later, they are not as attractive to investors. Furthermore, the aid in the form of a cash grant is necessary to compensate for the location disadvantage of Komárom, as compared to the alternative location in [region of the alternative location], [EEA State of the alternative location].

2.11. Incentive effect and proportionality of the measure

2.11.1. Formal incentive effect

(31) The Hungarian authorities explained that the works on the notified investment started on 7 March 2019. The application for State aid dates from 18 February 2019, and was registered with the Hungarian authorities on 21 February 2019. The final decision on the investment and its location was taken on 27 February 2019.

2.11.2. Counterfactual scenario

(32) The Hungarian authorities invoke a scenario 2 situation (location decision) under paragraph 61(b) of the RAG to demonstrate the existence of an incentive effect[15].

(33) Without the aid, the investment would have taken place in [city of the alternative location], near [capital city of the EEA State of the alternative location], in [EEA State of the alternative location],. The alternative location is situated within the NUTS 2 region of [region of the alternative location], which is eligible for regional aid under Article 107(3)(a) TFEU, with a standard regional aid ceiling of 25 % under the applicable [EEA country of the alternative location] regional aid map[16].

(34) The Hungarian authorities provided a counterfactual analysis, from which it appears that, without State aid, the Komárom (Hungary) site is at a cost disadvantage of EUR [90-100] million in net present value ('NPV')[17], as compared to [city of the alternative location] ([EEA State of the alternative location]). With the notified State aid, the disadvantage of the Komárom location would reduce to about EUR [10-20] million (NPV).

(35) The Hungarian authorities provided further details and figures on the calculation of the NPV of the investment in the target area and the NPV of the investment in the alternative location. SKI took into account different parameters for their analysis, such as initial investment costs (construction, utilities, IT, logistics, insurance), working capital expenditure, EBITDA, taxes (corporate, property, local business), sales volumes and revenues, labour costs, and an analysis of the discount rate.

(36) In both [city of the alternative location] ([EEA State of the alternative location]) and Komárom (Hungary), the investment would relate to the establishment of a new manufacturing plant.

(37) Overall, the capital expenditure would be lower in Komárom (Hungary), because of lower construction costs. This results, notably, from the fact that SKBM […].

[15] Paragraph 61(b) RAG: '… the aid gives an incentive to opt to locate a planned investment in the relevant area rather than elsewhere because it compensates for the net disadvantages and costs linked to a location in the area concerned … . '

[16] […].

[17] Using a discount rate of [7-8] % ([…]), the NPV of the [EEA State of the alternative location] location is EUR -[10-20] million. By comparison, the NPV of the Hungarian location without aid is EUR -[100-110] million (thus EUR [90-100] million lower than the [EEA State of the alternative location] location). Taking into account the aid, the NPV in the Hungarian location increases to EUR –[…] million (thus EUR [10-20] million lower than the [EEA State of the alternative location] location). The nominal aid amount of EUR 90.21 million corresponds to a NPV of EUR [70-80] million.

Instead, […]. In addition, SKBM has already experience with the Hungarian administration with regard to the administrative steps required for the construction, which saves […] months compared with the procedure in [EEA State of the alternative location]. In order to meet the planned date for start of production, construction in [EEA State of the alternative location] would, therefore, need to be carried out over a shorter period than in Hungary, requiring longer working hours and a higher number of construction workers.

(38) Operational costs in [EEA State of the alternative location] would be lower than in Hungary, in particular due to lower labour and utilities costs. The corporate income tax rate would be lower in Hungary (9 %) than in [EEA State of the alternative location] (>9 %).

(39) SKI noted that, if the JV should go ahead, it would require only […]. However, in the case of the JV, SKI would […].

(40) The Hungarian authorities explained that, based upon the counterfactual analysis, it would not be a financially sound decision to construct the plant at Komárom without State aid. Without State aid, SKI would have decided to construct the plant at [city of the alternative location]. The prospect of State aid included in the indicative offer received from the Hungarian authorities was decisive for the final location decision. The aid compensates, for a large part, the profitability disadvantage associated with Komárom, and decreases the cost disadvantage to about EUR [10-20] million in NPV. SKI acknowledges certain non-quantifiable and strategic advantages to the Hungarian site, which make this difference acceptable. In particular, SKI has already established a network with Hungarian local providers as regards the permit process, construction works, utilities, human resources agencies, etc. In [EEA State of the alternative location], SKI would have to conduct research to identify adequate providers. In addition, providers in Hungary already have experience in the batteries business. Thus, no additional time or effort is required in that regard, which is important to SKI, in view of the tight project schedule.

2.11.3. Decision-making process

(41) The Hungarian authorities explained SKI's internal decision-making process in general, as well as the actual decision-making steps regarding the notified project.

<u>The general decision-making process at SKI</u>

(42) In general, the decision-making process of SKI regarding the production and delivery of batteries comprises three major steps: (i) strategic business planning; (ii) […] Committee ("[…]") approval; and (iii) approval of the Board of Directors ("BoD").

(43) In the context of the strategic business planning (<u>first step</u>), based on a number of considerations, SKI decides […]. In advance of an invitation to tender, OEMs send out Requests for Information ("RfI"), to get a first impression of possible offers. SKI reviews RfIs, to see if it is feasible to support the needs of the OEM. Then, after receiving the RfQ, the […] team will examine […]. Strategic considerations have a significant impact in these deliberations.

(44) After winning a nomination for the production and delivery of batteries to an OEM, if the nomination requires an investment in additional production capacities, the approval of the [committee mentioned in recital 42] is required (second step). At this stage, SKI develops […]. All relevant assumptions regarding […] are ascertained. In the beginning of these calculations, the company applies […]. If several locations are taken into consideration, they will be compared with each other to narrow down the list to the two or three most suitable potential locations. This financial model is reported to the [committee mentioned in recital 42]. The most decisive criterion is [financial criterion].

(45) If the [committee mentioned in recital 42] approves the investment, it will be taken to the BoD (third step), which will take the final decision on the investment and its location.

The actual decision-making process for the notified investment

(46) The Hungarian authorities explained that SKI pursues a global expansion strategy focussing on the main automotive production markets, i.e. Asia, Europe, and North America. A large part of the targeted production capacities for battery manufacturing shall be located in Europe.

(47) As described at recital (12), in […] 2018, SKI entered into discussions with an OEM for a JV. In […] 2018, the OEM made an RfQ for the production and delivery of EV batteries in Europe. The RfQ provided for the production and delivery of […] battery modules, with an overall capacity of […] GWh in the period of […]. Strategic considerations were most relevant for SKI, in particular […]. SKI concluded that existing production capacities could not cover the scope of the RfQ, and that an investment in additional production capacities would be required in case it won the nomination. At this stage, however, neither a decision on the investment itself, nor its location, were taken.

(48) In […] 2018, SKI won the nomination. In […] 2018, SKI and the OEM, as future JV partner, started discussing the location of the production site in CEE. SKI had already considered Komárom as a location premise for the financial projections underlying its quotation on the OEM's RfQ; using the Hungarian location as reference was a hypothetical assumption made by SKI because the Hungarian figures were readily available, reliable and close to the potential investment. After winning the nomination, SKI kept Komárom as a potential investment location. On 13 December 2018, the OEM however suggested [EEA State of the alternative location] as an alternative to Hungary, since a preliminary estimate made by the OEM showed a cost advantage for [EEA State of the alternative location] of EUR [300-400] million. In addition, the OEM was not in favour of Komárom (Hungary) as a location, given that the proximity of the SKBH plant could lead to confidentiality issues (see recital (16)), as well as competition between the plants for workers. SKI, therefore, decided to look for alternative locations in [EEA State of the alternative location], and began comparing Hungary and [EEA State of the alternative location].

(49) For the purpose of that comparison, SKI carried out a […] analysis in December 2018 / early January 2019. On the basis of its manufacturing requirements, SKI developed a criteria catalogue, with six categories and 27 location criteria, in order to identify the [EEA State of the alternative location] region most suitable for investment. [categories of costs and workforce related qualitative factor], were the

most decisive criteria for region filtering. In that respect, the assessment concluded that, in comparison with other [EEA State of the alternative location] regions, the [region of alternative location] had the highest [workforce related qualitative factor] and the highest [other workforce related qualitative factor]. Furthermore, SKI conducted a comparison with other CEE countries and it showed that [EEA State of the alternative location] offers the most competitive [category of cost] within CEE. As an overall result, considering all six categories and 27 region criteria, the assessment concluded that the [region of alternative location] region was the most suitable region in [EEA State of the alternative location] to locate the investment.

(50) Based on the results of the […] analysis, SKI assessed and inspected several land plots, in [capital city of the EEA State of the alternative location, the surrounding region and another city in another region of the same State]. During the onsite visits in [EEA State of the alternative location], on 10 January 2019, SKI had in-depth discussions with the [EEA State of the alternative location] authorities about the land plots and the [EEA State of the alternative location] investment environment, including the possibility of receiving State aid. Three land plots were considered as potentially suitable, but [city of the alternative location] was preferred as it would not require site remediation or land levelling.

(51) SKI then carried out financial business case calculations comparing Komárom (Hungary) and [city of the alternative location] ([EEA State of the alternative location]). The [EEA State of the alternative location] authorities presented financial incentives to SKI to carry out its investment in [EEA State of the alternative location]. However, SKI did not include any [EEA State of the alternative location] incentives in the business case calculations, because it was of the view that an approval of State aid by the Commission[18] would have been highly unlikely due to the counter-cohesion effect. On 12 February 2019, SKI received an indicative subsidy offer from the Hungarian authorities.

(52) The comparative calculations showed a cost disadvantage of Komárom. However, the indicative subsidy offer of 12 February 2019 from the Hungarian authorities suggested that this cost disadvantage could to a large extent be compensated by subsidies. For this, the [committee mentioned in recital 42] decided that the Hungarian location in Komárom should be considered further, if the Hungarian authorities provided a subsidy offer. The [committee mentioned in recital 42] made this a condition to present Komárom to the BoD, and decided, on 13 February 2019, to approve the investment proposal on that basis.

(53) After the [committee mentioned in recital 42] decision, SKI, together with the OEM, reviewed the investment plan and business case calculations for both [EEA State of the alternative location] and Hungary. The comparative calculations concluded that an investment in Komárom would incur a cost disadvantage in comparison to an investment in [city of the alternative location] of about EUR [90-100] million (NPV), due to its significantly higher operating costs. Taking into consideration the aid offered by the Hungarian authorities of EUR [70-80] million

[18] According to paragraph 121 of the RAG, the counter-cohesion effect resulting from aid to the detriment of a weaker or similarly weak EEA region would constitute a negative element in the overall balancing test that is unlikely to be compensated by any positive elements, because it runs counter the very rationale of regional aid. The counter-cohesion effect is further discussed at recitals (128) and (129).

(NPV), this cost disadvantage could be covered to a large extent. Against this background, the BoD, on 27 February 2019, decided to locate the investment in Komárom. It accepted the remaining gap of EUR [10-20] million (NPV) in view of existing experiences in the Hungarian business environment.

2.11.4. Proportionality

(54) According to the Hungarian authorities, the State aid is proportionate, as it does not exceed either the maximum permitted aid intensity after applying the scaling-down formula (see recitals (23) and (24)), nor the cost disadvantage incurred due to investing in Komárom instead of [city of the alternative location].

2.12. Effects on competition and trade

Definition of the relevant market

(55) The Hungarian authorities provided information on the definition of the relevant market. SKBM will manufacture Li-ion battery pouch cells, which are designated for the production of EV for the duration of the 'reference period' (time period during which the plant will produce battery cells i.e. […]). The Li-ion battery pouch cells fall under the PRODCOM code 27.20.23: nickel-cadmium, nickel metal hydride, lithium-ion, lithium polymer, nickel-iron and other electric accumulators. SKI does not expect to reduce or close the manufacturing capacity of any of its other battery manufacturing plants. The investment, therefore, adds to SKI's already existing production capacities, and is in line with SKI's global expansion strategy.

(56) According to the Hungarian authorities, the relevant product market is the market for battery cells for EV. The project concerns the production of Li-ion battery cells and modules, which will be directly sold to an OEM. Battery modules with cells can be directly sold to OEMs, or possibly further into battery packs and then sold to OEMs. The OEM decides whether SKI should supply them with battery cells, modules, or packs. However, the battery cell production constitutes the most substantial part of the value added to the final product, and the battery cell is an appropriate proxy for the downstream products of battery modules and battery packs, as they follow the same market trends[19]. With regards to the demand-side, the global EV Li-ion battery market is a key segment of the global EV battery market that includes also various other batteries, such as nickel metal hydride batteries and lead–acid batteries. For the supply-side, aside from the application for EV, Li-ion batteries can find other uses, notably in battery energy storage systems ("ESS"). Battery cells for ESS can be generally manufactured at little additional cost in the same facility as cells for the automotive sector. The capacity of the plant, however, is assigned to the production of EV batteries, for the whole reference period.

(57) The Hungarian authorities consider that the relevant geographical is global, as the product can feasibly be shipped at low cost through road, ocean, or air transport. SKI has production sites in Europe, the USA, and Asia, and supplies car-

[19] Commission decision C(2019) 338 final of 28.1.2019 in case SA.47662 (2017/N)-Poland-LIP-Aid to LG Chem Wroclaw Energy Sp. Z.o.o.), recital 128, and Commission decision C(2019) 7238 final of 14.10.2019 in case SA.48556 (2018/N)-Hungary-Regional investment aid to Samsung SDI, recital 165.

manufacturing plants all over the world. Moreover, there is a global demand for Li-ion batteries, and their components are also traded internationally.

Market power

(58) Works on the investment started in 2019 (see recital 31). In 2018, SKI's EV battery sales (at a group level) were estimated to amount to […] % of the global market, with […] GWh at global level, and […] GWh at EEA level. By the time the project will be completed (2022), it is estimated that this share of the global market will increase to […] %, with […] GWh at global level, and […] GWh at EEA level. The maximum production capacity of the investment will be 10.2 GWh, with […] production days and a daily production capacity of […] GWh.

Table 4: EV battery sales on the global market (group level)[20]

Unit: GWh	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
SKI only (global)	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
SKI only (EEA)	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
SKI market share (%)	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]

(59) The Hungarian authorities note that the global EV Li-ion battery market is experiencing high growth rates. The competition among producers is intense, due to the large volume of sales and partnerships between automotive manufacturers. As the market consists of limited buyers ordering in large volumes, those buyers possess a certain power. Li-ion batteries are one of the key components of EVs, and the battery accounts for most of the total manufacturing cost. Li-ion battery production is largely dependent on raw materials. At present, the raw materials are considered as abundant, and are offered by multiple suppliers. Since batteries are designed specifically for each OEM's program, OEMs cannot frequently switch vendors, and there is high loyalty between OEMs and manufacturers.

(60) The Hungarian authorities note that, to meet the increasing demand for Li-ion battery cells, the global Li-ion cell manufacturing capacity is expected to rise, and may quadruple or even increase sevenfold by 2021–2023, compared with 2017. Manufacturers are increasing their geographical reach to expand the capacity of batteries. The global manufacturing capacity of Li-ion cells for EVs and ESS was around 536 GWh in 2019, with two-thirds of the capacity located in China. More than 50 % of new EVs are sold in China, and Chinese demand continues to rapidly increase, having almost doubled between 2016 and 2017. In the long term, the global sales of Li-ion battery cells are expected to grow exponentially. A key driver is the increasing demand in the EV industry. As of 2018, there were 1.5 million EV on the road. This number will increase to 12 million by 2027. Global market forecasts project demand for Li-ion batteries to grow to up to 485 GWh by 2023, 967 GWh by 2027, and up to 4 000 GWh by 2040. As the global market size increases, Europe is forecast to develop a capacity of 87 GWh by 2023, while European demand for EV batteries alone would be around 294 GWh by 2027. As a result, demand in Europe is almost twice as high as production capacity, and European manufacturing of Li-ion battery cells will increase its share in global production.

[20] Source: Global market: HIS Markit 2020 July; SKI data: company data

Table 5: Li-ion EV battery overall sales[21]

Unit: GWh	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
Global sales	16	28	42	80	109	136	237	348	479	600
EEA sales	3	4	6	11	19	40	79	106	152	193

No relocation

(61) The Hungarian authorities note that SKI confirmed that it did not close down the same or similar activity (NACE code 27.20) in the EEA in the two years preceding the aid application, and does not intend to close down the same or a similar activity elsewhere in the EEA in the two years after the completion of the investment.

3. ASSESSMENT OF THE AID MEASURE

3.1. Existence of aid

(62) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(63) The public support awarded by Hungary in the form of a cash grant is imputable to the State, as it is given by the Member State and is based on the national legal basis indicated in recital (20). It is financed through State resources within the meaning of Article 107(1) TFEU, since it is financed by public funds.

(64) As the aid takes the form a direct grant, it provides SKBM with an advantage that it would normally not have in market conditions. Therefore, the company benefits from an economic advantage over its competitors.

(65) As the public support is granted to a single company, SKBM[22], the measure is selective. SKBM is an undertaking offering goods (Li-ion pouch cells) on a market where there is competition.

(66) The measure is likely to affect trade between Member States, as trade between Member States exists in the Li-ion EV battery and battery cells sector.

(67) As the measure strengthens the competitive position of SKBM, competition is, or is threatened to be, distorted.

(68) Consequently, the Commission considers that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

[21] Source: HIS Markit 2020 July

[22] At the time of notification, SKBM was fully owned by SKI. This might change in the future [due to evolution of the JV].

3.2. Lawfulness of the aid measure

(69) If the regional investment aid amount to be granted from all sources exceeds the notification threshold laid down in Article 4(1)(a) of the GBER, the aid is not block-exempted under the GBER, and has thus to be notified individually to the Commission. In Central Transdanubia, the applicable notification threshold is EUR 26.25 million (HUF 8 291.59 million). The nominal aid amount of HUF 28 494.95 million (EUR 90.21 million) as described in recital (22) exceeds this amount. Therefore, the planned aid measure cannot be exempted from notification.

(70) By making the award and disbursement of the aid conditional upon Commission approval, and by notifying the measure, the Hungarian authorities have respected their obligations under Article 108(3) TFEU and Article 4(1)(a) of the GBER.

3.3. Compatibility of the aid measure

(71) In derogation from the general prohibition of State aid laid down in Article 107(1) TFEU, aid may be declared compatible if it can benefit from one of the derogations enumerated in the TFEU. The Hungarian authorities invoke Article 107(3)(a) TFEU, as interpreted by the RAG, as the basis for the assessment of the compatibility of the aid measure.

(72) The Commission observes that, according to established case practice, the appropriate legal basis for assessing compatibility of regional State aid may be Article 107(3)(a) TFEU, which stipulates that *"aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation"* may be found compatible with the internal market.

(73) As the objective of the measure is to promote regional development in an area designated in accordance with Article 107(3)(a) TFEU, and the aid is to be granted in the period between 1 July 2014 and 31 December 2021, the legal basis for its assessment is Article 107(3)(a) TFEU, as interpreted by the RAG, applicable from 1 July 2014 to 31 December 2021[23].

(74) In line with Article 107(3)(a) TFEU, the Commission examines whether the aid is to promote the development of areas where the standard of living is abnormally low, or where there is serious underemployment, and of the regions referred to in Article 349 TFEU, in view of their structural, economic, and social situation. The Commission then verifies the compatibility of the notified aid, in view of the criteria laid down in the RAG.

3.3.1. Objective of promoting regional development in an area designated in accordance with Article 107(3)(a) TFEU

(75) The notified investment project is carried out in Komárom, Central Transdanubia, an area eligible for regional aid pursuant to Article 107(3)(a) TFEU (a-area) in

[23] The RAG were prolonged until 31.12.2021 (see footnote 13). The new regional aid guidelines applicable as from 2022 (OJ C 153, 29.4.2021, p. 1–46) will be applicable only to "notifiable regional aid awarded or intended to be awarded after 31 December 2021" (paragraph 197 of the new guidelines).

accordance with the Hungarian regional aid map[24]. Pursuant to paragraph 34 of the RAG, in a-areas initial investments by large undertakings may benefit from regional investment aid.

3.3.1.1. Real and sustained contribution to regional development

(76) The RAG require the Member State to prove, in concrete terms, the real and sustained contribution of the aided investment to the regional development of the target region. To help Member States with this task, section 3.2.2 of the RAG lists a number of indicators that Member States may use in order to demonstrate the regional contribution of individual investment aid notified to the Commission. To prove the real and sustained contribution, the Member State must show that the viability of the project is ensured by a financial contribution of the aid beneficiary of at least 25 % of the eligible costs[25], provided through its own resources or by external financing, in a form that is free of any public financial support. In addition, the investment (the aided assets) must be maintained in the area concerned for a minimum period of five years (three years for SMEs) after completion of the investment[26].

(77) Central Transdanubia is eligible for regional aid pursuant to Article 107(3)(a) TFEU. The Commission takes note of the investment's positive regional effects, as presented by the Hungarian authorities (see recital (28)). It considers that, in particular, the direct and indirect job creation effects, the retention of qualified workforce in the region and the knowledge and technology transfer into the region represent a significant contribution to the development of the region.

(78) The Commission further notes that the beneficiary will contribute with at least 25 % of the eligible costs, and commits to keep the investment for 5 years after completion of the project in the area concerned (see recitals (26) and (27)).

3.3.1.2. Incentive effect

(79) According to section 3.5 of the RAG, regional aid can only be found compatible with the internal market if it has an incentive effect. An incentive effect is present when the aid changes the behaviour of an undertaking in a way that it engages in additional activity contributing to the development of an area, which it would not have engaged in without the aid or would only have engaged in such activity in a restricted or different manner or in another location. The aid must not subsidise the costs of an activity that an undertaking would have incurred in any event and must not compensate for the normal business risk of an economic activity.

Formal incentive effect

(80) Paragraphs 64 and 65 of the RAG set out the formal incentive effect requirements, which stipulate that works on an individual investment can start only after the application form for aid has been formally submitted. SKBM applied for aid on

[24] See footnote 1.

[25] See paragraph 38 of the RAG.

[26] See paragraph 36 of the RAG.

21 February 2019, whilst works on the investment project only started on 7 March 2019 (see recital (17)). Therefore, the formal incentive effect is proven.

Substantive incentive effect

(81) As there are many valid reasons for a company to locate its investment in a certain region, even without any aid being granted, the RAG require the Commission to verify in detail that the aid is necessary to provide a substantive incentive effect for the investment that can be proven in two possible manners (see paragraph 61 of the RAG), that is to say that without the aid the investment would not be sufficiently profitable in any location (scenario 1), or the investment would take place in another location (scenario 2).

(82) As set out in section 3.5.2 of the RAG, the Member State must provide clear evidence that the aid has a real impact on the investment choice or on the choice of investment location. To that end, the Member State must provide a comprehensive description of the counterfactual scenario in which no aid would be granted to the beneficiary. The Commission must verify that this alternative scenario is realistic and credible.

(83) Paragraph 71 of the RAG indicates that for scenario 2 – which is invoked by the Hungarian authorities in this case (see recital (32)) –, the Member State could prove the incentive effect of the aid by providing company documents that show that a comparison has been made between the costs and benefits of locating the investment in the assisted region, and the costs and benefits of locating the investments in the alternative location(s). Such documents should be contemporary to the decision making process concerning the investment or its location. For that purpose, the Member State is invited, at paragraph 72 of the RAG, to rely on official board documents, risk assessments, financial reports, internal business plans, expert opinions, and other studies and documents that elaborate on various investment scenarios.

(84) To verify the viability of the project in a scenario 2 context, all relevant costs and revenues[27] have to be taken into account, with the exception of possible subsidies available in the alternative location, where this alternative location is in the EEA.

(85) The investment and location decision-making process of SKI consists of three major approval phases: the strategic business planning phase, the [committee mentioned in recital 42] approval, and the approval of the BoD (see recitals (41) to (53)). For its assessment, the Commission in particular takes into account the following steps:

(a) in […] 2018, SKI and the OEM began discussing the location of the project in CEE. SKI had already considered Komárom as a location premises for the financial projections underlying its quotation in response to the OEM's RfQ. After winning the nomination, Komárom remained a potential investment location;

(b) in December 2018, the OEM suggested [EEA State of the alternative location] as possible location for the project. Through […] analysis between

[27] See paragraph 80 of the RAG.

December 2018 and January 2019, SKI concluded that the [region of the alternative location] would, indeed, be a viable option for location of the project. Following on-site visits and meetings with the [EEA State of the alternative location] authorities, SKI identified the [city of the alternative location] site as the preferred [EEA State of the alternative location] location. SKI carried out costings for that site, which demonstrated that the establishment of the project in [EEA State of the alternative location] would have a significant cost advantage over establishing it in Hungary;

(c) following the Hungarian authorities' indicative offer of a cash grant for the establishment of the project in Komárom, SKI's [committee mentioned in recital 42] decided that Komárom should be considered further, if the Hungarian authorities provided a subsidy offer. The [committee mentioned in recital 42] made this a condition to present Komárom to the BoD; and

(d) following the [committee mentioned in recital 42] decision, SKI and the OEM reviewed the investment plan and business case calculations for both [EEA State of the alternative location] and Hungary. Taking into consideration the aid offered by the Hungarian authorities, the cost disadvantage of the Hungary location could be covered to a large extent. It was against this background that the BoD decided that the investment should be located in Komárom.

(86) The Commission notes that the Hungarian authorities submitted the required information in form of comprehensive, contemporary and genuine evidence documenting the decision-making process of SKI (see section 2.11.3). The provided documents include minutes of company-internal meetings, e-mails, presentations, and location comparison tables. They confirm that the investment and location decisions were taken subject to the award of aid, and that the counterfactual situation described as scenario 2 applies. The documents explain the counterfactual scenario comparing the site beside SKBH's factory in Komárom with a greenfield site in [city of the alternative location], [EEA State of the alternative location].

(87) According to paragraph 68 of the RAG, a counterfactual scenario is credible if it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the investment. The Commission notes that the calculations and cost estimates for the two options were carried out at the same level of accuracy and are based on the same types of cost items and characteristics of the investment project.

(88) The newly-built plant in either location scenario (Hungary or [EEA State of the alternative location]) would produce the same products, at the same capacity, for the same geographical market, using the same technology, and would be sold at the same price. Consequently, sales revenues are the same for the two location options.

(89) According to the notification documents, the investment in Hungary is, without aid, at a disadvantage of approximately EUR [90-100] million to the one in [EEA State of the alternative location]. The Commission notes however that the calculations result in a negative NPV for both locations: approximately minus EUR [10-20] million in [city of the alternative location], [EEA State of the alternative location], and minus EUR [100-110] million in Komárom, Hungary. The Hungarian authorities explained that SKI was willing to accept a negative NPV in

either location, due to its desire to focus on broadening its market presence, especially in Europe, rather than profitability.

(90) As explained in recital (40), based upon a counterfactual analysis, it would not be a financially sound decision for SKI to construct the Komárom plant without receiving State aid. Without State aid, SKI would have decided to establish the plant in [city of the alternative location], [EEA State of the alternative location]. The prospect of State aid included in the indicative offer received from the Hungarian authorities was decisive for the final location decision. The aid compensates for a large part of the profitability disadvantage associated with the Komárom location. SKI accepted this disadvantage due to its existing experiences in the Hungarian business environment.

(91) In the counterfactual scenario, SKI would establish the plant in [city of the alternative location], [EEA State of the alternative location]. The Hungarian authorities provided detailed calculations on the comparison with the counterfactual scenario. To the advantage of the [EEA State of the alternative location] location are lower operating costs. The Hungarian location, on the other hand, benefits from reduced capital expenditure costs.

(92) The Commission confirms the credibility of the counterfactual scenario and accepts that the calculations and the underlying parameters, as provided by the Hungarian authorities are realistic. Hungary also provided the required documentary evidence. It follows that [city of the alternative location], [EEA State of the alternative location]– in the absence of aid – can be confirmed to be a more viable location.

(93) Hence, with regard to the substantive incentive effect, the Commission considers – based on genuine, contemporary, and realistic evidence submitted by the Hungarian authorities – that the aid effectively has an impact on the choice of location of the investment. By reducing the viability gap in favour of [city of the alternative location], [EEA State of the alternative location], the aid was decisive in triggering the location decision in favour of Komárom, Hungary.

(94) In view of the above, the Commission considers that the aid meets the formal incentive effect requirement and has real, substantive, incentive effect.

3.3.1.3. No relevant breach of EU law

(95) The Commission notes that there does not appear to be a breach of EU law relevant to the notified project.

3.3.1.4. Conclusion

(96) Therefore, in light of the considerations set out at recitals (75) to (95), the Commission considers that the notified project has the objective of promoting regional development in an area designated in accordance with Article 107(3)(a) TFEU.

3.3.2. Eligibility of the notified project

(97) Pursuant to paragraph 20(h) of the RAG, an initial investment means an investment in tangible and intangible assets related to (i) the setting-up of a new establishment, (ii) the extension of the capacity of an existing establishment, (iii) the

diversification of the output of an establishment into products not previously produced in the establishment, or (iv) a fundamental change in the overall production process of an existing establishment[28]. As the project involves the setting-up of a new EV Li-ion battery cells plant, it represents an initial investment within the meaning of paragraph 20(h) of the RAG.

(98) According to paragraph 20(e) of the RAG, and within the limits defined in that paragraph, the costs for new assets for SKI's investment are in principle eligible for regional aid[29].

3.3.3. Need for State intervention

(99) According to section 3.3 of the RAG, in order to assess whether State aid is necessary to promote regional development, it is necessary to first diagnose the problem to be addressed. State aid should be targeted towards situations where aid can bring about a material improvement that the market cannot deliver itself.

(100) As established in paragraph 49 of the RAG, State intervention is considered justified for the development of the areas included in the regional aid map. The Commission notes that Komárom (situated in Central Transdanubia) is eligible for regional aid pursuant to Article 107(3)(a) of the TFEU, which is in line with section 3.2 of the RAG.

3.3.4. Appropriateness of the aid measure

(101) According to paragraph 50 of the RAG, the notified aid measure must be an appropriate policy instrument to promote regional development. The RAG underline that an aid measure will not be considered compatible if other less distortive policy instruments or other less distortive types of aid instruments are available. Section 3.4 of the RAG therefore introduces a double appropriateness test. Under the first appropriateness test, Member States, in particular, have to identify the bottlenecks to regional development and the specific handicaps of firms operating in the target region, and to clarify to what extent bottlenecks to regional development could also successfully be targeted by non-aid measures. Under the second appropriateness test, the Member State has to indicate why – in view of the individual merits of the case – the chosen form of regional investment aid is the best instrument to influence the investment or location decision.

(102) As regards State aid as appropriate policy instrument, the Commission notes that the hardship of Central Transdanubia, in general, is confirmed by its status as a region eligible for regional aid in accordance with Article 107(3)(a) TFEU. With a GDP per capita of 56.33 % of the EU average[30], the region is one of the disadvantaged regions of the EU. The Commission considers that infrastructural

[28] According to paragraph 20(h)(b) of the RAG, an initial investment can also be 'an acquisition of assets directly linked to an establishment provided the establishment has closed or would have closed if it had not been purchased, and is bought by an investor unrelated to the seller. The sole acquisition of shares of an undertaking does not qualify as an initial investment'.

[29] Pursuant to paragraph 20(e) of the RAG eligible costs means, for the purpose of investment aid, tangible and intangible assets related to an initial investment, or wage costs.

[30] As shown in Annex 1 of the RAG.

developments and other general measures alone are insufficient to reduce the given regional disparities. In this kind of economic situation, State aid has already been acknowledged by the Commission's case practice as an appropriate means to address the economic shortcomings (e.g. in the Mondi SCP[31] and LG Chem[32] decisions).

(103) As regards the appropriate aid instrument, the Hungarian authorities argue that investment aid in favour of SKBM is necessary to incentivise SKI to carry out the investment in Hungary, rather than in the alternative location in [EEA State of the alternative location], presented in the counterfactual scenario. The Hungarian authorities indicate that aid in the form of a cash grant is needed to respond to the dependency on FDI, since other aid instruments, for example, tax incentives, pay off only later, and so are not equally attractive to investors. The aid in the form of a direct pecuniary advantage (cash grant) allows the beneficiary to increase the competitiveness of the Komárom (Hungary) establishment, when compared to the alternative investment site in [city of the alternative location] ([EEA State of the alternative location]).

(104) The Commission considers that, as argued by the Hungarian authorities and in line with previous Commission practice[33], with other forms of aid, e.g. guarantees or soft loans, it would, indeed, be more difficult to bridge the viability gap of EUR [90-100] million, corresponding to [14-16] % of eligible costs, between the two alternative investment locations, [city of the alternative location] ([EEA State of the alternative location]) and Komárom (Hungary), and, thus, to offer the necessary incentive to attract the investment to the under-developed a-area. It accepts that the chosen aid is adequate to achieve the desired objective, namely to provide the amount of aid necessary to bridge the viability gap between the locations of [city of the alternative location] ([EEA State of the alternative location]) and Komárom (Hungary).

(105) Therefore, the Commission accepts that the regional investment aid measure provided in the form of a direct grant represents an appropriate form of support to achieve the regional development objective for the area concerned.

3.3.5. Proportionality of the aid amount

(106) According to section 3.6 of the RAG, the aid amount must be limited to the minimum needed to induce the additional investment or activity in the area concerned. For scenario 2 situations, according to paragraph 106 of the RAG, the Member State must demonstrate the proportionality on the basis of documentation such as that referred to in paragraph 72 of the RAG.

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[31] Decision C(2017) 4879 final of 13 July 2017 in case SA.45584 (2016/N) – LIP – Investment aid to Mondi SCP; OJ C 400, 24.11.2017, p.1.

[32] See footnote 5, SA.47662 (2017/N) – Poland – LIP – Aid to LG Chem Wrocław Energy Sp. z o.o., OJ C 93, 20.3.2020, p.1.

[33] See in particular, Commission decision of 2.7.2020 in case SA.54226, Regional investment aid to Toray Industries – Hungary, recital 94. See also Commission decision of 24.5.2017 in case SA.45359, Regional investment aid to Jaguar Land Rover - LIP – SK, recital 163.

(107) As a general rule, notified individual aid will be considered to be limited to the minimum, if the aid amount corresponds to the net extra costs ('net-extra cost' approach) of implementing the investment in the area concerned, compared to the counterfactual scenario in the absence of aid. Pursuant to paragraph 80 of the RAG, in scenario 2 situations (location incentives), the aid amount should not exceed the difference between the NPV of the investment in the target area with the NPV in the alternative location, while taking into account all relevant costs and benefits.

(108) The Commission notes that the Hungarian authorities submitted the required genuine documentation, and considers that, on the basis of the viability gap (described in recitals (53) and (89)) the proportionality test is met. The notified aid of HUF 28 494 950 000 (EUR 90 210 000) in nominal value represents EUR [70-80] million in present value using the SKBM discount rate of [7-8] %. The comparative calculations concluded that an investment in Komárom would incur a cost disadvantage in comparison to an investment in [city of the alternative location] of about EUR [90-100] million (NPV). The aid therefore does not exceed the calculated cost disadvantage of EUR [90-100] million between the two possible locations.

(109) As the cap resulting from the 'net extra-cost' approach is not exceeded, the Commission considers that the proportionality of the aid is demonstrated[34].

3.3.6. Avoidance of undue negative effects on competition and trade

(110) The Commission further analysed whether the aid has undue negative effects on competition and trade. Section 3.7.2 of the RAG explicitly lists a series of situations where the negative effects on trade and/or competition manifestly outweigh any positive effects, and where regional aid is prohibited:

3.3.6.1. Manifest negative effect on trade: Adjusted aid intensity ceiling is exceeded

(111) A manifest negative effect would exist, according to paragraph 119 of the RAG, where the proposed aid amount exceeds, compared to the eligible (standardised) investment expenditure[35], the maximum (adjusted) aid intensity ceiling that applies for a project of the given size, taking into account the required 'progressive scaling down'[36].

(112) The applicable regional aid ceiling for large undertakings in Central Transdanubia is 35 %[37]. In view of the expected higher distortion of competition and trade, the maximum aid intensity for large investment projects must be scaled down using the mechanism as described at paragraph 20(c) of the RAG. The Commission confirms

[34] The Commission carried out the 'double cap' analysis in this decision, which is the combination of the net extra cost approach ('aid limited to the minimum necessary', see paragraph 80 of the RAG) and the maximum allowable ceilings (see paragraph 107 of the RAG). The analysis in recital (112) shows that the maximum allowable aid intensity is also not exceeded.

[35] The standardised eligible expenditure for investment projects by large firms is described in detail in sections 3.6.1.1 and 3.6.1.2 of the RAG.

[36] See paragraphs 86 and 20(c) of the RAG.

[37] See recital (5).

that the notified project is a SIP (paragraph 20(t) RAG), as explained by the Hungarian authorities (recital (24)). Therefore, the maximum aid intensity should be analysed at the level of the SIP. The Hungarian authorities calculated a maximum aid amount at the level of the SIP of HUF 39 043.10 million (EUR 121.43 million) in 2018 discounted value, which corresponds to a maximum aid intensity for the SIP of 13.49 %. SKBH had been granted HUF 8 007.96 million (EUR 24.91 million) in 2018 discounted value. The notified aid corresponds to HUF 27 172.76 million (EUR 84.51 million). The notified aid amount therefore does not exceed the maximum aid amount that results from applying the scaling down mechanism and the maximum aid intensity applicable in the region to the SIP.

(113) Sections 3.6.1.1 and 3.6.1.2 of the RAG explain which investment costs can be taken into account as eligible costs[38]. In the present case, section 3.6.1.1 applies as the eligible costs for the proposed investment aid are calculated on the basis of investment costs. The acquired assets will be new[39] and no leasing costs[40] or intangible assets[41] are taken into account. The investment concerns an initial investment in the form of setting-up of a new establishment.

(114) Thus, the Commission notes that the eligible costs are established in accordance with the RAG.

(115) The aid intensity does not exceed the maximum allowed, and is applied to eligible expenditure established in line with the relevant rules (see recitals (23) and (24)). The Hungarian authorities also confirmed that the cumulation of the notified aid with other aid is excluded (see recital (25)). Therefore, the basic requirement identified in paragraphs 107 and 119 of the RAG – that the maximum aid intensities not be exceeded – is met. Thus, the level playing field required by paragraph 81 of the RAG is ensured. Moreover, in view of recitals (112), the double cap condition laid down in paragraph 83 of the RAG, resulting from the combination of the net extra cost approach (‘aid limited to the minimum necessary’, see paragraph 80 of the RAG and section 3.3.5) with the allowable ceilings is also respected.

3.3.6.2. No manifest negative effect on competition: Aid does not create overcapacity in a market in absolute decline

(116) According to paragraph 120 of the RAG, a manifest negative effect arises where the investment aid creates capacity in a market in absolute decline; as such aid is likely to crowd out competitors, or to prevent low-cost firms from entering, and risks weakening incentives for competitors to innovate. This results in inefficient market structures, which are also harmful to consumers in the long run.

(117) This verification is, however, only necessary where the aid creates additional capacity on the relevant geographical market. Where the investment would have

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[38] Pursuant to paragraph 20(e) of the RAG, eligible costs means for the purpose of investment aid, tangible and intangible assets related to an initial investment or wage costs.

[39] See paragraph 94 of the RAG.

[40] See paragraph 98 of the RAG.

[41] See paragraph 100 of the RAG.

happened in any event ('scenario 2') in the same geographical market, the aid – provided it is limited to the minimum necessary to change the location decision – influences only the location decision, and additional capacity would have come on the relevant geographical market independent of it. Therefore, this verification will normally be required only in 'scenario 1' situations[42] or in those 'scenario 2' situations where the alternative locations (i.e. the target region and the more viable region for the implementation of the investment project) are situated in different geographical markets[43].

(118) In order to determine whether this verification is necessary in the case at hand, the Commission has to assess and establish whether the two alternative locations are situated in different geographical markets. In that case, it must carry out the 'overcapacity in a declining market' tests.

(119) To verify whether the investment addresses a market in absolute decline – if the test is necessary – the relevant product and geographical market needs to be defined. A market is in absolute decline if it shows, over an appropriate reference period, a negative growth rate. The average growth rate of the market concerned (apparent consumption data or sales data) is normally measured over the last three years before the start of the project or on the basis of the projected growth rate in the coming three to five years.

Product concerned and relevant product market

(120) The product concerned is normally the product covered by the investment project. However, when the project concerns an intermediate product and a significant part of the output is not sold on the market, the product concerned may be the downstream product.

(121) In the case at hand, the Commission considers that the products concerned by the investment project are battery cells. They can be sold directly to OEMs, or they can be first assembled into battery modules and possibly further into battery packs, then sold to the OEMs.

(122) Given that it is the customers that decide whether SKI should supply them with battery cells or modules or packs, and given that battery cell production constitutes the most substantial part of the added value of the final product, it appears reasonable to focus on the market of battery cells, only. In any event, the market for battery cells is an appropriate proxy for the downstream products of battery modules and battery packs, which follow the same market trends.

(123) Therefore, the Commission considers that the battery cells represent the product concerned by the investment, and will assess the competition effects of the aid at the level of the market for battery cells.

(124) The Hungarian authorities submit that, besides the application in the automotive industry (for EV) Li-ion battery cells can find other uses, most notably in battery ESS. Battery cells for ESS can, generally, be manufactured, at little additional cost,

42 See paragraph 120 of the RAG.

43 See paragraph 139 of the RAG.

in the same facility as the cells for the automotive sector. Thus, the capacity SKI intends to install in Komárom could, in theory, be used to supply cells for the ESS market as well. However, the Hungarian authorities explained the SKI has designated the capacity of the plant for the production of EV batteries for the entire reference period. ESS at SKI is usually produced from production lines that have idle production capacity. The prognosis was that the production plant for Project Sirius I could have idle capacities less than three months. Since this production volume would be too small, the idea of producing ESS at SKBM was not implemented. Therefore, the Commission considers for the purpose of the State aid assessment for this decision that the relevant product market is the market for battery cells for EV (measured in GWh).

(125) On this basis, the Commission verified whether the aid creates overcapacity in a market in absolute decline in that particular market.

Relevant geographic market

(126) The Hungarian authorities submit that the relevant geographic market is global, as SKI has production sites in the USA, Europe, and Asia, and the product can be shipped easily, and with low transport costs, by road, ocean, and air. SKI supplies car-manufacturing plants all over the world. Moreover, there is global demand for Li-ion batteries, and their components are also traded internationally.

(127) For the purpose of this decision, the Commission has decided to leave the question of the exact definition of the geographic market open. In any event, even if the geographic market would be limited to the EEA, the OEM would be supplied from one of the two possible locations of the scenario 2 counterfactual analysis. The two locations can therefore not be considered as belonging to a different geographical market. Since the aid is also limited to the minimum, possible outcomes in terms of overcapacity in a declining market would in principle be the same regardless of the aid[44]. The Commission therefore considers that the overcapacity in a declining market test does not have to be carried out.

3.3.6.3. No manifest negative effect on trade: No counter-cohesion effect

(128) Paragraphs 121 and 139 of the RAG prohibit an EEA region with a lower project-specific viability to participate in 'subsidy races' to the detriment of equally weak or worse-off regions[45].

(129) Hungary confirms – and this is reflected in the genuine contemporary company documents – that the aid beneficiary considered in the final decision making process only one other alternative location for the investment project, namely [city of the alternative location], ([EEA State of the alternative location]). As described

[44] See paragraph 139 of the RAG.

[45] According to paragraph 121 of the RAG, the counter-cohesion effect resulting from aid to the detriment of a weaker or similarly weak EEA region would constitute a negative element in the overall balancing test that is unlikely to be compensated by any positive elements, because it runs counter the very rationale of regional aid.

at recital (33), [city of the alternative location][46] has a lower aid intensity rate than Komárom. Therefore, the Commission considers that the aid has no anti-cohesion effect.

3.3.6.4. No manifest negative effect on trade: No relocation

(130) Pursuant to paragraph 122 of the RAG, where the beneficiary has concrete plans to close down, or actually closes down the same or a similar activity in another area in the EEA and relocates that activity to the target area, if there is a causal link between the aid and the relocation, this will constitute a negative effect that is unlikely to be compensated by any positive elements.

(131) The Hungarian authorities and the aid beneficiary declared that the latter has not closed down the same or similar activity in the EEA in the two years preceding the application for aid, and does not have any concrete plans to do so within two years after completion of the investment. The Commission therefore considers that the aid is not causal for any closure and relocation.

3.3.6.5. Conclusion on the avoidance of undue negative effects on competition and trade

(132) The assessment in recitals (111) to (131) allows for the conclusion that the aid has no manifest negative effect on competition or trade within the meaning of section 3.7.2 of the RAG.

3.3.7. Balancing of positive and negative effects of the aid

(133) The assessment of the above requirements showed that State intervention is needed, that the aid is appropriate, that the counterfactual scenario presented is credible and realistic and that the aid has incentive effect and is limited to the amount necessary to change the location decision of the beneficiary. By triggering the location of the investment in an assisted region, the aid contributes to the regional development of Central Transdanubia. The assessment also showed that the aid has no manifest negative effect: it does not lead to the creation or maintenance of overcapacity in a market in absolute decline, or to excessive effects on trade, it respects the applicable regional aid ceiling, it has no manifest counter-cohesion effect[47], and it is not causal for the closure of activities elsewhere and their relocation to Komárom.

(134) Undue negative effects on competition that would have to be taken into account in the remaining balancing are identified in paragraphs 114 and 115 and 132 of the RAG and concern the creation or reinforcement of a dominant market position or the creation or reinforcement of overcapacities in an underperforming market (even if this market is not in absolute decline).

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[46] The other locations envisaged in [EEA State of the alternative location] are in the same situation (lower aid intensity rate), see recital (50).

[47] The fact that the aid intensity ceiling is higher in the concerned Hungarian region (compared to the [EEA State of the alternative location] region considered in the alternative scenario) reflects the fact that the GDP per capita in that Hungarian region is lower than the GDP per capita in the alternative [EEA State of the alternative location] region (at the time used as reference to define the respective regional aid maps and the corresponding maximum aid intensities).

(135) The Commission considers that the aid does not lead to (or reinforces) a dominant market position of the aid beneficiary, as the investment would have taken place in any event, and therefore, pursuant to paragraph 139 of the RAG, has no effect on competition if it is limited to the amount necessary to change the location decision (see also recital (109)). For the same reason, the aid does not lead to the creation of overcapacity in a market in decline. The aid, which is limited to the amount necessary has no undue negative effect on competition.

(136) As the aid respects the applicable regional aid ceiling, and the measure has no counter-cohesion or relocation effects, the Commission considers that its effects on trade are limited and not contrary to the common interest.

(137) The aid however has substantial positive effects on the regional development of Central Transdanubia, in particular through the employment (job creation) and knowledge and technology transfer (see recital (28)).

(138) The Commission notes that the aid meets all minimum requirements, has no manifest negative effects, and the analysis in recitals (133) to (137) shows that it has no undue negative effect on competition, and only very limited effects on trade. The Commission, therefore, considers that the substantial positive effects of the aid on the regional development of Central Transdanubia region, and in particular the employment, knowledge and technology transfer clearly outweigh any negative effects.

3.3.8. Transparency

(139) In view of the Transparency Communication from the Commission[48], the Hungarian authorities confirmed that the following information will be published on a single national or regional website[49]: the full text of the approved individual aid granting decision and its implementing provisions, or a link to it; the identity of the granting authority/(ies); the identity of the individual beneficiary, the aid instrument and amount of aid granted to the beneficiary; the objective of the aid, the date of granting, the type of undertaking (for example SME, large company); the Commission's aid measure reference number; the region where the beneficiary is located (at NUTS level 2) and the principal economic sector of the beneficiary (at NACE group level).

(140) The Hungarian authorities also confirmed that this information will be published after the granting decision has been taken, will be kept for at least 10 years and will be available for the general public without restrictions (paragraph 141 RAG).

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[48] Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines, OJ C 198, 27.6.2014, p. 30.

[49] http://tvi.kormany.hu/kozzetetel

3.3.9. Conclusion on compatibility of the aid measure

(141) The Commission therefore concludes, that the notified aid measure is compatible with the internal market pursuant to Article 107(3)(a) TFEU.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(a) TFEU.

The Commission reminds the Hungarian authorities of their commitment to fulfil the reporting obligations.

The Commission further reminds the Hungarian authorities that all plans to modify the notified aid measures must be notified to the Commission.

Finally, the Commission notes that Hungary agreed to have the present decision adopted and notified in the English language.

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/competition/elojade/isef/index.cfm.

Your request should be sent electronically to the following address:

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Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President