

## COMMISSION DECISION

of 20 December 2001

on the State aid which Germany is planning to implement for DaimlerChrysler AG in K lleda

(notified under document number C(2001) 4480)

(Only the German text is authentic)

(Text with EEA relevance)

(2002/781/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

**Detailed description**

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to those provisions <sup>(1)</sup>,

Whereas:

**Procedure**

(1) Germany notified the aid proposal to the Commission on 29 March 2001. The Commission asked for additional information by letter dated 17 May, to which Germany replied by letter dated 8 June.

(2) By letter dated 30 July 2001, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid.

(3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* <sup>(2)</sup>. The Commission called on interested parties to submit their comments on the aid. It received no comments from interested parties.

(4) By letters dated 22 August and 5 November 2001, Germany submitted comments on the initiation of the investigation procedure.

(5) DaimlerChrysler AG and Mitsubishi Motors Corporation are planning the joint production of a small car platform, or Z-platform, aimed at the small passenger car segment, where the competition includes the VW Polo, the VW Lupo and the Toyota Yaris. Production of the vehicles will take place in the NedCar plant in Born (Netherlands) for the European markets and in a Mitsubishi plant in Japan for the Japanese and Asian markets.

(6) For the production of the petrol engines for the European Z-car vehicles DaimlerChrysler AG and Mitsubishi Motors Corporation plan to set up a completely new plant. The project is expected to create some 500 new jobs. On completion of the project, installed engine production capacity in K lleda will be 300 000 engines per year, of which 200 000 will be delivered to the NedCar plant and 100 000 to Japan.

(7) The beneficiary of the aid would be DaimlerChrysler AG. With the establishment in 2003 of a new 50/50 joint venture between DaimlerChrysler AG and Mitsubishi Motors Corporation that will manage the engine production plant, all the investments and aid will be transferred to this new company.

(8) According to the notification, the total amount of investment is EUR 243,9 million (net present value: EUR 220,4 million), of which EUR 207,3 million (net present value: EUR 185 million) represents eligible costs. The total planned aid amounts to EUR 72,6 million (net present value: EUR 63,8 million). Germany stated that the project does not involve first-tier component suppliers within the meaning of the framework for State aid to the motor vehicle industry.

<sup>(1)</sup> OJ C 263, 19.9.2001, p. 13.

<sup>(2)</sup> See footnote 1.

(9) Köllede in Thuringia is an assisted area within the meaning of Article 87(3)(a) of the EC Treaty on the basis of the regional aid map approved by the Commission for the period 2000 to 2003, with a regional aid ceiling of 35 % for large companies. The aid is to be granted to DaimlerChrysler under the 30th outline plan for the Joint Federal/Länder scheme for improving regional economic structures (*Gemeinschaftsaufgabe (GA) Verbesserung der regionalen Wirtschaftsstruktur*) and under the Investment Allowance Law 1999. The aid would be paid over time in the light of progress with the investment project. Germany stated that, apart from the regional aid, no aid is planned for other purposes.

(10) According to Germany, the investment could be carried out at an alternative site, namely in Nyergesujfalu in Hungary. The cost-benefit analysis in the initial notification puts at 37,8 % the intensity of the regional handicap of Köllede in relation to a comparable investment made at the alternative site in Nyergesujfalu.

#### **Commission decision to initiate the procedure under Article 88(2) of the EC Treaty**

(11) By letter dated 30 July 2001, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the following:

(12) Firstly, the Commission sought clarification of the individual eligible investments in order to be able to verify the regional handicap ratio and the aid intensity of the project.

(13) Secondly, it had doubts about a number of assumptions in the cost-benefit analysis submitted by Germany, which did not seem to comply with the Commission's practice. The doubts related in particular to certain risk factors (e.g. due to language difficulties) in the event of production being located in Nyergesujfalu, such as technology transfer during the planning/production phase, support from original machine manufacturers, repercussions on the brand image or the necessary costs of quality management in Hungary. Other points which gave the Commission cause for concern related to the assumed cost of the land in both locations, the difference in manpower costs, certain handicaps in the category 'other costs' and the costs of building/construction and storage in Hungary.

(14) Lastly, the Commission doubted that the production capacity of the DaimlerChrysler/Mitsubishi group would increase after the project by only 33 000 vehicles per year, as indicated by Germany in the notification.

#### **Comments from interested parties**

(15) The Commission did not receive any comments from interested parties.

#### **Comments from Germany**

(16) By letters dated 22 August and 5 November 2001, Germany submitted its comments on the opening of the investigation procedure.

(17) Germany explained the terms on which the land on which the plant in Köllede is being constructed was offered by the town of Köllede to DaimlerChrysler AG. In addition, further documents were submitted to the Commission, such as a study carried out by an independent expert to assess the value of the land.

(18) Germany also provided additional information on the level of the eligible investment costs. As regards the doubts raised by the Commission when it initiated opening the procedure about elements of the cost-benefit analysis, Germany explained in more detail the assumptions regarding the 'technology transfer during planning/production', 'support from original machine manufacturers', 'brand image repercussions', 'manpower costs', the handicaps under 'other costs', 'costs of building/construction' and 'storage costs'.

(19) As regards the change in production capacity, Germany stated in particular that the planned increase in annual production capacity by 140 000 vehicles (through the purchase of existing Volvo capacity in the NedCar plant) was not relevant from a State aid point of view as the increase resulted from a separate legal transaction, namely the purchase of an existing plant. Moreover, this transaction would not increase the total production capacity of the motor vehicle industry in Europe. The planned aid for the engine plant in Köllede was neither directly nor indirectly linked to the purchase of the share in NedCar by DaimlerChrysler AG. In addition, Germany stated that there was no causal link between the aid for the engine plant in Köllede and the temporary increase in annual production capacity in the NedCar plant by 33 000 vehicles owing to the discontinued Volvo and Mitsubishi models.

### Assessment of the aid

- (20) The measure notified by Germany for DaimlerChrysler AG constitutes State aid within the meaning of Article 87(1) of the EC Treaty. It would be financed by the State or through State resources. As it represents a significant proportion of the funding of the project, the aid is liable to distort competition in the Community by giving DaimlerChrysler AG an edge over competitors not receiving aid. Lastly, there is extensive trade between Member States in the motor vehicle industry.
- (21) The aid is intended for a firm which manufactures and assembles cars and which is, therefore, part of the industry within the meaning of the Community framework on state aid to the industry (hereinafter 'the motor vehicle framework')<sup>(3)</sup>.
- (22) The motor vehicle framework specifies that aid which the public authorities plan to grant to an individual project under an authorised aid scheme for a firm operating in the motor vehicle industry must be notified in advance if either of the following thresholds is reached: (a) the total cost of the project equals EUR 50 million, or (b) total gross aid for the project, whether State aid or Community aid, equals EUR 5 million. Both the total cost of the project and the amount of aid exceed the notification threshold. Thus, in notifying the proposed aid for DaimlerChrysler AG, Germany has complied with the requirements of Article 88(3) of the EC Treaty.
- (23) In view of the character and purpose of the aid, and the geographic location of the investment, the Commission considers that subparagraphs (a), (b) and (c) of Article 87(2) of the EC Treaty are not applicable. Article 87(3) specifies other forms of aid which may be considered to be compatible with the common market. Compatibility must be assessed from the standpoint of the Community as a whole and not in a purely domestic context. In order to maintain the proper functioning of the common market and having regard to the principle in Article 3(g) of the EC Treaty, the exceptions in Article 87(3) must be construed narrowly. With regard to the exceptions in Article 87(3)(b) and (d), it is clear that the aid in question is not intended for a project of common European interest or to remedy a serious disturbance in the German economy or to promote culture and heritage conservation. As regards the exceptions in Article 87(3)(a) and (c), the Commission notes that the investment project is to be carried out in a region in Thuringia, which qualifies for assistance under subparagraph (a). Under the new regional aid map for Germany, approved by the Commission on 29 July 1999 for the Article 87(3)(a) regions, the project is located in an area with a regional aid ceiling for large companies of 35 % gross grant equivalent.
- (24) As regards the sale to DaimlerChrysler AG by the town of Kölleda of the land on which the project is to be carried out, Germany provided additional documents and explained in its comments on the initiation of the procedure the terms on which the land was sold. According to Germany, in the last three years land on the adjoining industrial and business estate has been sold at an average price of DEM 11 per m<sup>2</sup> to companies setting up operations there. An assessment of the value of the land was carried out by an independent expert, as required under the applicable German law (§ 192 *Baugesetzbuch*). This evaluation, which puts the value of the land at DEM 11,80 per m<sup>2</sup>, was sent to the Commission. Germany stated that the land in question was being offered to DaimlerChrysler at DEM 12 DEM per m<sup>2</sup>. The Commission therefore considers that DaimlerChrysler AG is not receiving any aid for the purchase of the land.
- (25) In order to decide whether regional aid granted under Article 87(3)(a) of the EC Treaty is compatible with the common market, the Commission must check whether the conditions specified in the motor vehicle framework have been met.
- (26) To authorise aid under this framework, the Commission, after checking that the region in question is eligible for aid under Community law, establishes whether the investor could have chosen an alternative site for its project so as to demonstrate the need for the aid, with particular reference to the mobility of the project.
- (27) The Commission has studied the geographic mobility of the project. In this respect, the automotive group for which the aid is proposed must prove in a clear and

<sup>(3)</sup> OJ C 279, 15.9.1997, p. 1.

convincing way that there is an economically viable alternative location for its project. It notes that, following the decision to look for a completely new production site, a selection study was carried out for DaimlerChrysler by outside consultants (A.T. Kearney), comparing 50 sites in seven European countries. As a result of the study and taking into account the technical, quantitative, qualitative and risk assessments, the two best alternative locations were identified as Köllede and Nyergesujfalu. Given the nature of the investment as a project at a completely new location and the documents submitted by Germany (e.g. location studies, correspondence with Hungarian authorities), Nyergesujfalu is considered to be an economically viable alternative location to Köllede. The Commission therefore concludes that the project is mobile in character and can be considered eligible for regional aid since the aid is necessary to attract the investment to the assisted region.

- (28) Regional aid intended for modernisation and rationalisation, which is generally not mobile, is not authorised in the motor vehicle sector. However, the project in question concerns a completely new production plant on a greenfield site and is therefore considered to be a transformation, which is eligible for regional aid.
- (29) As regards the eligible costs, the Commission has taken into account only those costs which are incurred in the assisted area. Of the total nominal costs of the project of EUR 243,9 million, an amount of EUR 36,6 million represents investment in vendor tooling at sites outside the assisted area. Consequently, the eligible costs that have been taken into account by the Commission amount to EUR 207,3 million (net present value: EUR 185 million).
- (30) With the help of its external automotive expert, the Commission has evaluated the notified cost-benefit analysis with a view to ascertaining the extent to which the proposed regional aid is in proportion to the regional problems it seeks to solve. Following the initiation of the procedure, Germany clarified some elements in the cost-benefit analysis about which doubts had been raised (such as the level of eligible costs, the assumptions on labour costs and building/construction costs and the required size of land in both locations). The main reason for the handicap of Köllede is the significantly higher level of labour costs in Germany.
- (31) However, the Commission's doubts have not been alleviated with respect to certain risk factors in the 'Nyergesujfalu scenario'. These relate in particular to

language difficulties in Hungary and to factors such as the technology transfer during the planning/production phase and the more difficult support from original machine manufacturers. The Commission believes that there would be a need for a substantial training programme in Hungary, including language training. In its comments on the initiation of the procedure, Germany stated that such costs have been taken into account in the categories 'language training', 'technical training at suppliers', 'training on the job', 'employees working abroad' and 'basic skills training', adding up to EUR 6,93 million (compared with EUR 3,29 million in Köllede). Germany considers that the resulting handicap of EUR 3,64 million is sufficient to take into account all risk factors.

- (32) The Commission does not consider it plausible that a handicap of EUR 3,64 million is sufficiently high. Hungary is a country where DaimlerChrysler has no automotive production experience so far. The Commission considers it very likely that the language advantage, the closer location to DaimlerChrysler's central engine planning in Stuttgart and the brand image are decisive factors for a location decision on the part of DaimlerChrysler in favour of Köllede. In particular, in the case of Nyergesujfalu, there would be a real risk of a slower start-up with a loss of production. The more remote geographical location of Nyergesujfalu and the consequently more complicated logistical structure also lead to higher logistical risks (e.g. in order to avoid disruptions of production in the event of transport difficulties, strikes, etc.), especially since most of the parts would have to be supplied, according to Germany, from outside Hungary.
- (33) To take these factors into account, the Commission, in a prudent estimate and after consulting its external automotive expert, has included in the cost-benefit analysis, instead of the notified EUR 3,64 million, an amount of EUR 14,49 million. This reflects 1 % of total turnover (number of engines produced x the respective ex-factory unit price of the engines) over the five-year assessment period.
- (34) This modification to the analysis produces a cost-benefit result that differs from the one initially notified. The net present value of the regional handicap amounts to EUR 59,07 million in Köllede, while the net present value of the eligible costs in Köllede amounts to EUR 185 million, giving a handicap intensity for the project, compared with Nyergesujfalu, of 31,93 %.



- (35) Finally, in view of the sensitive character of the motor vehicle industry, the Commission has also considered the question of a 'top-up', which is an adjustment of the allowable aid intensity of between - 2 and + 4 percentage points, linked to the effects of the investment project on competition, in particular through variations in production capacity the group concerned on the relevant market and the assisted area status of the region. The impact on the industry is considered 'high' where the ratio between the capacity of the group after the investment (C(f)) and the capacity of the group before the investment (C(i)) is 1,01 or over. As most vehicle producers manufacture their own engines, the Commission considers that the relevant market for engine production by a vehicle manufacturer is the vehicle market for which the engines are built. The engines in the plant in Köllede are built for passenger cars.
- (36) Germany provided contradictory information as regards the capacity of the NedCar plant in Born (Netherlands). While in the initial notification Germany indicated that the vehicle capacity amounts to 280 000 units per year before the investment and 313 000 units per year after the investment, it stated in the letter to the Commission dated 5 November 2001 that the capacity after the investment in the plant amounts to only 215 000 vehicles. This was attributed to the training measures needed and the conversion measures necessary to prepare the production lines for the new models. However, the Commission considers, after consulting its external automotive expert, that the plausible production capacity (before and after the investment) in the NedCar plant amounts to 280 000 units.
- (37) Germany also argued that the vehicle production capacity of DaimlerChrysler and Mitsubishi would increase by 140 000 units per year, not as a result of the aid for the engine plant but as a result of the acquisition of a share in an existing car plant<sup>(4)</sup>. As this acquisition was a separate transaction from the investment in the engine plant and was not supported by State aid and as the total production capacity of the motor vehicle industry in Europe was not changed as a result of this transaction, Germany argued that the capacity increase of 140 000 units should not be taken into account in the analysis of the market impact ('top-up').
- (38) The Commission does not agree with Germany on this point. The motor vehicle framework requires an analysis of 'variations in production capacity on the relevant market in the group concerned'. In this respect, it is not relevant whether a capacity increase results from the establishment of a new plant or the purchase of a share in an existing plant. Both types of capacity increase have a comparable impact on competition.
- (39) Germany claims that the purchase of Volvo's share in NedCar by Mitsubishi should be seen as being independent of the DaimlerChrysler/Mitsubishi engine project in Köllede. However, it is obvious that there would be no need for additional engine production capacity if there were not a similar increase in car assembly capacity in the NedCar plant. In fact, on completion of the project, installed engine production capacity in Köllede will be 300 000 engines per year, of which 200 000 will be used in the NedCar plant for the production of passenger cars for the European market. While Mitsubishi's production capacity for passenger cars in the NedCar plant currently amounts to 140 000 units per year, this capacity increases by an additional 140 000 units per year after the investment in Köllede. In addition, the capacity of Volvo, whose share in the NedCar plant is being sold to Mitsubishi, will not disappear but will be shifted to the Volvo plant in Gent (Belgium), which will significantly increase its capacity as well.
- (40) Taking into account a capacity increase of 140 000 units, the capacity increase of the group would be significant. The production capacity of the DaimlerChrysler and Mitsubishi group in Europe amounts to 1 602 080 vehicles before the investment and 1 742 080 vehicles after the investment (9 % increase).
- (41) Taking into account the region's assisted area status under Article 87(3)(a) and the 'high' impact of the variation of the group's production capacity, the Commission has reduced the allowable aid intensity of the project by one percentage point to 30,93 % for the investment in Köllede.

### Conclusion

- (42) The Commission considers that the project is mobile and the aid necessary for the realisation of the project. The net present value of the aid to be granted to DaimlerChrysler for the project in Köllede amounts to EUR 63,8 million with a planned aid intensity of 34,5 % gross grant equivalent. Even though this ratio is lower than the regional aid ceiling of 35 % gross grant equivalent, the planned aid intensity is none the less

<sup>(4)</sup> The plant in question is the NedCar plant in Born (Netherlands), Netherlands which is owned 50/50, by Volvo and Mitsubishi and has a capacity of 280 000 vehicles/year. Mitsubishi will take over Volvo's 50 % share in the plant.

higher than the regional handicap ratio as calculated in the cost-benefit analysis and modified by the top-up, which amounts to 30,93 % of the eligible investments costs.

- (43) Consequently, the Commission can authorise aid equal to only 30,93 % of the eligible investment of EUR 185 million (net present value), which corresponds to EUR 57,22 million (net present value). The planned aid of EUR 6,58 million (net present value) is incompatible with the common market,

HAS ADOPTED THIS DECISION:

*Article 1*

1. The State aid amounting to EUR 57,22 million which Germany is planning to implement for DaimlerChrysler AG

for its investment in Kölleda is compatible with the common market within the meaning of Article 87(3)(a) of the Treaty.

2. The State aid amounting to EUR 6,58 million which Germany is planning to implement for DaimlerChrysler AG for its investment in Kölleda is incompatible with the common market and may accordingly not be implemented.

*Article 2*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 20 December 2001.

*For the Commission*

Mario MONTI

*Member of the Commission*