

***Case No IV/M.1200 -
ARCO / UNION
TEXAS***

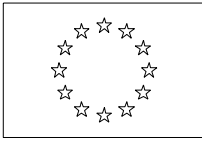
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**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION

Date: 15/06/1998

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.06.1998

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject: Case No IV/M.1200 - ARCO/UNION TEXAS

Notification of 14.05.1998 pursuant to Article 4 of Council Regulation No 4064/89

1. On 14 May 1998, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the oil and gas company Atlantic Richfield Company ("ARCO"), US, acquires within the meaning of Article 3(1)(b) of the Regulation sole control of the oil and gas company Union Texas Petroleum Holdings, Inc. ("Union Texas"), US, by means of a public bid announced on 4 May 1998.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

I. THE PARTIES

3. ARCO is a Los Angeles, US, based oil and gas company. Its worldwide operations include exploration, production and marketing of crude oil and natural gas, as well as refining, marketing and transportation of petroleum products. ARCO also produces petrochemicals.
4. VWK Acquisition Corp. ("VWK") is a newly established wholly owned subsidiary of ARCO.
5. Union Texas is a US oil and gas company with worldwide operations.

II. CONCENTRATION

6. On 4 May 1998 VWK announced its intention to commence an all cash tender for all the outstanding shares of Union Texas. Although VWK is the direct and immediate purchaser of Union Texas, ARCO is the economic operator acquiring control over Union Texas and therefore the undertaking concerned.
7. This transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Regulation.

III. COMMUNITY DIMENSION

8. The combined aggregate world-wide turnover of the undertakings concerned exceeded 5,000 million ECU in the last financial year (ARCO: 16,994 million ECU; Union Texas: 822.9 million ECU). The aggregate Community-wide turnover of each of them was more than 250 million ECU (ARCO: 1,710 million ECU; Union Texas: 323.6 million ECU).
9. The undertakings concerned do not generate more than two-thirds of their aggregated Community-wide turnover within one and the same Member State. Hence, the concentration has a Community dimension.

IV. COMPATIBILITY WITH THE COMMON MARKET

A. Relevant product markets

10. The notifying party claims that the relevant product markets for the proposed concentration are those for exploration, production and marketing of firstly crude oil and secondly natural gas. In Case No IV/M.088 - Elf/Enterprise the Commission defined the product markets in the same way as the notifying party.
11. In addition to the oil and gas sector ARCO is active in the petrochemical industry which is a downstream market to the oil and gas markets described above. ARCO claims that the relevant markets for this activity are those of Propylene oxide, Toluene Düsocyanate and Methyl teritary butyl respectively. In Case No IV/M.591 - Dow/Buna the Commission defined Propylene oxide as a separate product market.
12. In the present case it is not necessary to finally decide the relevant product markets because even on the narrowest market definition the concentration will not result in the creation or the strengthening of a dominant position.

B. Relevant geographic markets

13. Both undertakings concerned are active in the exploration, production and marketing of crude oil and natural gas in the EEA and in particular in the UK. ARCO is active in the petrochemical markets in the EEA.
14. The notifying party claims that the relevant geographic market for crude oil is global. This is supported by the facts that a significant volume of the crude oil production is traded internationally and that the futures markets for crude oil creates internationally observable prices. In Case No IV/M.085 - Elf/Occidental the Commission recognised

that crude oil usually is traded on a worldwide basis. However, the geographic market was not finally decided.

15. In Case No IV/M.672 - BP/Sonatrach the Commission stated that Continental Europe appeared to be one geographic market for natural gas. In Case No IV/M.085 - Elf/Occidental the Commission indicated that the UK could constitute a separate geographic market for natural gas.
16. In Case No IV/M.591 - Dow/Buna the geographic market for non-hazardous petrochemical products was considered to be Western Europe. Furthermore, it was indicated that the geographic market for hazardous petrochemical markets could be narrower.
17. However, in the present case it is not necessary to finally decide the relevant geographic market because even on the narrowest market definition the concentration will not result in the creation or the strengthening of a dominant position.

C. Competitive assessment

18. The combined entity will be active in the markets for exploration, production and marketing of crude oil and natural gas as well as those for petrochemical products. Firstly, the market position in the oil and gas markets must be assessed and subsequently it must be investigated whether the presence in the downstream petrochemical markets will result in the creation or strengthening of a dominant position.
19. In order to assess the market share for crude oil and natural gas exploration and production the Commission has previously (Case No IV/M.116 - Kelt/American Express) relied on production, estimated reserves and exploration acreage licences.
20. Figures provided by the notifying party indicating production, estimated reserves, exploration acreage license for exploration and production of crude oil and natural gas as well as figures for the marketing of these products show that the combined market shares of the undertakings concerned will be substantially less than 15% even on the narrowest market definition. Hence, the concentration will not give rise to a horizontally affected market.
21. ARCO is active in the petrochemicals sector in the EEA. ARCO has a market share exceeding 25% in the product markets identified by the notifying party. Hence, these markets are considered to be affected within the meaning of the Merger Regulation.
22. However, in the present case it is not necessary to finally decide the market shares of ARCO in the petrochemicals markets because the combined entity will not be in a position to use its presence in the upstream markets, i.e. exploration, production and marketing of oil and natural gas, in order to affect its position in the petrochemicals markets. Nor will it be possible to use its position in the petrochemicals markets to strengthen its market position in the oil and gas markets.
23. Refining of crude oil and fractionating of natural gas are intermediate markets to those of exploration, production and marketing of oil and natural gas on the one hand and those of production of different petrochemical products on the other hand. Neither of the undertakings concerned owns or controls any refinery or fractionator

in the EEA. Hence, the combined entity will not be fully vertically integrated. This assessment is not changed by the fact that ARCO owns two refineries located on the West Coast of the US. No feedstock used in ARCO's petrochemical production in the Community comes from these refineries. Within the EEA the new entity will sell oil and gas and buy products resulting from oil and gas to and from undertakings that are unrelated to it.

24. The absence of a link between the oil and gas markets and the petrochemicals markets is strengthened by the fact that the products created from oil and gas are sold as commodities and can therefore not be attributed to the new entity as an originator.
25. For these reasons the Commission considers that the presence of the combined entity in the oil and gas markets and the petrochemical markets does not result in the creation or strengthening of a dominant position as a result of which effective competition would be significantly impeded in the EEA or a substantial part of that area.

V. CONCLUSION

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

For the Commission,