

***Case No COMP/M.1877 -  
BOSKALIS / HBG***

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 04/07/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04/07/2000

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

**To the notifying parties**

**Dear Sirs,**

**Subject: Case No COMP/M.1877 – Boskalis / HBG**

Notification of 26.05.2000 pursuant to Article 4 of Council Regulation (EEC) No4064/89

1. On 26 May 2000, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which Koninklijke Boskalis Westminster NV (Boskalis) intends to effect a merger with Hollandsche Beton Groep NV (HBG) through the incorporation of a new company.
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 AND THE OPERATION**

3. Boskalis is a leading international dredging contractor, whose core activities are the construction and maintenance of ports and waterways, land reclamation, coastal defence and riverbank protection.
4. HBG is a European construction group which carries out projects on a world-wide scale and which specialises in all aspects of construction, as well as in dredging and industrial contracting.

## **II. CONCENTRATION**

5. The proposed concentration is a full merger within the meaning of Article 3(1)(a) of the Council Regulation. All present HBG and Boskalis shareholders will become shareholders in the new company, which will be headed by a single board of management.

## **III. COMMUNITY DIMENSION**

6. The combined aggregate worldwide turnover of the undertakings concerned exceeds € 5000 million (Boskalis € 850 million, HBG € 4997 million). The aggregate Community-wide turnover of each party exceeds €250 million. They do not achieve more than two-thirds of their aggregate Community-wide turnover within in one and the same Member State. The notified operation, therefore, has a Community dimension according to Article 1(2) of the Merger Regulation.

## **IV. COMPATIBILITY WITH THE COMMON MARKET**

### **A. Relevant product markets**

7. The economic sectors involved in the concentration are the dredging and construction industry. However, the effects of this concentration will primarily be in the market for dredging and dredging related services, since HBG's construction activities are neither horizontally nor vertically related to dredging activities, while Boskalis is not active in construction.

## **DREDGING**

8. Dredging is the activity whereby soil or other materials is removed from the bottom of the sea or inland waters (such as rivers, lakes or ports etc.) and transported for storage, land reclamation or other use.
9. According to the Parties, two relevant product markets should be distinguished for dredging projects in Europe, each requiring different types of equipment and contractors without supply-side substitutability. As such, a distinction is made between a market for large projects in which companies of considerable financial and operational size use large –sized capital intensive equipment and small dredging projects in which companies of relatively small financial and operational size are engaged, using small dredging equipment. Market investigation has confirmed that the competitive conditions are indeed different in both product markets. The Parties have submitted that large dredging projects involve a contract sum exceeding 5 million € Third Parties have indicated that there could be an additional market in

between the small and large projects, notably medium large projects with a value between 5-10 Million € The existence of such market has been further analysed in relation to the geographical scope of the markets.

10. In the market for small projects, it is possible to distinguish small maritime works from inland waterways dredging as the equipment for the latter is never suitable for marine works (with respect to design criteria for dredging equipment such as seaworthiness, longitudinal strength, wave attack, cutting force...). In any event, it is not necessary to further define the relevant product market for small projects as even on the basis of the narrowest possible definition, effective competition would not be significantly impeded in the EEA or any substantial part of it.
11. Other than the above distinction, dredging services are considered to be homogenous, commodity type services as the market does not consider it useful to distinguish on the basis of soil characteristics, equipment or the type of customers and operators. Also, no distinction was found between capital dredging and maintenance dredging as the competitive conditions are identical. From the demand side, it can be concluded that demand is not structural. The market is irregular and lumpy and procurement is organised through public tendering or bidding procedures.

#### **DREDGING RELATED SERVICES**

12. Dredging related activities consist of the following: Coastal defence and river-bank and-bed protection, dry earth moving, sand-winning and –supply, off-shore stone dumping, marine contracting, channel widening and renovation, environmental works. The Parties, considering these activities to be separate markets, submit that their activities overlap only in the segments of coastal defence and riverbank- and bed protection. Third Parties have indicated that the equipment required for these tasks is, up to a certain extent specific and that, as to beach replenishment activities in the UK, the need to have existing concessions for sand- and gravel winning in the UK, would make this a separate market.
13. Further market investigation however suggests that these market segments are complementary rather than distinct. Dredgers with over-capacity will engage in these markets through equipment modification or re-allocation of production capacity. It is also to be noted that each dredging project has specific characteristics and may as such require similar equipment modification.
14. In any event, it is not necessary to conclude on the relevant product market for dredging related services, as even on the basis of the narrowest possible definition, effective competition would not be significantly impeded in the EEA or any substantial part of it.

#### **B. Relevant geographic market**

15. Regarding the relevant geographic market, the Parties consider *small dredging projects* to be national in scope and the *large international dredging projects* market to be world- wide or at least EC-wide. A particularity of the world-wide market is that at present only around 50% of this market is accessible to every dredging operator. Major dredging markets like the USA, Japan, China, Taiwan, India and Indonesia are only accessible for national operators.

16. Regarding the markets for *related services* where their activities overlap, the Parties consider these to be of national scope. For the purpose of the present notification, it can be left open whether the market could be wider than national, as even under any wider definition of the market, competition would not be significantly impeded in the EEA or any substantial part of it.
17. The view of the Parties has been confirmed by market investigation, as it has been shown that, concerning large projects, the location of suppliers on the market is irrelevant and that it is economically feasible to transport the heavy equipment wherever services for large dredging projects are needed (the value of the contract is sufficiently high to justify the transport or mobilisation and demobilisation costs). Concerning small projects, third Parties have confirmed the importance of local operational presence as local knowledge (both of the geophysical circumstances and the local rules of procurement) and having small equipment and staff near the location of the work site (as such avoiding transportation or mobilisation and demobilisation costs that cannot be covered by the contract sums). Small projects are referred to in the market as being served in 'home markets', while large projects are known as 'hit and run' projects.
18. As indicated above, third Parties have suggested that there could be a market for medium-large projects, notably medium large projects with a value between 5-10 Million €. The geographical scope of such medium-sized projects would be larger than national but confined to a regional area outside of which it would not be economically profitable to transport the necessary equipment. Further market investigation has indicated that the distinction of such a specific market for medium-large projects is not sustainable as competitors are actively (and successfully) competing outside their home-market for projects with a value below 10 Million €, although not for projects below 5 Million €. This indicates that the market definition is subject to a dynamic appreciation of the market players being based on variables such as the availability of the right equipment, distance between the project site and equipment, time between projects, "hunger for work " and the occupancy rate of the equipment. For certain projects, it can therefore be economically preferable for a dredger to transport large capacity dredging equipment from The Netherlands to as far as Portugal rather than use small dredging equipment located near Portugal.
19. It is not necessary to define whether the relevant geographic market of large projects could be larger than the EEA, since also on the basis of a wider geographical definition, effective competition would not be significantly impeded in the EEA .

## V. ASSESSMENT

20. The Parties have identified two markets where their activities overlap and which constitute affected markets: the world wide market (or at least the EC -wide market) for large dredging projects and the Dutch market for small dredging projects.

### The EEA market for large dredging projects

21. Benelux dredging companies are well-positioned in the dredging market as the six Dutch and Belgian dredging contractors at this moment supply nearly 60% of the world's freely accessible market estimated to be worth an annual €2.500 Million. On

the basis of 1999 figures submitted by the Parties for the EC <sup>1</sup>, the new entity will become the market leader on the EC market for large projects with an aggregate share of [30% - 40%]: Boskalis [20% - 30%] and HBG [10% - 20%] followed by the Belgian based DEME [10% - 20%] and De Nul [10% - 20%]. The other main players are the Dutch based Van Oord [5% - 10%], Ballast Nedam [5% - 10%] and Blankevoort [0% - 5%], the Spanish based Grupo Dragados [0% - 5%], the Danish dredger Rohde Nielsen [0% - 5%]. Large dredging companies originating from the closed part of the world wide market, such as Hyundai, Samsung, Daewoo and Hanjin Construction from Korea are considered in the market as being very strong potential competitors in the EC/EEA market. These conglomerates are not facing competitive pressure in their home markets and are at this moment acquiring expertise and track record through their presence in the Far East dredging projects. When new large dredging projects emerge on the EC/EEA market, it is expected by all players in the market that these companies will increasingly participate in tendering for these projects, as illustrated by the US company Great Lakes which was recently awarded part of the Öresund project in Denmark. Competitors such as DEME and DE NUL continue to invest in very large and modern equipment.

22. The merged company will enjoy substantial synergies in the dredging activities in terms of cost efficiencies, composition and deployment of the fleet. However, none of the clients and competitors have indicated concerns on the market for large projects. As the market for large dredging projects is a bidding market in which all credible market players participate, the competitive conditions will not be altered by the operation, and in any event, it is foreseeable that the large dredging companies originating from the closed part of the world wide market mentioned above will enter the EC/EEA market.
23. Since even the major market players are forced to team up in consortia in order to be able to bid for the very large projects (e.g. in Asia), the creation of a clear market leader would not reduce the capability and incentive of competitors to compete in the market. The most important competitors to the Parties, DEME and DE NUL, but also recent entrants such as DE BOER have invested significantly in very large capacity dredging equipment. As these players will continue to search optimal utilisation rates of their increasing production capacity, their incentive to continue the active competition on a market characterised by irregular lumpy demand and their constraint on the merging parties can be expected to continue. One competitor has even indicated that the merger will create new opportunities as customers would want to avoid the risk of centralising the supply of dredging services with only one supplier. Since the market for large dredging projects is a bidding market in which all major players can and do participate, and since the major competitors are investing in large and modern capacity, it can be concluded that competition would not be significantly impeded in the EEA or any substantial part of it.

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<sup>1</sup> The Parties have only supplied figures on an EC basis, however, the competitive assesment would not be different on an EEA basis.

### The Dutch market for small dredging projects

24. On the Dutch market for small projects, the new entity would have [20% - 30%] market share: Boskalis [10% - 20%] and HBG [10% - 20%]. In this market, significant existing and potential competition will remain present. On the basis of the Parties' figures, DEME has [5%-10%], Van Oord [5% - 10%], Ballast Nedam [5% - 10%] while twenty more companies account for the remaining 50% of the market. DEME, being the largest dredger ranking behind the new entity has recently acquired one of these Dutch market based smaller dredgers and will be in a good position to increase its market position. DE NUL, regarded by the market as a dynamic player with significant up to date and expanding dredging capacity, could easily enter the Dutch market as barriers to entry or expansion are considered to be relatively limited. Market investigation has shown that the Dutch market is not only one of the most important markets for small dredging projects (together with Germany, the UK and Belgium), but also the most competitive<sup>2</sup>. As such, the concentration of Boskalis and HBG could not lead to a situation in which unilateral or collective anti-competitive actions in the market would be facilitated. Customers on this market have not expressed concerns.

### The Parties' position on the large projects market is not likely to affect competitive conditions on the small projects market.

25. One competitor has indicated that the new entity would have the biggest and most versatile fleet of dredging plant in the market for large projects, which however he considered to be national markets. Through the economies of scale derived from large projects, the new entity would, according to this competitor, be able to predate on the market for small projects in those countries where it has a strong position through its local affiliates (allegedly in Germany, Belgium and the Netherlands). Firstly, and as indicated above, the large dredging projects market is considered as EEA-wide. Secondly, market investigation has confirmed that the operation would only give rise to overlaps on the market for small projects in the Netherlands. In Belgium, Boskalis has not been active since the past 10 years, while HBG is active through CEI. In Germany, Boskalis is the market leader through the company Heinrich Hirdes, while HBG's affiliate BREWABA is oriented towards large projects. BREWABA has not tendered for small projects and does not have the incentive to do so as it lacks the equipment for these small, predominantly in-land waterway projects. Moreover, for most of the large projects, BREWABA has used HBG's large equipment.
26. Thirdly, a proven strong local position for small projects, such as the merged entity will have in the Netherlands, does not lead to market influence that goes beyond such national markets, as it is economically not viable to transport the equipment used for small projects outside the home market. As demand is lumpy and procurement is made on the basis of tendering procedures, the competitive conditions are considered to remain unchanged.
27. Concerning dredging related services, the operation does not lead to affected markets on any of the activities (coastal defence, riverbank- and bed protection) described above. A competitor has indicated that the operation would give the new entity a

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<sup>2</sup> Market investigation has indicated that the UK, French and to a more limited extent also the Belgian market are characterised by a strong preference for national suppliers.

strong position with respect to projects of coastal protection and beach replenishment in the UK where the use of sea gravel and natural sand is prescribed by the client. Such strong position would allegedly be the result of the aggregation of the parties' existing concessions for sea sand- and gravel winning in the UK. However, market investigation has indicated that the Parties' combined share of the total licensed tonnage of sea gravel concessions in the UK does not exceed 5%. The Parties, as well as their competitors, must and indeed do rely on purchasing in the open gravel market to obtain gravel for UK coastal protection and beach replenishment projects that are too far away from their sea concessions. Under these conditions, even if the Parties' activities in the segment of coastal protection and beach replenishment could be considered to be distinct markets, it is unlikely that the Parties would be in a position to foreclose that market through their position as concession holders for sea gravel winning. In addition, these activities are put out for tender, for which the Parties as well as their competitors will have to continue to compete.

28. In view of the foregoing, it can be concluded that the proposed operation would not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

## **VI. CONCLUSION**

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

For the Commission,  
Günter VERHEUGEN