

***Case No COMP/M.2183 -  
SMITHS INDUSTRIES /  
TI GROUP***

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: 28/11/2000

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## COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28/11/2000  
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.2183-Smiths Industries/TI group**

Notification of 23 October 2000 pursuant to Article 4 of Council Regulation No 4064/89

1. On 23 October 2000, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) N° 4064/89<sup>1</sup> by which the UK based undertakings Smiths Industries plc (Smiths) and TI group plc (TI) enter into a full merger within the meaning of Article 3(1)(a) of the Council Regulation.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) N 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

### THE PARTIES

3. Smiths Industries plc (Smiths) is a company involved in the design, development, and manufacture of a wide range of specialised products for use in the aerospace, defence, medical or general industrial sectors, including transportation, automotive and telecommunications.
4. TI group plc (TI) is an international group active in the design, development and manufacture of a wide range of specialised engineered products in a variety of different

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<sup>1</sup> OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

economic sectors, including automotive, aerospace, marine, the process industries and general industrial.

## **THE OPERATION**

5. The proposed concentration is a full merger which will take effect by way of a scheme of arrangements under which all TI's issued ordinary share capital (other than any TI group shares held by Smiths) will be either cancelled and re-issued to, or transferred to, Smiths Industries. TI shareholders will receive 0,46 of a new Smiths Industries share for every TI group share they hold. Under the terms of the merger, Smiths and TI shareholders will hold approximately 57,6% and 42,4% respectively of the enlarged issued ordinary share capital of Smiths Industries following completion of the merger. The new board will comprise eight executive directors (3 coming from TI and 5 from Smiths) and seven non-executive directors (4 coming from TI and 3 from Smiths).
6. The merger constitutes a concentration within the meaning of Article 3(1)(a) of the Merger Regulation.

## **COMMUNITY DIMENSION**

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion (EUR 1 940 million Smiths and EUR 4 142 million TI). Each of the undertakings have a Community-wide turnover in excess of EUR 250 million (EUR [...] million Smiths and EUR 1 [...] million TI), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

## **COMPETITIVE ASSESSMENT**

8. The merger will only lead to limited horizontal overlaps in two product markets: aerospace aviation actuation systems and speciality flexible pressure hose.

### **The relevant product markets**

9. *Aerospace actuation systems*: The aerospace industry makes use of actuation systems to cause and control the linear and rotary movement of a wide range of parts of aeroplanes, helicopters, space vehicles, and guided missiles. In a previous analysis made by the Commission (case IV M. 1493 United Technologies/Sundstrand), the market investigation seemed to confirm that primary flight control systems<sup>2</sup>, and secondary flight control systems<sup>3</sup> constitute a single product market. It is not necessary for the Commission to consider whether there are different product markets in the actuation systems sector since even if we divide it into different product markets for "utility"<sup>4</sup>, "primary" and "secondary" actuation systems the operation does not create any competition problem. The parties are

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<sup>2</sup> Components needed to maintain aircraft control when it is in the air (ailerons, elevators and rudders).

<sup>3</sup> Components used to trim the primary flight control surfaces and help to take off and landing possible, namely flap and slat controls and stabiliser controls.

<sup>4</sup> Actuation systems which comprise all other actuation systems such as door openers, landing gear retractors and thrust reverses

also active in the supply of flight aerospace actuators for the military aircraft. They believe that it is not appropriate to segment the market into civil/commercial applications and military applications since the products are essentially the same in both cases and, in any event, a company producing aerospace actuation systems for use in civil aircraft can switch to producing aerospace actuation systems for use on military aircraft and vice-versa. Notwithstanding this, the question whether civil and military applications constitute different product markets can be left open since such a division would not give rise to competition concerns.

10. *Speciality Flexible Pressure Hose* is designed to transfer fluids in demanding applications and environments. Speciality flexible pressure hose is typically used in applications where one or more of the following apply: corrosive liquid or gases, high or low temperatures (above 100° C or cryogenic), pressures (over 100 bar), harsh environments (exposure to cold, fire, water penetration, vibration, abrasion, and/or chemical corrosion). The parties believe that there is a single product market for speciality flexible pressure hose which is separate from other types of hose systems and which comprises PTFE<sup>5</sup> hose covered in braided stainless steel and flexible metallic hose systems. Both PTFE hose systems and flexible metallic hose systems serve the same essential function and are therefore, according to the parties, substitutable from the perspective of customers. The principal exception to this general rule is that PTFE hose systems are not used in temperatures above 240° C. As regards price, PTFE hose systems are approximately [20-30%] cheaper than flexible metallic hose systems and these two types of hose systems tend to compete at the extreme end of the performance spectrum. Nevertheless, it is not necessary to assess whether PTFE hose systems constitute a separate market given that the merger will not give rise to competition concerns in any possible market definition.

### **The relevant geographic markets**

11. *Aerospace actuation systems*: The parties submit that the geographic scope of the market for both civil/commercial and military applications is world-wide because customers can and do purchase on a world-wide basis (for example the Japanese company Teijin Seiki is a major supplier of Boeing); the value of the products is so high relative to their size and weight that transport costs have no effect on the ability of a supplier to sell to a customer in a given location, there are no significant barriers to trade and markets are open world-wide. In any case, the question can be left open since even if the market is considered to be European-wide the merger will not give rise to any competition concern. As regards military applications it could be argued that markets are national-wide since there is a tendency to purchase military equipment from companies established in the same country as the purchaser. In the present case this question can be left open given the absence of competition concerns: both of the merging parties are incorporated in the UK but the issue does not arise since Smiths makes [...] of aerospace actuation systems to the UK Government.
12. *Speciality Flexible Pressure Hose*: The parties believe that the geographic market is Europe-wide (i.e. the EU, Norway and Switzerland) because: (i) Speciality pressure hose systems are relatively high value, low weight and bulk specialised product which can be readily transported within Europe, but (unlike actuation) the economics do not favour global sourcing of the end product; (ii) customers in Europe can and do purchase from

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<sup>5</sup> Polytetrafluoroethylene

suppliers located outside their state, but in practice any non-European (eg US) supplier requires a local presence (frequently a distributor) and (iii) there are specification standards for these products which facilitate competition. The market investigation carried out by the Commission seems to confirm that the geographic scope is at least European-wide. Nevertheless, it is not necessary to take a final position on this issue since even if the market is considered as national-wide overlaps would not lead to significant market shares.

## **Market assessment**

13. *Aerospace actuation systems*: According to the parties their combined market share world-wide is [less than 15%] (TI [1-10%] and Smiths [1-10%]). If the product is divided into “utility”, “primary” and “secondary” actuation systems the combined market shares would not attain 15% in any of the three possible segmentations. If the geographic scope had to be considered as western-European-wide the overlap would be practically nil given that Smiths’ sales of aerospace actuation systems to customers located in Europe arise from the sale of spares and are de minimis ([less than 15%] of the European segment). The combined market share for civil/commercial aerospace actuation systems at world level is [less than 15%] and if the civil/commercial market is divided into “utility”, “primary” and “secondary” actuation systems the combined market shares of the parties would be [less than 25%] for “utility”, [less than 25%] for “primary” and [less than 25%] for “secondary”. As regards military actuation systems the estimated combined market share of the parties world-wide is [less than 15%] and if further segmentations of the product are taken into account, the market shares would be [less than 15%] for “utility”, [less than 15%] for “primary” and [less than 15%] for “secondary” aerospace actuation systems. There are several competitors in the market which have shares greater than or similar to the proposed merging group, including Parker Hannifin, Lucas, B.F. Goodrich, Moog and Liebherr.
14. *Speciality Flexible Pressure Hose*: According to the parties’ best estimates, the combined market shares in Europe (EU, Norway and Switzerland) is [less than 15%] for Speciality Flexible Pressure Hose and [less than 15%] for PTFE hose systems. At national level the combined market share of the parties for Speciality Flexible Pressure Hose exceeds [less than 15%] only in France ([less than 15%]) and the UK ([less than 15%]), the parties indicate that market shares exceed [less than 15%] in these two countries because they frequently sell to distributors, which on-sell to end-users domiciled in other EU and EFTA countries. As regards the PTFE segment the parties believe that there is no EEA Member State in which their combined share would reach 15%. In any event, the combined market shares does not give rise to concern in any possible market definition.
15. In view of the foregoing it appears that the notified operation does 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.

## **CONCLUSION**

16. 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 EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission,

*(signed: Mario Monti  
Member of the Commission)*