

*Case No COMP/M.2235 -
CORUS GROUP /
COGIFER / JV*

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION

Date: 19/12/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.12.2000
SG(2000)/D 109364

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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. 2235 Corus Group / Cogifer / JV

Notification of 17.11.2000 pursuant to Article 4 of Council Regulation No 4064/89

1. On 17.11.2000, the Commission received a notification of a proposed concentration by which Corus Group plc ("Corus"), UK, and Cogifer Cie Générale d'Installations Ferroviaires SA, ("Cogifer"), France, belonging to the industrial group De Dietrich & Cie ("De Dietrich"), acquire joint control of a newly created company constituting a joint venture for the manufacture and sale of switches and crossings in UK.
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 EEA Agreement.

I. THE PARTIES' ACTIVITIES AND THE OPERATION

3. Corus, a leading steel producer, makes and distributes steel and aluminium products. Its wholly-owned subsidiary Corus Rail Switches and Crossings designs, manufactures and ensembles all types of rail track layout systems and it achieves over [85-95%] of its turnover within the UK with only [<5%] coming from other EU Member States.
4. De Dietrich has operations in heating equipment, railway installation and chemical equipment. The railway installation division operates through two subsidiaries : Cogifer is active in the manufacture, sale and distribution of rail points and crossing, signalling systems, overhead power lines and safety products and Cogifer TF is active in the laying, renewal and maintenance of railway tracks.
5. The proposed concentration involves the formation of a 50/50 jointly controlled company which will operate, principally in UK, as an autonomous and permanent entity for the manufacture and sale of switches and crossings and related equipment. The business to be

contributed to the joint venture had in 1999 a worldwide turnover of approximately EUR [...] million based on assets valued at around EUR [...] million.

6. The joint venture will be owned equally by the two parent companies, Corus and Cogifer. Each parent company will have equal voting rights in the Board of the joint venture and as shareholders. Both parties' consents are required to adopt or approve any business plan or any annual operating budget. Thus, the two parent companies will have the possibility to exercise decisive influence over the joint venture.
7. The joint venture will be established for an indefinite term. Corus will contribute to the joint venture the entirety of its switches and crossing business. Cogifer will in turn licence to the joint venture its know-how and technology in relation to European-standard equipment. Over [>85%] of sales will continue to be made to independent third parties. The joint venture will have its own premises, equipment and own staff to operate on the market on a lasting basis as an autonomous economic entity. Its dealings with its parents will be operated at arm's length basis at market conditions.
8. The proposed joint venture will constitute, therefore, a concentration in accordance with the dispositions of Article 3 of the Merger Regulation.

II. COMMUNITY DIMENSION

9. Corus and Cogifer-De Dietrich have a combined aggregate worldwide turnover in excess of EUR 5,000 million (Corus, EUR [...] million; and Cogifer-Dietrich, EUR [...] million). Each of them has a Community-wide turnover in excess of EUR 250 million (Corus, EUR [...] million; and Cogifer-Dietrich, EUR [...] million), 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, pursuant to the Article 1(2) of Council Regulation.

III. COMPETITIVE ASSESSMENT

- Relevant product market

10. The joint venture will operate mainly in UK for the manufacture and sale of switches and crossings. These are component parts of a railway track system known as turnout : a rail junction that enables a diverging rail road to branch from the straight rail road. The notifying parties state that there is a relevant product market for switches and crossings. This statement is consistent with the approach taken by the Commission in its decision of 6th October, 1998, in case IV/M.1259.Voest Alpine Stahl/Vossloh/VAE where it identified a market for switches and crossings distinct from rails and rail fastening systems.

- Relevant geographic market

11. The notifying parties state that the relevant geographic market is the UK in line with the Commission approach in the Case IV/M. 1259 - Voest Alpine Stahl/Vossloh/VAE. This is supported by the specificity of the UK railway standards applied to date and the likely slow transition to the adoption of the CEN (Comité Européen de Normalisation) standards. In addition all the main suppliers of switches and crossing to the UK market are UK-based companies.

12. However it is not necessary in this case to define the relevant geographic market as the proposed operation will not give rise to competition problems on either a narrow UK market definition and nor on a Europe wide definition.

- Assessment

13. The joint venture will represent the notifying parties' only interest in the UK market for switches and crossings. Cogifer is not present in the UK market for switches and crossings. Corus will contribute to the joint venture the entirety of its switches and crossing business. It will retain no other interest in switches and crossings, either in the UK or elsewhere. Therefore there will be no overlap in the relevant market. As the UK market share of the operations Corus will contribute to the joint venture is only [15-25%] there is no question that the vertical integration of Cogifer's expertise in European standard switches, crossings and signalling equipment would create or strengthen a dominant position on the UK market. Furthermore the parties will face competition from two larger suppliers, Balfour Beatty Rail Engineering and Edgar Allen Engineering.

14. If the market were to be European then the parties combined market share would be about [10-20%]. On this market the parties will face strong competition from companies such as VAE, SNCF Workshops, FS Workshops, DB Workshops, VWG, Spoortek, Wisselbouw, Amurrio, Duro Felguera

15. Corus is present in the upstream product market for rails in the EEA with a market share around [25-35%] (its market share for rails in all Europe is around [10-20%]). The sale of rails by Corus to the joint venture represents an insignificant part of its total rail sales . And the cost of rails makes up a small proportion of switches and crossing systems.

16. On these basis no competition problems arise from the proposed concentration in a horizontal or vertical market.

- Conclusion

17. In view of the market position of the parties to the concentration, it appears that the notified operation will have no significant impact on competition in the EEA. Consequently, the proposed concentration 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.

IV. CONCLUSION

18. 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,

Mario MONTI
Member of the Commission