

*Case No IV/M.409 -
ABB / RENAULT
AUTOMATION*

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

Article 6(1)(a) INAPPLICABILITY
Article 6(1)(b) NON-OPPOSITION
Date: 09.03.1993

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.03.1994

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION
ARTICLE 6(1)(a) DECISION

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To the parties

Dear Sirs,

Subject : Case No IV/M.409 - ABB/Renault Automation

Notification of 8.2.1994 pursuant to Article 4 of Council Regulation No 4064/89

I. THE PARTIES

1. ABB Asea Brown Boveri Ltd (ABB), which is owned in equal parts by Asea AB and BBC Brown Boveri Ltd, is a holding company of an international group of electrotechnical companies, with activities in the areas of power generation, power transmission and distribution, transportation and industrial and building systems. Asea Brown Boveri SA (ABB France) is the holding company for all of the French companies within the ABB Group. ABB France's subsidiaries are engaged in the design, manufacture, sale and service of products within the following business segments : power generation, transmission and distribution, transportation and industrial and building systems. One of ABB France's subsidiaries is ABB Robotique SNC (ABB Robotique)

which is active in the sale of robots, customer service and systems engineering in France. The worldwide activities of ABB's robotics businesses are coordinated by ABB Industrial and Building Systems Management Ltd.

2. Régie Nationale des Usines Renault SA (Renault), which is controlled by the French State, is a company active in the development, manufacturing and sale of cars and commercial vehicles. Renault is the parent company of Renault Automation SA (RA) which is active in the development, manufacturing and sale of flexible automation systems, including robots. RA's foreign sales are achieved by its wholly owned subsidiary "Chausson System SA" (Chausson).

II. THE OPERATION

3. The proposed operation consists of two transactions.

In one transaction, RA will transfer its flexible automation systems business dedicated to the design and integration of body work and sheet metal work (automotive body-in-white (BIW) activities) into a newly created 100% subsidiary, the so-called Newco; ABB will acquire a 50% participation in Newco through ABB France.

In the other, ABB, through ABB Robotique, will purchase the assets of the robotics business which is organised in RA's ACMA robotics business division.

4. These two operations constitute two different concentrations because the nature of the control exercised by the undertakings concerned is different for the two operations. Furthermore, the two products concerned belong to separate markets which are not in the same sector, notwithstanding the fact that robots are one of the components of transfer line systems.

III. THE JOINT VENTURE

Joint control

6. Newco's Board of Directors will consist of six directors; three of them will be appointed by ABB France, the other three will be appointed by RA. The President of the Company will be one of the six Board members. He will be appointed by []⁽¹⁾ after prior consultation with []. The Chairman of the Board will be appointed from among the Directors designated by [].

The unanimous vote of the directors present (quorum of 4) is required for any of the major decisions such as changes in the articles of association, recruitment of the President and of top management, approval of the annual audited financial statements, adoption of the company's annual budget, loans and investments, any increase or decrease of share capital, and major policy decisions.

In all other matters, a simple majority vote is required. In the event of a tied vote, a resolution will be passed with the deciding vote of the Chairman of the Board.

⁽¹⁾ In the published version of the Decision, some information has hereinafter been omitted, pursuant to the provisions of Article 17(2) of Regulation (EC) No 4064/89. All [] replace, therefore, figures or information deleted for business secret reasons.

Newco, therefore, will be a joint venture, jointly controlled by ABB France and RA.

Autonomy

7. Newco will continue the activities of Renault Automation in the BIW area. The means for Newco to become an undertaking performing all the tasks of an autonomous economic entity will be transferred from RA (and Chausson) to Newco, namely plants, management, employees, property rights, etc. Newco, therefore, will be an autonomous full-function company on the market.

Absence of coordination of competitive behaviour

8. Newco will be active in the market of automation transfer lines in the BIW area. Neither ABB France nor the ABB Group are active in this market. RA (and therefore Renault) wants to transfer its entire BIW activities to Newco and to thus withdraw from this market, except for its joint control in Newco. ABB and RA will therefore not be active in Newco's market. Furthermore, no re-entry on the BIW systems market can be expected in the future either from Renault or from ABB; such a re-entry would not be economically rational, because of, inter alia, a substantial decrease in prices, the maturity of the market due to overcapacities in the automotive industry, and the high degree of investment.
9. However, both ABB France and the ABB Group, through its subsidiaries specialised in robotics, are active in the market upstream from Newco. Robots are one of the components of automation transfer lines. Nevertheless, RA's purchases of robots in the relevant market did not exceed [] robots per year, which represents less than [] of the total sales in Western Europe. Consequently, whatever the relationship between Newco and ABB may be in the future, this should not have any significant effect on the market.
10. Renault SA is active in the production of cars and was the main customer of Renault Automation for transfer line systems. Before the creation of the joint venture, Renault Automation's sales to Renault SA represented on average [] of its total sales. The remaining [] were sold to Peugeot SA and BMW. Consequently, in the past, no economic dependency between Renault SA and Renault Automation existed, despite a substantial commercial relationship. After the acquisition of joint control by ABB, Newco will have a wider range of customers than RA did, as the parties have themselves envisaged. Furthermore, RA only represents [less than 5%] of sales in the relevant market. The joint venture will therefore not give rise to coordination of competitive behaviour.

IV. COMMUNITY DIMENSION

11. The creation of Newco between ABB and RA has a Community dimension. The aggregate worldwide turnover of the parties (Renault SA and ABB Asea Brown Boveri) exceeds 5 000 million Ecu. The aggregate Community-wide turnover of the parties exceeds 250 million Ecu. They do not achieve more than two-thirds of their turnover in one and the same Member State.
12. The acquisition by ABB of RA's robotics business does not have a Community dimension. The turnover of the acquired business in this operation is below the 250 mio Ecu threshold.

V. ASSESSMENT OF COMPATIBILITY

Relevant product market

13. Body-in-white systems (BIW systems) are transfer line systems in the automation process dealing with the manufacture of cars before they are painted. The BIW systems assemble parts into a complete car body. These system lines include transfer equipment moving the car body from one part of the production line to another, fixing and holding equipment, conveyors and industrial robots, as well as other equipment and machinery such as numerically controlled machine tools and programmable controllers. BIW systems constitute a specific unit within transfer line systems in the automation process.
14. As a product, this transfer line is also composed of specific know-how (design, manufacturing, assembly, test, ...) and of different components, adapted to the needs and requirements of the car producers. That is why the supplier of a transfer line may purchase the various components of the line from different producers.
15. Throughout the car manufacturing industry, these features of production equipment and the basic technology in BIW transfer systems are similar, despite some special applications for each individual car manufacturer. The supplier can be said to be integrated to a certain degree in the production process and to collaborate with the car producer in developing, installing and supplying the production line.
16. BIW systems therefore constitute a complete and separate product market.

Relevant geographical market

17. From a geographical point of view, the market can be defined as Western European (EC + EFTA) because most of the car producers in Europe purchase their production lines within Europe. These commercial exchanges are facilitated by the absence of barriers to entry such as transportation costs, which are very low in comparison to the overall cost of the systems, or tariffs.
18. To a certain extent, the trend towards a worldwide market already exists. In any event, given the absence of competition issues whatever the geographical dimension of the market, it is not necessary to make a conclusion in this case as to whether the geographic market is Western European or worldwide.

Competitive assessment

19. Since ABB is not active in the BIW market, there is no addition of market shares. RA's market share and therefore Newco's market share in the European Communities will be of [less than 5%] (in volume).

VI. ANCILLARY RESTRAINTS

20. The agreement between the parties on Newco provides that :
 - 1) For a period of [less than five years], Renault SA and RA shall not, directly or indirectly, carry out or support any activity which may compete with any activity which is carried out by Newco with regard to BIW activities.

- 2) For a period of [less than five years], Renault SA shall satisfy its demand for welding installations within Newco on the basis of the relationship between Renault SA, RA and/or Chausson existing prior to the Closing Date, as defined in the parties' agreement and which shall be no later than June 30th, 1994..
- 3) For a period of [less than five years], Renault SA shall endeavour to satisfy its demand for after sales service for its existing and future welding installations with Newco on the basis of the previous relationship between Renault SA, RA and/or Chausson.
- 4) Newco shall secure the after sales service and the service for all welding installations purchased by Renault SA, Renault SA's subsidiaries and RA's customers, for a period of [less than ten years].
- 5) Furthermore, the parties will establish a joint committee (JC) within the [less than five years] initial transition period. This JC shall be dissolved at the end of this transition period. The JC will be composed of six individuals, three nominated by RA, three by ABB. All decisions shall be unanimously taken. The JC will be an advisory committee without any operational function. It will decide in particular on the selection of suppliers for products and services and the purchase of products and services required by RA and/or Newco.

These agreements are directly related and necessary to the implementation of the concentration and are, therefore, ancillary within the meaning of the Regulation.

VII. CONCLUSION

21. As to the first concentration, concerning the creation of Newco, the Commission has decided for the above reasons not to oppose the notified operation and to declare it compatible with the common market. This decision is adopted in application of Article 6(1)(b) of Council Regulation No 4064/89.
22. As to the second concentration, concerning the acquisition by ABB of the RA's robotics business, the Commission has decided, because of the absence of a Community dimension of this operation, that it does not fall within the scope of the Merger Regulation. This decision is adopted in application of Article 6(1)(a) of Council Regulation No 4064/89.

For the Commission,