EN

Case No COMP/M.7375 - UTC / CIAT

Only the English text is available and authentic.

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 05/12/2014

In electronic form on the EUR-Lex website under document number 32014M7375

Office for Publications of the European Union
L-2985 Luxembourg

EUROPEAN COMMISSION

Brussels, 5.12.2014
C(2014) 9477 final

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party

Subject: Case M.7375 - UTC / CIAT
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1]

(1) On 31 October 2014, the European Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation, following a referral pursuant to Article 4(5), by which the undertaking United Technologies Corporation ('UTC', United States) acquires, within the meaning of Article 3(1)(b) of the Merger Regulation, sole control of the whole of the undertaking CIAT (France) by way of purchase of shares. UTC is hereinafter referred to as the 'Notifying Party' while UTC and CIAT are collectively referred to as the 'Parties'.

1. THE PARTIES

(2) **UTC** is a US-based multinational corporation that provides high technology products and services for the aerospace and commercial building industries worldwide. Among various other products, UTC is active in the production and

1 OJ L 24, 29.1.2004, p. 1 ('the Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

Commission européenne, DG COMP MERGER REGISTRY, 1049 Bruxelles, BELGIQUE
Europese Commissie, DG COMP MERGER REGISTRY, 1049 Brussel, BELGIË

Tel: +32 229-91111. Fax: +32 229-64301. E-mail: COMP-MERGER-REGISTRY@ec.europa.eu.

supply of heating, ventilation and air conditioning systems ('HVAC') through its business unit **Carrier**.

(3) **CIAT** is a France-based company that manufactures HVAC systems in the EEA and in China and distributes them in over 100 countries through a network of its own sales offices and independent distributors.

2. THE OPERATION AND THE CONCENTRATION

(4) On 23 July 2014, UTC and CIAT's shareholders signed a 'Firm and Irrevocable Offer to Acquire CIAT Group' in accordance with the terms of an agreed share purchase agreement. In accordance with the French labour code, CIAT's shareholders are entitled to accept the offer following consultation with the Works Council of CIAT. The transaction would see UTC acquiring 100% of CIAT's outstanding share capital and voting rights of CIAT from its present ultimate shareholders. UTC would thus acquire sole control of CIAT. The transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. EU DIMENSION

(5) The concentration does not have an EU dimension within the meaning of Article 1 of the Merger Regulation as it does not meet the thresholds laid down therein.

(6) On 8 August 2014, however, the Notifying Party informed the Commission by means of a reasoned submission pursuant to Article 4(5) of the Merger Regulation that the concentration was capable of being reviewed under the national competition laws of at least three Member States and requested that it be referred to the Commission. No Member State competent to review the proposed transaction expressed its disagreement within the period set out in the Merger Regulation.

(7) Therefore, the concentration is deemed to have an EU dimension pursuant to Article 4(5) of the Merger Regulation.

4. COMPETITIVE ASSESSMENT

(8) The proposed transaction leads to horizontal overlaps between the Parties as both are active in the manufacture and supply of a range of air-conditioning (HVAC) systems and related products.

4.1. Market Definition

4.1.1. Relevant Product Markets

(9) HVAC systems are essentially air-conditioning systems that are used to provide conditioned air to a building, e.g. air whose temperature has been adjusted to achieve the desired temperature inside the building. HVAC systems employ various technologies and come in a large number of sizes and configurations suitable for different building sizes and types.

(10) In previous decisions, the Commission has considered that at least residential and light commercial systems of possibly up to 25 kW cooling power constitute a market separate from systems of higher cooling power.[2] In addition, in *Daikin/OYL*, the notifying party suggested a further segmentation into three, instead of two, categories according to the end-use of the system based on its cooling power: residential and light commercial (0–25 kW), medium commercial (25–250 kW) and heavy commercial (>250 kW). The question was however left open in the decision.[3]

(11) Moreover, the Commission has also examined in the past but ultimately left open a possible further segmentation of the cooling power based categories on the basis of the technology or structure of the system (for instance monoblocks / split, portable / non-portable, ducted / non-ducted).[4] In *Daikin/OYL*, the Commission suggested that as systems with the highest power ratings could practically only be built with one technology, technology-based segmentation was meaningless for those systems. That question was however also ultimately left open.[5]

(12) The Notifying Party in the present case submits that HVAC systems can be divided into three categories according to the end-use of the system based on its cooling power. The categories are: (i) residential and light commercial (0–50 kW), (ii) medium commercial (50–350 kW) and (iii) heavy commercial and industrial (>350 kW). The Notifying Party also further submits that its market shares would not be materially different even if the power ranges suggested in *Daikin/OYL* were used instead.[6]

(13) The results of the market investigation suggest that segmentation according to the cooling power of the system might be appropriate.[7] However, respondents to the market investigation were divided about the actual power ratings according to which the markets should be delineated.[8] Nonetheless, as the outcome of the competitive assessment is the same regardless of whether the power ratings suggested in *Daikin/OYL* or the ones submitted by the Notifying Party in the present case are used, it is not necessary to conclude on that question.

(14) As to segmentation according to the technology employed, the Notifying Party submits that no such segmentation is warranted. Nonetheless, the Notifying Party has provided market data on the potential sub-segment of hydronic HVAC systems within each of the cooling power based categories as CIAT concentrates on this

---

2 M.1433 – *Carrier/Toshiba*, paragraphs 14–6 and 20; M.4271 – *Daikin/OYL*, paragraphs 7–13; and M.5421 – *Panasonic/Sanyo*, paragraphs 158–160.

3 M.4271 – *Daikin/OYL*, paragraphs 7 and 11–3.

4 M.1433 – *Carrier/Toshiba*, paragraphs 17–20; M.4271 – *Daikin/OYL*, paragraphs 10–3; and M.5421 – *Panasonic Sanyo*, paragraphs 159–160.

5 M.4271 – *Daikin/OYL*, paragraphs 12–3, including footnote 18.

6 The sub-division in power ranges suggested by the Notifying Party in the present case is in line with the ranges used for data collection and market shares estimate by Eurovent Market Intelligence, the market research and analysis branch of the Eurovent trade association and certification body.

7 Replies to the Questionnaires for Customers Q1a–Q1c, question 5; replies to the Questionnaire for Competitors Q2, question 5.

8 Replies to the Questionnaires for Customers Q1a–Q1c, question 6; replies to the Questionnaire for Competitors Q2, question 6.

technology and because it would result in affected markets if considered separately from other technologies. In addition, the Notifying Party has provided market data separately for rooftop units and air handling units that would, if considered separately from other products, also constitute affected product markets.

(15) *Hydronic systems* are multi-component systems based on the circulation of water between an outdoor chiller and the indoor units that release the cold to the desired space.[9] This is in comparison to systems based on refrigerant circulating between the outdoor units and indoor units that release the cold generated by the outdoor units (such as variable refrigerant flow systems, also known as VRF). With respect to multi-component systems, CIAT is only active in hydronic systems.

(16) *Rooftop units* are packaged mono-block HVAC units that are traditionally used in commercial buildings where no room-by-room temperature control is required (e.g. supermarkets). The systems are typically installed on the roof and may usually have cooling power of up to 200 kW, and they can thus be considered as part of the potential medium commercial segment.

(17) *Air handling units* are not an alternative to the systems described above, but rather a complement that can be added particularly to a medium commercial or heavy commercial and industrial HVAC system. Air handling units typically consist of a fan and air-filtration system and are used to distribute treated (cooled / heated) air inside the building.

(18) In this respect, the market investigation shows that the majority of competitors consider that delineation according to the technology employed may be relevant.[10] More particularly, a number of respondents indicated that substituting hydronic systems with other technologies could be technically or economically difficult in some applications and particularly when it comes to large buildings.[11] Moreover, it should be noted that not all suppliers are equally present in all technologies and that, in particular, CIAT focuses on hydronic systems. Therefore, it cannot be excluded that hydronic systems may constitute distinct product markets.

(19) In addition, the market investigation also suggests that roof top units and air handling units may constitute distinct product markets. For instance, a number of customers considered that roof top units cannot be technically or economically substituted by other technical solutions in all applications. A number of competitors, including some of the major competitors such as Daikin, indicated that they are not at all maufacturing in rooftop units. As to air handling units, customers indicated that they source air handling units separately from other HVAC products and there are a number of suppliers that concentrate on those products rather than HVAC systems in general.[12]

---

9 It is also possible to have a system where the water may also be heated.

10 Replies to the Questionnaires for Customers Q1a–Q1c, question 7; replies to the Questionnaire for Competitors Q2, question 8.

11 Replies to Questionnaires for Customers Q1a–Q1b, question 8; replies to the Questionnaire for Competitors, question 9.

12 Replies to the Questionnaire for Customers Q1a, questions 14–5 and 17–8; replies to the Questionnaire for Customers Q1b, questions 14–5; replies to the Questionnaire for Competitors, questions 10 and 16–7.

(20) Based on the results of the market investigation and the information provided by the Notifying Party, the Commission nonetheless considers that the exact delineation of the relevant product market can be left open since the notified operation does not raise serious doubts under any possible approach.

4.1.2. Relevant Geographic Markets

(21) In *Carrier/Toshiba*, the Commission had suggested that the market for residential and light commercial systems was at least EEA-wide. The exact market definition was, however, left open.[13] However, in later decisions the Commission found indications pointing towards narrower, possibly even national markets for HVAC systems. The market definition has nonetheless been ultimately left open.[14]

(22) The Notifying Party submits that the relevant geographic markets for HVAC systems are EEA-wide in scope. In support of its submission, the Notifying Party refers to, for instance, high levels of cross-border trade, centralised production within the EEA, low transport costs and standardisation of the products so that the same products can typically be sold throughout the EEA. The Notifying Party also submits that conditions of competition are not materially different in different regions of Europe. Nonetheless, the Notifying Party has provided market data separately for the EEA level, regional level and national level.

(23) Concerning rooftop units, the Notifying Party submits that their geographic markets are similar to HVAC systems in general. The Notifying Party does nonetheless acknowledge that the demand for rooftop units varies between different countries and they are generally more demanded in certain countries such as Spain. CIAT also achieves […]% of its rooftop unit sales in Spain where its related production facility is located.

(24) As to air handling units, the Notifying Party notes that they are generally bulky and lower-value products the transporting of which can be proportionally more costly than other HVAC products. The Notifying Party therefore suggests that the markets could be regional or even national in scope.

(25) The results of the market investigation were inconclusive as to the geographic markets for HVAC systems. On the one hand, the market investigation indicates that the markets could be wider than national. For instance, suppliers have generally concentrated their production at a limited number of locations from where they ship supplies to numerous countries.[15] Some customers responding were also already sourcing from countries other than their own and the majority, but not all, also indicated they could either start sourcing from abroad or sponsor an entry to their own country if faced with a permanent price increase of 5–10%.[16]

---

13 M.1433 – *Carrier/Toshiba*, paragraph 22.

14 M.4271 – *Daikin/OYL*, paragraph 17; and M.5421 – *Panasonic / Sanyo*, paragraph 162.

15 Replies to the Questionnaire for Competitors Q2, questions 18–9.

16 Replies to the Questionnaire for Customers Q1a, questions 22–3; replies to the Questionnaire for Customers Q1b, questions 19–20; replies to the Questionnaire for Customers, question 11.

(26) Nonetheless, some indicators also point towards possible national markets. In particular, many customers prefer their suppliers to have a national presence. This applies particularly with respect to the heavy commercial and industrial systems that are tailored according to customer needs and require on-site service unlike for instance residential and light commercial systems.[17] The market investigation also gave indications that French customers in particular have a tendency to buy French.[18] Moreover, the Parties' market footprint varies significantly between different EEA countries and, in particular, CIAT's sales are concentrated into and close to France and CIAT generally only achieves notable market shares in France, the Netherlands and Luxembourg. An exception to this is rooftop units that CIAT mainly sells in Spain where its related production facility is located. The national Spanish market is also the only potential market for rooftop units that would constitute an affected market as a result of the proposed transaction.

(27) Based on the results of the market investigation and the information provided by the Notifying Party, the Commission nonetheless considers that the precise definition of the relevant geographical market can be left open, as the notified operation does not raise serious doubts under any possible approach.

4.2. Competitive assessment

(28) For the purpose of assessing the present operation, and in line with the precedent paragraphs on market definition, the Commission will assess the effects on competition in the potential cooling power based segments. In addition, those potential technology based sub-segments that would give rise to affected markets will also be assessed.

4.2.1. HVAC systems

(29) In the light of the results of the market investigation and the information provided by the Notifying Party, the Commission considers that the proposed transaction does not result in any affected markets at the EEA-level with respect to air conditioning systems when no distinction is made according to the technology employed.[19] However, at the national level a number of markets are affected, mainly in the potential medium commercial and heavy commercial and industrial segments even if no distinction is made according to technology. The Parties' market shares in the affected potential national markets are given in the table below.

---

[17] Replies to the Questionnaire for Customers Q1a, questions 19–21; replies to the Questionnaire for Customers Q1b, questions 16–8; and replies to the Questionnaire for Customers Q1c, questions 8–10.

[18] See, for instance confirmed minutes of a call with a competitor, 20.11.2014.

[19] The Parties achieved the following market shares in the EEA in 2013: Residential and light commercial systems [5–10]% (UTC [5–10]%; CIAT [0–5]%), medium commercial systems [10–20]% (UTC [10–20]%; CIAT [0–5]%) and heavy commercial and industrial systems [10–20]% (UTC [10–20]%; CIAT [0–5]%).

Table 1 – Affected HVAC systems markets by cooling power[20], all technologies, 2013

	Residential and Light Commercial (0–50kW)			Medium Commercial (50–350kW)			Heavy Commercial and Industrial (>350kW)		
Country	CIAT	UTC	**Combined**	CIAT	UTC	**Combined**	CIAT	UTC	**Combined**
Austria				[0–5]%	[20–30]%	**[20–30]%**			
Baltic countries + Finland[21]				[0–5]%	[20–30]%	**[20–30]%**	[0–5]%	[20–30]%	**[20–30]%**
Bulgaria				[0–5]%	[20–30]%	**[30–40]%**			
Croatia				[10–20]%	[10–20]%	**[20–30]%**	[10–20]%	[10–20]%	**[20–30]%**
Czech Republic				[0–5]%	[20–30]%	**[20–30]%**			
France				[10–20]%	[10–20]%	**[30–40]%**	[10–20]%	[20–30]%	**[30–40]%**
Greece				[0–5]%	[20–30]%	**[20–30]%**	[0–5]%	[30–40]%	**[30–40]%**
Hungary							[10–20]%	[10–20]%	**[20–30]%**
Netherlands				[5–10]%	[20–30]%	**[30–40]%**	[0–5]%	[40–50]%	**[40–50]%**
Portugal				[0–5]%	[10–20]%	**[20–30]%**	[5–10]%	[10–20]%	**[20–30]%**
Scandinavia (Denmark + Sweden + Norway)[22]				[5–10]%	[10–20]%	**[20–30]%**	[5–10]%	[20–30]%	**[20–30]%**
Slovakia	[0–5]%	[30–40]%	**[30–40]%**						

Source: The Notifying Party

(30) Nonetheless, the combined market shares remain modest and the market share increments are limited. The Parties reach their highest combined market share in the Netherlands, [40–50]% in heavy commercial and industrial systems. However, the market share increment is only [0–5] percentage points and the transaction is thus unlikely to significantly affect the market structure.

(31) Moreover, even if the markets were considered as national, the market investigation shows that it is apparent that a significant number of customers would be willing to either source from abroad or even sponsor entry to their own countries.[23] The Commission also notes that, in light of the replies during the

---

20 Some of the potential national markets would constitute affected markets even if no delineation according to the cooling power was made. However, the market shares are lower than those for the affected power rating based categories.

21 The Notifying Party has not been able to provide separate market share figures for the Baltic countries and Finland. See Form CO, paragraph 7.4, footnote 64.

22 The Notifying Party has not been able to provide separate figures for the Scandinavian countries. See Form CO, paragraph 7.4, footnote 64.

23 Replies to the Questionnaire for Customers Q1a, questions 22–3; replies to the Questionnaire for Customers Q1b, questions 19–20; replies to the Questionnaire for Customers Q1c, question 11.

market investigation, competitors generally confirm that they have adequate production capacity to increase their supplies should customers turn to them if the merged entity attempted to increase prices after the transaction, and that customers will continue to have alternative sources of supply.[24] It is thus likely that at least some level of competitive constraint results from a risk of a potential entry or increased market presence of alternative suppliers.

(32) In addition, the Commission notes that most of the Parties' customers, including those located in the Netherlands, were not concerned by the proposed transaction.[25] Customers also mentioned the possibility of redirecting some of their purchases away from the merged entity and sponsoring the entry of new competitors if needed.[26]

4.2.2. Hydronic HVAC systems

(33) As to the potential sub-segments consisting of hydronic air conditioning systems, the Parties are both widely active in that technology and, in particular, CIAT is mainly only active in that field.[27] Consequently, the Parties' combined market shares are in many cases higher than those for all technologies combined if hydronic air conditioning systems are considered in isolation. Within hydronic air conditioning systems, the proposed transaction also results in affected markets at the EEA-level. According to the Notifying Party's estimates, the Parties achieved a combined market share in the EEA in 2013 of [20–30]% (UTC [10–20]%; CIAT [5–10]%) in the potential market for hydronic medium commercial systems, and a combined market share of [20–30]% (UTC [10–20]%; CIAT [0–5]%) in the potential market for hydronic heavy commercial and industrial systems.[28] Other notable competitors and their market shares in hydronic medium commercial and hydronic heavy commercial and industrial systems respectively were Trane ([10-20]% / [20–30]%), Daikin ([10–20]% / [5–10]%) and Climaveneta ([10–20]% / [10–20]%).

(34) In addition, the proposed transaction gives rise to a number of affected markets with respect to the potential national markets for hydronic HVAC systems. The Parties' market shares on those markets are given in the table below.

24 Replies to the Questionnaire for Competitors, question 34 and 38.

25 Replies to the Questionnaire for Customers Q1a, questions 33–4; replies to the Questionnaire for Customers Q1b, questions 30–1; and replies to the Questionnaire for Customers Q1c, questions 13–4. See also, for instance confirmed minutes of a call with a French customer 30.10.2014 and confirmed minutes of a call with a Dutch customer 30.10.2014.

26 Replies to the Questionnaire for Customers Q1a, questions 23 and 34; replies to the Questionnaire to Customers Q1b, question 20; and replies to Questionnaire for Customers Q1c, questions 11 and 31.

27 CIAT only sells some limited refrigerant based products that generally are not multi–component systems. See the Notifying Party's submission of 1 December 2014.

28 In hydronic residential and light commercial systems, the Parties combined market share remained at [5–10]% (UTC [0–5]%; CIAT [0–5]%) in the EEA in 2013.

Table 2 - Affected HVAC systems markets by cooling power[29], hydronic only, 2013

	Residential and Light Commercial (0-50kW)			Medium Commercial (50–350kW)			Heavy Commercial and Industrial (>350kW)		
Country	CIAT	UTC	**Combined**	CIAT	UTC	**Combined**	CIAT	UTC	**Combined**
Baltic countries				[5–10]%	[10–20]%	**[20–30]%**			
Belgium				[5–10]%	[10–20]%	**[20–30]%**	[5–10]%	[20–30]%	**[20–30]%**
Croatia				[10–20]%	[10–20]%	**[20–30]%**	[10–20]%	[10–20]%	**[20–30]%**
Czech Republic	[0–5]%	[20–30]%	**[20–30]%**						
Finland				[0–5]%	[20–30]%	**[20–30]%**	[0–5]%	[20–30]%	**[20–30]%**
France				[20–30]%	[20–30]%	**[50–60]%**	[10–20]%	[20–30]%	**[40–50]%**
Germany				[0–5]%	[10–20]%	**[20–30]%**	[0–5]%	[10–20]%	**[20–30]%**
Greece	[0–5]%	[30–40]%	**[40–50]%**	[0–5]%	[20–30]%	**[20–30]%**	[0–5]%	[30–40]%	**[30–40]%**
Luxembourg	[10–20]%	[0–5]%	**[20–30]%**	[40–50]%	[10–20]%	**[60–70]%**	[30–40]%	[20–30]%	**[50–60]%**
Malta				[0–5]%	[50–60]%	**[50–60]%**			
Netherlands				[10–20]%	[40–50]%	**[50–60]%**	[5–10]%	[50–60]%	**[50–60]%**
Norway				[10–20]%	[20–30]%	**[30–40]%**	[10–20]%	[10–20]%	**[20–30]%**
Portugal				[5–10]%	[10–20]%	**[20–30]%**	[10–20]%	[10–20]%	**[20–30]%**
Slovakia				[5–10]%	[20–30]%	**[20–30]%**			
Spain				[5–10]%	[20-30]%	**[30–40]%**	[0–5]%	[20–30]%	**[20–30]%**
Sweden							[0–5]%	[30–40]%	**[30–40]%**

Source: The Notifying Party

(35) The combined market shares generally remain modest and the market share increments are limited even if hydronic systems are considered as separate markets. However, the Parties' combined market shares are high with respect to hydronic medium commercial systems in France, Luxembourg, Malta and the Netherlands as well with respect to heavy commercial and industrial systems in France, the Netherlands and Luxembourg. With the exception of Malta, the market share increment in each case is also not negligible.

(36) However, for the following reasons the Commission considers that the proposed transaction does not give rise to competition concerns with respect to HVAC systems even with respect to those countries and regardless of whether hydronic systems are considered to constitute distinct markets or not.

29 Some of the potential national markets would constitute affected markets even if no delineation according to the cooling power was made. However, the market shares are lower than those for the affected power rating based categories.

(37) First, the Commission notes that, in light of their replies during the market investigation, market participants did not in general consider the Parties to be each other's closest competitors. For instance in France and the Netherlands, many customers considered Daikin or Trane as being closer competitors to the Parties than the Parties are to each other. Other close competitors mentioned included York in France and the Netherlands and GEA in the Netherlands.[30] Trane and Daikin were also referred to as being strong particularly in hydronic systems in France and, in addition, Climaveneta was mentioned as having noticeable capabilities in the field.[31]

(38) Second, even if the markets were considered as national, the market investigation shows that it is apparent that a significant number of customers would be willing to either source from abroad or even sponsor entry to their own countries.[32] The Commission also notes that, in light of the replies during the market investigation, competitors generally confirm that they have adequate production capacity to increase their supplies should customers turn to them if the merged entity attempted to increase prices after the transaction, and that customers will continue to have alternative sources of supply.[33] It is thus likely that at least some level of competitive constraint results from a risk of a potential entry or increased market presence of alternative suppliers.

(39) With specific regard to Luxembourg, where the Parties would reach their highest combined market shares in hydronic systems, the Commission notes that Luxembourg is a small market where single deals may significantly affect market shares. This is confirmed by variations in the Parties' combined market shares during 2011–2013, a period in which, for example, the Parties' combined market share in hydronic heavy commercial and industrial systems varied between [30–40]% and [50–60]%. In view of the above, the Commission considers that in the present case, market shares are not necessarily reliable indicators of actual market power in the assessed market. Moreover, the market investigation has shown that that Luxembourg is not necessarily a separate geographic market as customers may easily source from neighbouring countries as well. Further, a specific sales and service network for Luxembourg does not seem to be a necessary requirement for entry on the market for alternative producers active in neighbouring countries.[34] This is confirmed by the fact that, for instance the Notifying Party serves Luxembourg from Belgium.

(40) Third, even if hydronic air conditioning systems were considered to be separate markets, many customers replied in the market investigation that they could consider switching from hydronic systems to alternative technologies, such as refrigerant-based air conditioning systems, if the former's prices rose significantly. In light of the replies during the market investigation and the information provided by the Notifying Party, this applies to all of the potential cooling power based

30 Replies to the Questionnaire for Customers Q1a, questions 28–9; and replies to the Questionnaire for Customers Q1b, questions 25–6.

31 See for example replies to the Questionnaire for Customers Q1a, question 30.

32 Replies to the Questionnaire for Customers Q1a, questions 22–3; replies to the Questionnaire for Customers Q1b, questions 19–20; replies to the Questionnaire for Customers Q1c, question 11.

33 Replies to the Questionnaire for Competitors, question 34 and 38.

34 Replies to the Questionnaire for Customers Q1c, question 11.

sub-segments even if substitution in the heavy commercial and industrial systems could be more challenging.[35] Therefore, the Commission considers that it is likely that at least some level of competitive constraint results from the risk of a potential switch to alternative technologies.

(41) Fourth, the Commission notes that most of the Parties' customers, including those located in France, the Netherlands and Luxembourg, were not concerned by the proposed transaction. While a limited number of customers expressed some concerns related to the merged entity's market power particularly in France and with respect to hydronic systems,[36] customers nonetheless referred to functioning competition and confirmed that an adequate number of alternative suppliers would remain on the markets post-transaction, including in France.[37] Customers also mentioned the possibility of redirecting some of their purchases away from the merged entity and sponsoring the entry of new competitors if needed.[38] In addition, while a number of competitors raised concerns and considered that the proposed transaction could give rise to competition effects due to, for instance a more complete product portfolio,[39] customers did not generally raise similar concerns and also mentioned that other suppliers such as Trane have a similarly large product portfolio.[40]

4.2.3. Rooftop units

(42) With respect to rooftop units, only the potential national market of Spain would be affected by the proposed transaction with the Parties reaching a combined market share of [40–50]% (UTC [0–5]%; CIAT [40–50]%) according to the Notifying Party's estimates. However, as the market share increment is [0–5 percentage

---

35 Replies to the Questionnaires for Customers Q1a–Q1b, question 10. Moreover, it was mentioned that alternative solutions to hydronic systems always exists even if switching could be challenging in some applications. See, for instance confirmed minutes of a call with a Dutch customer 30.10.2014. One of the main competitors for hydronic systems is variable refrigerant flow ('VRF') systems in which CIAT is not active at all. The proposed transaction does not, therefore, result in affected markets with respect to this potential segment at all. See the Notifying Party's submission of 1 December 2014.

36 See, for instance confirmed minutes of a call with a French customer 24.10.2014. See also replies to the Questionnaire for Customers Q1a, questions 33–4; Questionnaire for Customers Q1b, questions 30–1; and replies to the Questionnaire for customers Q1c, questions 13–4.

37 Replies to the Questionnaire for Customers Q1a, questions 33–4; replies to the Questionnaire for Customers Q1b, questions 30–1; and replies to the Questionnaire for Customers Q1c, questions 13–4. See also, for instance confirmed minutes of a call with a French customer 30.10.2014 and confirmed minutes of a call with a Dutch customer 30.10.2014.

38 Replies to the Questionnaire for Customers Q1a, questions 23 and 34; replies to the Questionnaire to Customers Q1b, question 20; and replies to Questionnaire for Customers Q1c, questions 11 and 31.

39 Replies to the Questionnaire to Competitors, questions 39–40.

40 See replies to the Questionnaire for Customers Q1a, question 30. It should further be noted that UTC is also active in a number of other technical building solutions, such as lifts and fire control systems. […]. Moreover, only a very limited number of customers reported having purchased other technical building solutions together with air conditioning systems (regardless of supplier) or having been offered such a package by any supplier during 2011–2014. See replies to the Questionnaire to Customers Q1a, questions 24–5, and replies to the Questionnaire to Customers Q1b, questions 21–2. It should further be noted that, as UTC submits, the acquisition of CIAT would only result in a limited extension to UTC's present product portfolio and therefore its ability to engage into bundling would not significantly increase.

points], the proposed transaction is unlikely to result in a significant change in the market structure. In addition, the merged entity will continue to face competition from alternative suppliers such as Lennox and Hitecsa[41] Moreover, no concerns with respect to rooftop units in Spain were expressed during the market investigation.

4.2.4. *Air handling units*

(43) With respect to air handling units, only the potential national market of France would be affected by the proposed transaction with the Parties reaching a combined market share of [30–40]% (UTC [0–5]%; CIAT [20–30]%) according to the Notifying Party's estimates. However, as the market share increment remains modest at [0–5] percentage points, the proposed transaction is unlikely to result in a significant change in the market structure. In addition, the merged entity will continue to face competition from alternative suppliers such as GEA ([10–20]%) and Wesper/Hitecsa ([10–20]%). Numerous customers also referred to Daikin and Wolf as being closer competitors to the Parties than the Parties to each other. In addition, customers also mentioned Climaveneta and Systemair as having notable capabilities.[42] Moreover, a clear majority of market participants did not express any substantiated concerns related to air handling units with only one competitor being clearly concerned about the merged entity's market shares and its effects on smaller competitors.[43]

4.2.5. *Conclusion on competitive assessment*

(44) Therefore, based on the results of the market investigation and the information provided by the Notifying Party, the Commission considers that the proposed transaction does not give rise to serious doubts as to its compatibility with the internal market even under the narrowest feasible product and geographic market definitions.

5. CONCLUSION

(45) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1) (b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(signed)
Margrethe VESTAGER
Member of the Commission

---

41 Replies to Questionnaire to Customers Q1a, question 30. Lennox was also mentioned by customers as being particularly strong in rooftop units.

42 Replies to Questionnaire to Customers Q1a, questions 28–30.

43 Replies to the Questionnaire to Competitors, question 41.