

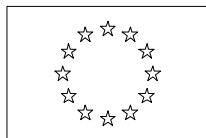
***Case No IV/M.1195 - **
SIEBE /
EUROTHERM***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 11/06/1998

*Also available in the CELEX database
Document No 398M1195*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.06.1998

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject: Case No IV/M. 1195: SIEBE PLC/EUROTHERM PLC

Notification of 7 May 1998 pursuant to Article 4 of Council Regulation No 4064/89

1. On 7 May 1998, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which Siebe plc will acquire within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of Eurotherm plc by way of public bid.
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. The business activities of the undertakings concerned are :
 - Siebe: manufacture of controls, notably appliance controls, process automation controls, electronic power controls
 - Eurotherm: manufacture of controls and instruments, notably for industrial processes; also manufacture of electric motor controls, thickness gauges and related products.

II. COMMUNITY DIMENSION

4. The combined aggregate worldwide turnover of the undertakings concerned exceeds ECU 2 500 million (Siebe, ECU 5,292 million; and Eurotherm ECU 286 million).The aggregate Community wide turnover of each party exceeds ECU 100 million (Siebe

ECU 1,702 million, Eurotherm ECU 170 million). In each of [...], each of the parties has turnover in excess of ECU 25 million, and in each of those Member States the parties' combined aggregate turnover exceeds ECU 100 million. The undertakings concerned do not achieve more than two-thirds of their turnover in one and the same Member State. The notified operation therefore has a Community dimension.

III. COMPETITIVE ASSESSMENT

A. Relevant product market(s)

5. The parties' activities overlap mainly in the manufacture of industrial process controls, in particular temperature controls. These goods are used, either as individual units or linked together to form a complete system, to measure and control different variables (eg temperature, pressure, humidity, current/voltage) and actions in a wide range of industrial applications, usually, batch or continuous production situations such as food and drink processing, plastic extrusion, oil and chemical production, paper and metal manufacture. Briefly, the process control function brings together *process control instruments* (such as temperature controllers)- which in turn combine indicators/recorders/displays, control circuits and alarms - with *field instruments* (the sensors etc that measure the parameters to be controlled and transmit the data); in some cases these items may be further combined into a *central control unit* which can control several processes, or different stages of a process; a distributed control system -*DCS*- allows them to be controlled independently of each other. Recently, *programmable logic controllers (PLCs)* have been developed; essentially computerised applications which can replace, often at lower cost, some or all of the above items. Sales may be either direct to end-users, who will buy units or components (for new systems or as replacements) or complete systems, or to other process control equipment suppliers; some of the latter 'integrate' bought-in components or units into a larger unit or system to the final customer's specification, others manufacture some of the equipment themselves, but source specific items from third parties where necessary.
6. According to industry studies submitted by the notifying party (from which much of their market share information is also derived), the two largest segments by value are those for field instruments (accounting for 45% of European sales) and control centres (23%); process control instruments (eg a complete temperature controller) account for about 5%, PLCs about 10%, and indicators, displays etc a further 5%. Most of the major European suppliers offer a broad range of products in all the main categories.
7. The notifying party considers that the relevant product market is that for all industrial process control systems and equipment. It suggests that although different controls and systems are not substitutable by end-users, they can be easily substituted by suppliers. It considers that the necessary technology, plant and equipment, and customers are similar for all types, so that, for example, a temperature controller can be readily adapted by the manufacturer to control fluid levels, humidity etc. However, it is not necessary to further delineate the relevant product markets because, in all alternative definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

¹ Deleted for publication: three EU Member States

B. Relevant geographic market(s)

8. The notifying party regards the the relevant geographic market as world-wide, or at least Europe-wide. The notifying party considers, in support of its view, that transport costs are low, and that the products of different manufacturers are in general readily compatible with each other from the viewpoint of installation and use; pointing out that there are now common Community standards for low voltage systems and electromagnetic capability, which further assist customers to source from any EU country. It suggests also that most suppliers manufacture in only one or two European locations, that imports into Europe (chiefly from USA and the Far East) are significant (accounting for 20% of European consumption of process control equipment in 1996) and that within the EU/EEA, prices vary relatively little between Member States. However it is not necessary to further delineate the relevant geographic markets because, in all alternative definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

C. Assessment

9. According to the notifying party, the parties' combined share in an EEA market for all process control equipment and systems would be approximately [...] (increment to Siebe [...] ³) by value in a total market worth about ECU 3,200m in 1997. On this basis, the merged entity would rank fourth, behind ABB of Switzerland, Eltag Bailey/Hartmann & Braun of USA/Italy⁴, Siemens (Germany), each with between 10 and 13%, and there would not be an 'affected market' in the terms of Form CO In a recent previous case involving another acquisition by Siebe in the industrial process control equipment sector⁵ the Commission received a number of indications in the course of its examination to suggest that the distinctions between the different categories were diminishing in relevance, and that a single product market was developing. Third party enquiries broadly confirmed this trend, albeit that for entry into the more sophisticated product areas, and into the supply of complete systems, the barriers were thought by some to be relatively higher than for the supply of the less complex products.
10. If it were appropriate to consider narrower product areas, for instance the categories described at III.A above, the parties would have a combined share in the EEA of [...] ⁶ in process control instruments (increment [...] ⁷) and [...] ⁸ (increment [...] ⁹) in indicators, recorders and displays. In all other categories the shares would be lower, and in no instance would the merged entity be the market leader. Since Eurotherm's main presence is in temperature controls (which account for the bulk of the parties' process controller sales) it could be appropriate to narrow the possible definitions even further, to, eg, temperature controllers; in such a market the parties' combined share would be 11% (increment 2%) -again, shares in other types of controller would be lower.

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⁴ the merger of these two enterprises was examined and approved by the Commission in 1996 - case IV/M 670

⁵ Siebe/APV - case IV/M 936, June 1997

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11. In the recent case previously cited⁹, the Commission received a number of indications in the course of its examination to suggest that the geographic market was at least EEA-wide. Third party comments from customers and competitors in the present case, whilst not unanimous, tended to confirm this view. Moreover, information available to the Commission suggests that a significant national presence by the manufacturer does not *prima facie*, constitute a prerequisite for effective sales within the EU in this sector (except, perhaps for products at the top end of the range in terms of sophistication and cost). Eurotherm, for example, uses third-party distributors in several EU countries; also, its sales material appears designed to allow the bulk of its range of products to be selected and ordered by the customer direct from the catalogue, with instruction manuals provided in several languages and further technical advice available by telephone from a 'help desk' if needed. For customers with more complicated requirements, no doubt it would be possible for representatives of the supplier to visit them where necessary, wherever they were located. The notifying party suggests that even on a national basis, the parties' combined shares, whether in process control equipment as a whole or in any of the main categories in which they overlap, would not exceed 15% by value, except for temperature controllers in the UK [...]¹¹ and Austria [...]¹² where in each case the increment is [...]¹³. Given that, in the light of the above, there do not appear to be significant barriers to entry, none of these shares seem likely to lead to the creation of a dominant position as a result of the merger.
12. 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.

V. CONCLUSION

13. 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,

⁹ Deleted for publication: <15%

¹⁰ Siebe/APV - case IV/M 936, June 1997

¹¹ Deleted for publication: <25%

¹² Deleted for publication: <25%

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