

***Case No IV/M.1224 -  
TPM / WOOD GROUP***

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 20/07/1998

*Also available in the CELEX database  
Document No 398M1224*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.07.1998

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Madam, dear Sirs,

**Subject: Case No IV/M.1224 – TPM / WOOD GROUP**

Notification of 17.06.1998 pursuant to Article 4 of Council Regulation N/ 4064/89

1. On 17/06/98 the Commission received a notification of a proposed concentration by which the US companies Turbo Power and Marine System (TPM), and Wood Group Turbine engine services (TES) constitute a new joint venture aimed at operating in the sector of industrial gas turbine repairing.

**I. THE PARTIES**

2. TPM is a US original equipment manufacturer of industrial gas turbines used primarily for electric power generation and marine applications. It is a wholly owned subsidiary of United Technologies Corporation, a global and diversified industrial equipment company.
3. TES is also based in the US where it owns and operates overhaul and repair facilities for industrial gas turbines including certain of those manufactured by TPM. It is a subsidiary of John Wood Group PLC, an international energy services company based in the UK.

**II. THE OPERATION**

4. The operation will take place by way of transfer of assets in a newly created company constituting a joint venture. In particular, TPM will transfer to the joint venture some

assets related to its gas generator and power turbine business, whereas TES will transfer all its overhaul and repair activities. While TPM and TES will hold in the joint venture a 51% and a 49% interest respectively, both parties will acquire joint control as most strategic decisions of the joint venture's Board (composed of five members, three to be appointed by TPM and two by TES) such as, *inter alia*, the business plan and the budget, are to be taken unanimously.

### **III. FULL FUNCTION NATURE OF THE JOINT VENTURE**

5. The joint venture is to be the parties' exclusive overhaul and repair service provider for a certain type of engine models and turbine engines manufactured by TPM, i.e. the parent companies will not compete with the joint venture in the provision of these services. Similarly, the joint venture's activities will be limited to repairing only some models manufactured by TPM. These elements do not put into question the full function nature of the joint venture for a number of reasons. Firstly, it should be noted that before the transaction the parent company TES, which will transfer to the joint venture all its repairing business, repaired exclusively machines manufactured by TPM. This explains the limited scope of activities of the joint venture and proves as well that a fully autonomous undertaking can operate on the market even working exclusively with one single manufacturer. Secondly, the services provided by the joint venture will relate essentially to TPM models no longer in production. Consequently, these services are to be supplied not to the parent companies, but to the third parties owners of TPM machines, who can normally select whomever repairer they like. From the above it follows too that the joint venture will have free access to the market and not via its parent companies. In the light of these considerations the joint venture in question can be characterised as being full function.

### **IV. COMMUNITY DIMENSION**

6. The undertakings concerned have a combined aggregate worldwide turnover in excess of ECU 5,000 million (TPM/UTC, ECU 18 000 million; TES/Wood Group, ECU 647 million). Each of them has a Community-wide turnover in excess of ECU 250 million (TPM/UTC, ECU 4 200 million; TES/Wood Group, ECU 335 million), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. Therefore, the notified operation has a Community dimension.

### **V. THE RELEVANT MARKET**

#### **The product market**

7. According to the parties, the transaction involves the industrial gas turbine overhaul and repair sector. In this respect, as the operation concerns "after market" services, the relevant product market is to be defined first by reference to the demand of the primary market to which repair and overhaul activities (i.e. after market) are related. From this point of view, the demand is constituted by "locked in" customers who have already purchased a TPM machine and have no choice other than procuring repair and overhaul from a TPM repairer. From the supply side point of view the relevant market can include any other repairer of industrial gas turbines in so far as *i)* such activities are based on similar technology and know-how, and *ii)* original TPM replacement parts are available on the market to any repairer or, non original

replacement parts are compatible with TPM machines. Depending on these elements, the product market will either be further narrowed to the repairing and overhaul activities relating to TPM machines, or extended to include all the repair and overhaul of industrial gas turbines in general.

8. In the case at stake, it appears that there is a degree of supply side substitutability in so far as *i)* overhaul and repairing services relating to industrial gas turbines are based on similar know-how and *ii)* TPM original replacement parts are available on the market to any independent repairer. This is confirmed by the fact that there are several companies repairing both TPM machines and models of other manufacturers, such as GTC and UNC, two companies owned by General Electric Company engaged in the overhaul and repair of TPM and GE models, EMC, which is engaged in the overhaul and repair of TPM, GE and Rolls-Royce engines, and others. In any event, the question of the product market definition can be left open since, even taking the narrowest option, notably limiting the market to the repairing services of the only TPM machines, the operation does not create a dominant position as a result of which competition would be significantly impeded on the common market.

### **The geographic market**

9. According to the parties, the geographic market should include North and South America as nearly the totality of industrial gas turbine models to be overhauled by the joint venture are located in these regions. On this assumption the parties submit that the transaction will have no impact on the EU market. There are some indications that the relevant geographic market may be wider in scope, notably US-EU-wide, if not worldwide. In this respect, it should be noted that the services at stake in this case are of a significant economic value and have a certain degree of interdependence with the primary product market, i.e. the sale of turbines. Moreover, such services can be provided all over the world without having to establish local repairing or overhaul facilities. Finally, it is worth noting that the new joint venture will have a European customer, namely [...]<sup>1</sup>. In any event, this question can be left open as the operation does not raise any special competitive concerns irrespective of the geographic market definition being chosen in this case.

## **VI. ASSESSMENT**

10. The joint venture's activities will focus mainly on the overhaul and repair of TPM manufactured machines which are no longer in production. Of the total number of TPM models eligible for repairing and overhaul by the joint venture, the parties foresee that the joint venture will perform around [...] <sup>2</sup> of these models overhauls and repairs, the rest being performed by other competitors such as GTC, with [...] <sup>3</sup> of TPM models overhaul and repair, UNC, with [...] <sup>4</sup>, and others. Taking the narrowest product market definition, the joint venture market share in the TPM models

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<sup>1</sup> Deleted: business secret

<sup>2</sup> Deleted: business secret (between 20 and 30%)

<sup>3</sup> Deleted: business secret (between 20 and 30%)

<sup>4</sup> Deleted: business secret (between 20 and 30%)

repairing and overhaul will be significant. Nevertheless, this segment will remain competitive due to the size and the number of independent companies active in such services. In addition, it is worth noting that the parent company TPM will not be in a position to condition the after-market in favour of its joint venture as TPM machines to be repaired are owned by third parties who are free to procure such services from any repairer. From the above it follows that the notified operation will have no restrictive impact on competition in the EEA and the proposed concentration will not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or in a substantial part of it.

## **VII. ANCILLARY RESTRAINTS**

11. The parties have agreed on a non-competition clause under which each of them, while owning shares in the joint venture or for 12 months thereafter, will not seek to compete with the joint venture business. This clause can be considered ancillary to the transaction only to the extent that the parties retain joint control of the joint venture. Conversely, the extension of the non competition clause also to a situation where one of the parties will hold a minority interest in the joint venture and for 12 months thereafter appears to go beyond what is necessary to allow the joint venture to carry on its business successfully and is not covered by the present decision.

## **VII. CONCLUSION**

12. 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,