

***Case No COMP/M.2294 -
ETEXGROUP /
GLYNWED PIPE
SYSTEMS***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 28/02/2001

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, **28.02.2001**

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Sir/Madam,

Subject: Case No COMP/M.2294 – Etex/Glynwed

Notification of 26.1.2001 pursuant to Article 4 of Council Regulation No 4064/89

1. The operation consists of the acquisition by the international, Belgium based, company Etex Group (“Etex”), of sole control over the pipe systems division of a UK company, Glynwed International Plc (“Glynwed”).
2. After examination of the notification, the Commission has concluded that the proposed 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 the functioning of the EEA Agreement.

I. THE PARTIES AND THE OPERATION

3. Etex Group is an international group which carries on business within the construction materials sector. It is primarily active in the following areas: roofing materials, plastics (mostly used for pipe systems for drainage, guttering, sewage and soil systems, sanitary uses and ventilation purposes), boards, floors and walls and other construction materials. Etex Group s.a., the group’s top company, is a private limited company registered in Belgium. It is majority owned by Fineter s.a., another private limited company registered in Belgium.
4. Glynwed is an international group with two divisions: Pipe Systems and Foodservice Products. Glynwed’s Pipe Systems division provides complete systems for the transmission and control of liquids and gases, in particular in the utilities and industrial

sectors. The parent company of the group, Glynwed International Plc is a public company incorporated in England and Wales whose shares are listed on the London Stock Exchange.

II. CONCENTRATION OF A COMMUNITY DIMENSION

5. The notified operation constitutes a concentration within the meaning of Article 3(1)b. of the Merger Regulation. The purpose of the operation is the acquisition of sole control of Glynwed's Pipe Systems division by Etex. Glynwed will retain its Consumer and Foodservice products division. The transaction will involve an initial reorganisation of Glynwed, i.e. the separation of its pipe systems operation, followed by the acquisition for cash by Etex of all the shares of three companies, Victaulic Ltd, Glynwed Overseas Holding Ltd and Glynwed Dublin Corporation, which together will comprise the newly constituted pipe systems business.
6. Etex and Glynwed have a combined aggregate world-wide turnover of more than €2500 million¹ (Etex, €2,675 million; and Glynwed Pipe Systems, €22,7 million). The combined aggregate turnover of Etex and Glynwed Pipe Systems is more than €100 million in at least three Member States (Germany, the UK and France), where the aggregate Community-wide turnover of each of the two companies is also more than €25 million. The aggregate Community-wide turnover of Etex and Glynwed Pipe Systems is more than €100 million for each (Etex, €1,688 million; and Glynwed €507 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-wide dimension according to Article 1(3) of the Merger Regulation, but it does not constitute a co-operation case under the EEA Agreement, pursuant to Article 57 of that Agreement.

III. COMPETITIVE ASSESSMENT

A. Relevant product markets

7. The economic sector concerned is the production and sale of pipe systems, comprising pipes and associated fittings, used to transmit fluids and gases. The notifying party submits that there is one single market for pipe systems. In a previous case², even though the precise market definition was left open, the Commission found that pipes and fittings would constitute separate product markets due to their different characteristics. The results of the market investigation carried out for the present case support this reasoning. Pipes and fittings are both sold and purchased separately and customers are able to combine products from different manufacturers. It seems therefore that pipes and fittings in general should be regarded as separate markets even though exceptions may exist, e.g.

¹ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

² Case IV/M.565 – Solvay/Wienerberger

in highly specialised technical applications. In the present case it is, however, not necessary to decide on this question.

8. The parties furthermore hold that pipes and fittings of plastic and of other materials belong to the same market. In a previous decision³ concerning only one specific application (sewage pipes) the Commission has found that there is substitutability between pipes of clay, concrete, ductile iron, plastic and other materials. In the present case overlaps occur only in the sector of plastics as only one of the parties has a very limited presence in metal products. If the proposed operation does not create or strengthen a dominant position in the narrower market comprising only plastic products, it cannot create such a position in an alternative market comprising also non-plastic materials, because in the latter case the combined market shares would be lower. It is therefore not necessary to decide on this question either.
9. On the possible segmentation of markets according to specific applications, the notifying party submits that such segmentation would not be meaningful as pipe systems may be used in different applications and as pipe manufacturers can also produce pipe systems for different applications. Nevertheless, independent market studies and the market investigation carried out by the Commission indicate that the competitive conditions vary between different groups of applications. Utility companies and municipalities tend to buy pipes and fittings directly with the producers whereas products for domestic applications tend to be bought at DIY stores or with builders' merchants. Equally it seems to be uneconomical to substitute pipes and fittings meant for "non-pressure", or "gravity" applications (such as drainage pipes) with those fit for "pressure" applications, such as domestic hot and cold water pipes, water/gas utility pipes or pipes for industrial applications. Substitution in the other direction would be technically impossible. Also, the regulatory environment is different for many applications, as there exist, for instance, special norms for pipes carrying potable water or special plumbing codes. In a previous decision the Commission has considered it to be generally recognised that the relevant product markets for plastic pipes are constituted on the basis of each specific application, citing water pressure, gas pressure, sewage, drainage, electroprotection and irrigation.⁴ In another decision concerning one specific application, the one for sewage pipes, the Commission has concluded that it constitutes a separate product market.⁵
10. The exact product market definition can, however, be left open in this case, because in all alternative market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of it.

³ Case IV/M.1644– Wienerberger/DSCB/Steinzeug

⁴ Case IV/M.565 – Solvay/Wienerberger, par.18.

⁵ Case IV/M.1644– Wienerberger/DSCB/Steinzeug

B. Relevant geographic markets

11. The parties submit that the relevant geographic market for pipe systems is the EEA because pipe systems produced in one Member State can be transported to and sold in another. Considerable competition would exist at both the international and European levels.
12. The geographic market definition proposed by the parties is not supported by the market investigation carried out by the Commission. Firstly, according to the market investigation, considerable differences still exist in the selling prices of plastic pipes and fittings between countries within the EEA. This is basically due to the fact that distribution tends to be organised on a national basis and also procurement largely takes place on a national level. In addition, the suppliers active European-wide are in most countries subject to substantial competition on a national level by smaller national players. Due to high transport costs and the necessity to react upon national or regional specificities the European suppliers themselves tend to have a wide network of production plants in a majority of member states from which they service these markets.
13. Secondly, important differences between national technical specification requirements still exist, even though the technical harmonisation especially within the framework of ISO and CEN is proceeding. National tastes and quality expectations also differ substantially, partly due to climatic reasons.
14. Several customers have, however, expressed the opinion that prices of plastic pipes and fittings are converging within the EEA. If this is true it may be due to factors such as the introduction of the Euro, the consolidation of customers such as building material wholesalers and utility companies, the effect of application of the Public Procurement Utilities Directive 93/38/EC and the progress so far achieved in technical standardisation. Some customers have not shared this view.
15. Generally, the results of the market investigation point towards markets, which are narrower than the EEA, probably even national. However, it is not necessary to further delineate the relevant geographic markets because, in all alternative geographic market definitions considered effective competition would not be significantly impeded in the EEA or any substantial part of that area.

C. Assessment

16. The parties estimate their market share on an EEA wide plastic pipe systems market at about 9% in value, which makes them the biggest supplier in Europe. They are, however, closely followed by several other companies active on a European-wide level. The biggest competitors are Uponor (estimated market share of above 8%), Wavin (estimated market share of above 7%) Geberit (estimated market share of close to 7%), Pipelife (estimated market share of above 5%) and at a greater distance, by Georg Fischer and Tessengerlo Group. Competitors share the parties' view on the market positions in the sector, although, probably due to difficulties in segmenting the product market in a universal manner, they estimate their own market shares and those of Etex and Glynwed as being somewhat higher.
17. Etex and Glynwed are primarily active in complementary segments of the market. Therefore even a cumulative subdivision of a European-wide plastics market into a)

pipes and fittings, b) pressure and non-pressure pipe systems, and c) into different applications (such as sanitary products, drainage, hot & cold water, water and gas utilities, irrigation & horticulture or industrial pressure applications) leads either to no or to very limited overlaps with combined market shares below 20%. Only in plastic pressure fittings will their market share be slightly above 20 % but again with a very limited overlap and no presence of Etex in Glynwed's strongest sector, pressure fittings for gas/water PE pipes. There is therefore no dominance under the assumption of EEA-wide markets.

18. On the national level, if segmented along the above indicated product lines, the new entity would achieve market shares above 30% in water and gas applications in the UK, in industrial pressure applications in the UK and in pressure fittings in Belgium and Germany. The resulting higher market shares are due to Glynwed's existing market position as Etex is either not active at all in these markets or has a market share of 1% or below. In the segment of pressure fittings for industrial applications in France, the new entity's combined market shares will be [25-35] %.
19. For the analysis of this case, it must also be taken into account that according to the results of the Commission market investigation, the market is relatively fragmented. Not all of the above mentioned competitors nor Etex/Glynwed are equally strong on all national markets. And, in spite of the ongoing consolidation, there are still a large number of national players with considerable market shares particularly in commodity products and with a potential to extend their operations. As one of the biggest competitors has estimated, there might be even more than 600 suppliers active in the markets concerned within the EEA and that several small family companies have recently entered the market. According to the Commission market investigation, barriers to entry within the industry concerned are not significantly high, at least in relation to commodity-type products, because brand awareness and investment hurdles seem to be low. The positions of customers and competitors also seem to be well in balance as regards bargaining power. Customers are quite easily able to shift to other suppliers and the consolidation of customers, especially in the case of utilities, is also increasing.
20. The proposed concentration would therefore not lead to the creation or strengthening of a dominant position in any of the national markets. Intermediate geographic market considerations do not have to be taken into account as they do not lead to any higher market shares than on EEA or national level.

IV. CONCLUSION

21. 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,
(Signed)
Mario MONTI
Member of the Commission