

***Case No COMP/M.2359 -
INTERNATIONAL
FUEL CELLS (UTC) /
SOPC (SHELL) / JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 29/05/2001

*Also available in the CELEX database
Document No 301M2359*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.05.2001
SG (2001) D /288791

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

SIMPLIFIED PROCEDURE

To the notifying parties

Dear Madams and/or Sirs,

Subject: Case No. COMP/M.2359 - International Fuel Cells (UTC) / SOPC (Shell) / JV
Notification of 26.04.2001 pursuant to Article 4 of Council Regulation (EEC) No. 4064/89¹
Publication in the Official Journal of the European Communities No. C136, 8.5.2001, p. 3

1. On 26.04.2001, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No. 4064/89 by which International Fuel Cells, LLC (“IFC”, USA), an undertaking controlled by United Technologies Corporation (“UTC”, USA), and Shell Oil Products Company (“SOPC”, USA), an operating company within the Royal Dutch / Shell group, acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of Hydrogen Source LLC (“the JV Company”), a newly created joint venture, by way of purchase of shares.
2. The business activities of the undertakings concerned are :
 - for IFC : production and development of fuel cells for commercial, transportation, residential and space applications.
 - for UTC: diversified industrial equipment company.
 - for SOPC : refining, marketing and sales of refined petroleum products.

¹ OJ L 395, 30.12.1989 p. 1; corrected version OJ L 257 of 21.9.1990, p. 13, as last amended by Regulation (EC) No 1310/97, OJ L 180, 9.7.1997, p. 1, corrigendum in OJ L 40, 13.2.1998, p. 17.

- for the JV Company : development and production of hydrogen generation systems to be used in fuel cells applications.
3. 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 of paragraph 4, subparagraph a, of the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EEC) No 4064/89².
 4. To the extent that restrictions specified by the parties are directly related and necessary to the implementation of the concentration, these restrictions are covered pursuant to Article 6(1)(b), second subparagraph, of Council Regulation (EEC) No. 4064/89.
 5. For the reasons set out in the Notice on a simplified procedure, 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,

² OJ C 217, 29.07.2000, p. 32.