

EN

*Case No IV/M.299 -  
SARA LEE / BP FOOD  
DIVISION*

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 08.02.1993

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Brussel, 8.2.1993

MERGER PROCEDURE  
ARTICLE 6(1) (b) DECISION

PUBLIC VERSION

Registered with advice of delivery

To the notifying party

Dear Sirs,

Subject: Case No. IV/M299 - Sara Lee/BP Food Division  
Notification of 6.1.93 pursuant to Article 4 of Council Regulation No. 4064/89

1. On 6 January 1993, Sara Lee Corporation notified an agreement concerning the acquisition of the Consumer Food companies forming part of the BP Nutrition division of the British Petroleum Company plc.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation No. 4064/89 and does not raise serious doubts as to its compatibility with the common market.

I. THE PARTIES

3. Sara Lee Corporation (Sara) is a large US multinational group active in four main areas: packaged meats and bakery products, coffee and groceries, textile products (hosiery, knitwear and underwear) and personal care products (toiletries, insecticides, cleaning products, etc.). It markets its products under major retailing brands such as Douwe Egberts, Pickwick, Playtex, Abanderado, Hanes, Zwitsal, etc.
4. The British Petroleum Company plc (BP) is a British oil producer and refiner with interests in the gas sector, chemicals, and nutrition.

## II. THE CONCENTRATION

5. Sara and BP have signed a Sale and Purchase Agreement by which Sara will acquire the entire issued share capital of BP's subsidiaries forming the Consumer Food Business Group (CFBG). CFBG is active in the processed meat sector and its main companies are Hendrix, Hesperia, Dacor, Nobre and IFS Ltd. Together, these companies and their subsidiaries form the consumer food group, a division of BP Nutrition. Their accounts are consolidated within BP Nutrition.
6. The acquisition will be funded out of Sara's own resources. It will be carried out through three subsidiaries of Sara, namely Sara Lee International Corporation, Sara Lee Charcuterie S.A. and Sara Lee UK Holdings Limited.
7. The operation consists therefore of an acquisition of sole control by Sara of part of a division of BP.

## III. COMMUNITY DIMENSION

8. The enterprises concerned have a combined aggregate worldwide turnover in excess of 5,000 million ECU. Both Sara and CFBG have a Community-wide turnover in excess of 250 million ECU, but do not achieve more than two-thirds of this turnover in one and the same Member State. Thus the operation has a Community dimension.

## IV. COMPATIBILITY WITH THE COMMON MARKET

### Relevant product and geographic markets

9. In view of the generally small market shares of CFBG under the narrowest possible market definition (individual product groups such as ham, frankfurter sausages, etc. at national level) and the absence of any significant overlap between Sara and CFBG in the Community, exact market definitions may be left open, since no dominant position is created or reinforced (see below).

### Assessment

10. Sara is not active in the processed meat sector in the Community with the exception of very low sales in the UK and Greece. CFBG has market shares below 1% in these countries. Sara is not involved in meat slaughtering, wholesaling or the distribution of meat products in the EC.
11. CFBG shares by volume in the different product groups only attain any significance in the Netherlands and Portugal.
12. In the Netherlands, CFBG carries out its activities through Stageman and Boers. Stageman produces a wide range of charcuterie products and sells them to supermarkets. Boers is primarily engaged in the slicing of delicatessen meat products. The three largest competitors of CFBG in the Netherlands are Compaxo, Meester and Unilever. Meester, a subsidiary of a large Dutch supermarket chain, accounts for roughly half of the Dutch sales of sliced pre-packaged meats.

13. In Portugal, CFBG owns Nobre, a producer of branded charcuterie products, frankfurter sausages and ready-made meals. Its main competitors are Izidoro, Sicassal, Fricarnes, Frami, Heinz and William Saurin.
14. There is clearly no significant horizontal overlap between Sara and CFBG. Even in the two Member States where CFBG's market shares are highest (assuming the narrowest possible market definitions), CFBG is subject to competition from financially strong enterprises, which should limit the possible conglomerate effects of the combination of Sara's financial resources with CFBG's activities in the common market.

#### V. ANCILLARY RESTRAINTS

15. The agreement between Sara and BP contains non-competition covenants which are intended to preserve the value of the CFBG business in the hands of its new owners. These covenants are valid for two years after completion of the agreement and provide that BP will not compete with Sara in products and geographic areas in which CFBG is active as at the date of completion. The activities of CFBG include bacon products and processed poultry products, products in which BP retains interests. BP's retained businesses are exempted from the non-competition covenants, except that BP undertakes for a period of two years not to extend the capacity of these retained interests in the geographic areas where CFBG is currently active, again for the purposes of preserving the value of CFBG in the hands of its new owners.
16. These agreements are directly related to the concentration and necessary for its implementation, and are covered by the present decision.

#### VI. CONCLUSION

17. Therefore, the concentration will not create or strengthen a dominant position as a result of which effective competition will be significantly impeded in the common market or in a substantial part of it.

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For the above reasons, the Commission has decided not to oppose the notified concentration and to declare it compatible with the common market. This decision is adopted in application of Article 6(1)(b) of Council Regulation 4064/89.

For the Commission

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