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***Case No IV/M.420 -
CGP / GEC ALSTHOM
/ KPR / KONE
CORPORATION***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 14.04.1994

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.4.1994

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties:

Dear Sirs,

Subject : Case No IV/M.420 - CGP/GEC ALSTHOM/KPR/KONE CORPORATION
Notification of 9.3.1994 pursuant to Article 4 of Council Regulation (EEC)
n° 4064/89

1. On March 9th 1994, Compagnie Générale de Productique (CGP), GEC ALSTHOM SA, Kone Ponts Roulants (KPR) and Kone Corporation notified jointly the creation of a new joint venture.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) n° 4064/89 and does not raise serious doubts as to its compatibility with the common market.

I. THE PARTIES

3. CGP is a wholly-owned French subsidiary of GEC Alsthom SA, also a French company. Whereas CGP is active in cranes, industrial equipment and services, GEC Alsthom SA is active in industrial equipment and services generally (electro-mechanical, transport and power sectors, marine equipment and environmental systems).
4. KPR is a wholly-owned French subsidiary of the Finnish company Kone Corporation. KPR is active in the cranes business, while Kone Corporation is active in the elevator and crane sectors, as well as in wood handling equipment for the pulp and paper industry.

II. THE OPERATION

5. The proposed concentration concerns the creation of a jointly controlled newly formed company to which CGP and KPR will contribute their activities and fixed and intangible assets in the field of cranes. GEC Alsthom SA and Kone Corporation will also contribute certain related services.
6. The joint venture, to be called CGP-KONE S.A. and to be based in France, will be involved in the design, research, development, manufacture, sale, installation, repair and maintenance of cranes.
7. GEC Alsthom SA is active in the cranes business only through CGP.

CGP will retain its non-crane business, namely in storage-related handling equipment, which currently represents two-thirds of its activity.

Kone Corporation is active on the French cranes market only through KPR. Kone Corporation will remain active in an upstream market through its French subsidiary Verlinde, which produces components for cranes and monorail applications.

8. The joint venture will be jointly controlled by CGP and KPR, who will each own 50% of the shares of the joint venture; the joint venture will be managed by a Board of Directors of six members, half of whom to be nominated by each of CGP and KPR. However, KPR will nominate the Chairman of the Board and the Managing Director.

[]¹.

9. The new entity is a lasting autonomous full-function joint venture, to which the necessary means have been provided by its parents.
10. In light of the above, the proposed operation is a concentration within the meaning of Article 3 of Council Regulation (EEC) n° 4064/89.
11. The joint venture agreement provides that CGP will subcontract some manufacturing work to the new entity in 1994, relating to CGP's activities in storage-related handling equipment. The joint venture will consequently produce certain components, such as conveyors and trolleys, for CGP; the joint venture's activity in this respect will be limited to the captive production provided for under the subcontracting arrangement, but the joint venture will not itself be active on the market for storage-related handling equipment.
12. A non-competition clause of five years duration is also included in the joint venture agreement [].

¹ In the published version of the decision, some information has been omitted pursuant to the provisions of Article 17(2) of Council Regulation (EEC) n° 4064/89. Consequently, all [brackets] replace information deleted as pertaining to business secrets.

III. COMMUNITY DIMENSION

13. The undertakings concerned are CGP and KPR. They have a combined aggregate world-wide turnover² in excess of 5.000 million Ecu. Each has an aggregate Community-wide turnover² in excess of 250 million Ecu. The parties did not achieve more than two-thirds of their aggregate Community-wide turnover² in one and the same Member State. The notified operation therefore has a Community dimension.

IV. THE RELEVANT MARKET

a. The relevant product market

14. The operation concerns standard cranes, special and engineering cranes, and related services. It appears that these constitute three distinct product markets.

Both standard cranes and special and engineering cranes are specific types of overhead cranes, i.e. electromechanical machines functioning on overhead or floor mounted runway rails which handle loads of over 100kg which cannot be handled manually. The basic parts of an overhead crane are on one hand the metallic structure which runs horizontally through motorized steel wheels on runway rails, and on the other hand the lifting unit, which is fitted with a specific gripping attachment and moves both horizontally and vertically.

15. Standard cranes on the one hand, and special and engineering cranes on the other hand, are in different product markets because of the following factors.

There are important differences between the average prices of each type of crane []. Secondly, the production of the two types of cranes is quite different, with different types of components (with a higher degree of customisation for special and engineering cranes), a different type of technology (more advanced and expensive for special and engineering cranes), as well as different studies for the conception of each type of crane (much longer and costlier studies for special and engineering cranes).

There is a very low degree of substitutability between standard cranes, and special and engineering cranes with respect to the intended use, as the choice of crane will depend on the load to be carried (generally <10t on standard cranes, with heavier or special loads only on special and engineering cranes) and the movements/tasks to be accomplished (some specific non repetitive applications can only be performed on special and engineering cranes).

The distinction between standard cranes and special and engineering cranes is widely used and accepted in the industry, by producers and the relevant trade federation. Finally, many producers are predominantly or only active in just one or the other crane market. The parties are such an example, with CGP more active in special and engineering cranes, and KPR in standard cranes.

16. Related services include the supply of spare parts, repair and maintenance, compliance with new regulations, modernization and improvement and cranes, and diagnostics.

² Pursuant to Article 5 (4) of Council Regulation (EEC) n° 4064/89, the aggregate turnover of an undertaking concerned also includes that of its parents and subsidiaries.

Related services generally do not require a high level of technical skills and must be provided rapidly at low cost. They are generally provided either by the relevant crane or component producer, or by easily-accessible local related services firms.

b. The geographical reference market

17. The geographical reference market affected by the operation is still essentially national, namely France.

Purchases of cranes or of related services are made from local or national producers located in France. The relative importance of transport costs (which vary according to the bulkiness of the crane) tends to discourage purchasing from outside France. As mentioned above regarding related services, these tend to be provided either by the relevant crane or component producer, or by easily-accessible local firms.

Some trends towards internationalisation have been noted concerning cranes, for example with the arrival on the French market of Spanish and Italian crane producers offering competitive prices due to favourable exchange rates, but these trends are as yet insufficient to conclude that the reference market is already wider than France.

V. ASSESSMENT OF COMPATIBILITY

18. The French markets for standard cranes, for special and engineering cranes, and for related services all appear to be highly fragmented. Over 50 producers are registered with the French "Syndicat de la Manutention", in charge of establishing official production statistics.
19. Based on both value and volume-based market share figures, the new entity CGP-KONE S.A. will have combined market shares of approximately [³] in standard cranes, of [³] in special and engineering cranes, and of approximately [⁴] in related services.
20. Amongst the competitors of the future entity, two firms active in both standard and special cranes (the Groupe Fayat and Demag Mannesmann) have market shares of [⁵].

Most of the other crane producers are active only in standard cranes or in special and engineering cranes. Seven of the larger crane producers (Eiffel, Standlev/Abus, REEL, SOMERAL, COMETE, DILEV and DEWET) have value-based market shares of [³] in their respective market.

Eighteen small to medium-sized crane producers, again active usually only in either standard cranes or in special and engineering cranes, have value-based market shares of [⁴]. The remaining 10% or so of the market is split among over 20 other small crane producers.

An even more marked fragmentation of market shares exists for related services than in standard cranes or special and engineering cranes.

³ < 10%
⁴ insignificant
⁵ other

21. In view of the fact that the parties' market shares on any of the affected markets will not reach 10%, and taking into account the fact that the parties will face strong competition from several larger producers of standard cranes, of special and engineering cranes, and from providers of related services, as well as from a multitude of small and medium-sized producers, the operation does not raise doubts as to its compatibility with the common market.

VI. ANCILLARY RESTRICTIONS

22. The parties have included a non-competition clause of five years duration in the joint venture agreement, whereby they will not compete with the new entity's activities in France. This provision appears to be reasonable and consistent with the provisions of the joint venture agreement, and as such is ancillary to the concentration.

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

For the Commission,