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*Case No IV/M.575 -
Volvo / VME*

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 11/04/1995

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.04.1995

MERGER PROCEDURE
ARTICLE 6(1)b DECISION

PUBLIC VERSION

To the notifying parties

Dear Sirs,

Subject : Case No IV/M.575 - VOLVO/VME
Notification of 17th March 1995 pursuant to Article 4 of Council Regulation
No 4064/89.

1. On 17th March 1995 VOLVO AB ("Volvo") notified an agreement for the acquisition of the whole of VME N.V. ("VME").
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. Volvo AB is a Swedish company mainly active in the car, bus and truck industry, and furthermore has operations in the marine and industrial engines and aerospace businesses. Volvo is also active in the food, beverage, tobacco, matches and lighter industries through its subsidiaries.
4. VME is a Dutch company active in the manufacture and distribution of earth-moving and construction equipment. It has a number of subsidiaries active in the same industry.

II. THE OPERATION

5. The proposed operation consists in the acquisition by Volvo of the whole of VME, by way of purchase of shares. Hitherto VME has been jointly controlled by Volvo and Clark Equipment Company, an American corporation active in the construction equipment business.
6. Under the proposed operation VME becomes a wholly-owned subsidiary of Volvo, consequently the operation results in a change from joint control to sole control. [...] ¹.

III. CONCENTRATION

7. The operation constitutes a concentration within the meaning of article 3(1) (b) of the merger regulation. It consists in the passage from joint control to sole control over VME, which subsequently ceases to be a joint venture.

IV. COMMUNITY DIMENSION

8. The combined worldwide turnover of the parties exceeds 5.000 million ECU. The aggregate Community wide turnover of each party exceeds 250 million ECU. They do not achieve more than two-thirds of their turnover in one and the same Member State. The operation has therefore a Community dimension.

V. THE RELEVANT MARKETS

A. Relevant Product Market

9. There are no product markets where both parties to the concentration are active (i.e. horizontal relationships), although there are two areas in which the parties have a vertical relationship.
 - The earthmoving equipment sector, which includes a number of products that have complementary functions in earthmoving operations, namely excavators, loaders, haulers, dozers, scrapers and graders.
 - The sector of industrial diesel engines for off-highway mobile applications. Earthmoving equipment is generally powered by medium power diesel engines. Certain manufacturers of earthmoving equipment produce their own engines while others purchase such engines from independent manufacturers.
10. In view of the nature of the proposed operation, it is not necessary to define these markets exactly (see below under "Assessment").

¹ Deleted business secret.

B. Geographical Reference Market

11. International firms may buy earthmoving equipment anywhere in the world for use anywhere in the world. However, there are certain price and market share differences which could indicate the existence of narrower markets.
12. Customers are able to buy diesel engines from outside their country and there are no barriers to entry nor substantial price differences for similar products between neighbouring areas. Nevertheless, to some extent there appear to be price variations and differences in producers' market shares between different Member States that could suggest a narrower market definition.
13. In any event, in view of the nature of the proposed operation, the precise market definition can be left open (see below under "Assessment").

VI. ASSESSMENT

14. As mentioned above, there are no product markets where both parties to the concentration are active (horizontal relationships). There are vertical relationships since Volvo is engaged in a business activity (production of diesel engines) which is upstream of VME's activities (manufacturing and distribution of earthmoving equipment).
15. VME buys engines for its earthmoving equipment from a number of suppliers [...]². On the other hand, Volvo supplies such engines to a large number of customers other than VME.
16. For earthmoving equipment, VME's position at EU level is relatively small, with shares estimated about [...]³ or below in the last three years. At national level it exceeds [...]⁴ only in three countries: Ireland ([...]⁴), Sweden ([...]⁴) and Norway ([...]⁴).
17. The main competitors in this area are large companies, some of whom (Caterpillar, JCB) are leading firms in every Member State, and several other smaller ones some of which are specific to a particular Member State.
18. For industrial diesel engines, Volvo's position at EU level is very small, with about [...]⁵ market share. At national level it is under [...]⁶ in every case except in Finland and The Netherlands, with [...]⁶ in both. The main competitors are large companies such as Cummins Engines, Perkins Engines, Mercedes Benz, K-H Deutz or Iveco, with estimated market shares which range from [...]⁷ at national

² Deleted business secret.

³ Less than 15%.

⁴ More than 20%.

⁵ Less than 5%.

⁶ Less than 30%.

⁷ Deleted business secret.

level⁸. Taking into account this market structure, no appreciable foreclosure effect can be expected.

VII. CONCLUSION

19. In view of the absence of horizontal relationships, of the relatively modest market shares of Volvo and VME, of the existence of strong competitors, of the unlikely creation of significant conglomerate effects by a change from joint to sole control, and the lack of exclusivity in the supply relationship between Volvo and VME, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the functioning of the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation No 4064/89.

For the Commission,

⁸ These figures refer to the "free market", that is, they exclude the "in-house" production of diesel engines by some companies for use in their own earth-moving equipment.