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⁽¹⁾ Text with EEA relevance

II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Non-opposition to a notified concentration**(Case M.8116 — Macquarie/SLFL GIO II/SGI Italia)****(Text with EEA relevance)**

(2016/C 281/01)

On 26 July 2016, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. The full text of the decision is available only in the English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32016M8116. EUR-Lex is the online access to European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration**(Case M.7972 — ITW/EF&C)****(Text with EEA relevance)**

(2016/C 281/02)

On 14 June 2016, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. The full text of the decision is available only in the English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32016M7972. EUR-Lex is the online access to European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration
(Case M.7883 — NPM Capital/Thijs Hendrix Beheer/Hendrix Genetics)
(Text with EEA relevance)
(2016/C 281/03)

On 15 July 2016, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. The full text of the decision is available only in English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32016M7883. EUR-Lex is the online access to the European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration
(Case M.8115 — Partners Group/Foncia Holding and its subsidiaries)
(Text with EEA relevance)
(2016/C 281/04)

On 28 July 2016, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. The full text of the decision is available only in the English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32016M8115. EUR-Lex is the online access to European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration**(Case M.8032 — RAM/Termica Milazzo)****(Text with EEA relevance)**

(2016/C 281/05)

On 26 July 2016, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. The full text of the decision is available only in the Italian language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32016M8032. EUR-Lex is the online access to European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Interest rate applied by the European Central Bank to its main refinancing operations ⁽¹⁾:**0,00 % on 1 August 2016****Euro exchange rates ⁽²⁾****2 August 2016**

(2016/C 281/06)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,1193	CAD	Canadian dollar	1,4608
JPY	Japanese yen	113,72	HKD	Hong Kong dollar	8,6863
DKK	Danish krone	7,4390	NZD	New Zealand dollar	1,5497
GBP	Pound sterling	0,84310	SGD	Singapore dollar	1,4986
SEK	Swedish krona	9,5537	KRW	South Korean won	1 239,02
CHF	Swiss franc	1,0810	ZAR	South African rand	15,6368
ISK	Iceland króna		CNY	Chinese yuan renminbi	7,4233
NOK	Norwegian krone	9,4363	HRK	Croatian kuna	7,4927
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	14 627,57
CZK	Czech koruna	27,032	MYR	Malaysian ringgit	4,5187
HUF	Hungarian forint	311,10	PHP	Philippine peso	52,626
PLN	Polish zloty	4,3241	RUB	Russian rouble	74,5098
RON	Romanian leu	4,4542	THB	Thai baht	38,907
TRY	Turkish lira	3,3512	BRL	Brazilian real	3,6549
AUD	Australian dollar	1,4717	MXN	Mexican peso	21,1050
			INR	Indian rupee	74,6730

⁽¹⁾ Rate applied to the most recent operation carried out before the indicated day. In the case of a variable rate tender, the interest rate is the marginal rate.

⁽²⁾ Source: reference exchange rate published by the ECB.

**Opinion of the Advisory Committee on mergers given at its meeting of 25 June 2015 regarding
a draft decision relating to Case M.7429 — Siemens/Dresser-Rand**

Rapporteur: Luxembourg

(2016/C 281/07)

1. The Advisory Committee agrees with the Commission that the notified operation constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.
 2. The Advisory Committee agrees with the Commission that the notified transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation.
 3. The Advisory Committee agrees with the Commission's definitions of the relevant product markets as stated in the draft decision.
 4. The Advisory Committee agrees with the Commission's definitions of the relevant geographic markets as stated in the draft decision.
 5. The Advisory Committee agrees with the Commission's assessment that the notified concentration will not give rise to non-coordinated horizontal effects that would significantly impede effective competition in the worldwide market for ADGT driven and light IGT driven turbo compressor trains used in oil and gas ('O&G') applications, and in particular in the segments (1) above 23 MW and (2) below 23 MW.
 6. The Advisory Committee agrees with the Commission's assessment that the notified concentration will not give rise to non-coordinated horizontal effects that would significantly impede effective competition in the worldwide market for ADGT driven and light IGT driven generator sets used in the oil and gas ('O&G') applications, and in particular in the segments (1) above 23 MW and (2) below 23 MW.
 7. The Advisory Committee agrees with the Commission's assessment that the notified concentration will not give rise to non-coordinated horizontal effects that would significantly impede effective competition in the worldwide/EEA market(s) for mechanical drive steam turbines, irrespective of the exact power range.
 8. The Advisory Committee agrees with the Commission's assessment that the notified concentration will not give rise to non-coordinated horizontal effects that would significantly impede effective competition in the worldwide/EEA market(s) for generator drive steam turbines packaged together with generators, irrespective of the exact power range.
 9. The Advisory Committee agrees with the Commission's assessment that the notified concentration will not give rise to non-horizontal effects that would significantly impede effective competition
 - in the worldwide market(s) for ADGT driven and light IGT driven turbo compressor trains used in the oil and gas ('O&G') applications,
 - in the worldwide/EEA market(s) for FCC trains, irrespective of the exact boundaries of the relevant market(s).
 10. The Advisory Committee agrees with the Commission that the notified transaction must therefore be declared compatible with the internal market and the functioning of the EEA Agreement in accordance with Articles 2(2) and 8(1) of the Merger Regulation and Article 57 of the EEA Agreement.
-

Final Report of the Hearing Officer ⁽¹⁾**Siemens/Dresser-Rand****(M.7429)**

(2016/C 281/08)

I. BACKGROUND

1. On 9 January 2015, the European Commission (the 'Commission') received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽²⁾ (the Merger Regulation) by which Siemens AG ('Siemens' or 'the Notifying Party') will acquire sole control over Dresser-Rand Group, Inc. ('DR'). The transaction entails the acquisition by Siemens of all the issued shares of DR (the 'Transaction') and is a concentration within the meaning of Article 3(1)(b) of the Merger Regulation. Siemens and DR are collectively referred to as the 'Parties'.

II. PROCEDURE**Article 6(1)(c) decision and access to key documents**

2. On 13 February 2015, the Commission adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation finding that the Transaction raised serious doubts as to its compatibility with the internal market and the EEA Agreement.
3. On 20 February 2015, and following a request of the Notifying Party, the Commission provided access to non-confidential versions of certain key documents collected during the first phase investigation. On 24 February 2015, and following a further request of the Notifying Party, the Commission provided access to additional documents and more extended access to those already received.
4. On 27 February 2015, the Notifying Party submitted its written comments to the Article 6(1)(c) decision.

Extension and suspension of the time limit

5. On 5 March 2015, the Notifying Party agreed with the Commission to extend the time limit to review the Transaction by ten working days pursuant to Article 10(3), second subparagraph, third sentence, of the Merger Regulation.
6. On 23 March 2015, the Commission adopted two decisions pursuant to Article 11(3) of the Merger Regulation whereby it required Siemens and DR to supply information that they had previously been requested by simple requests for information pursuant to Article 11(2) of the Merger Regulation. The time limit fixed by the simple requests for information expired on 18 March 2015. The Commission received the complete and correct information required by the decisions on 27 March 2015. Consequently, pursuant to Article 10(4) of the Merger Regulation and Article 9 of Commission Regulation (EC) No 802/2004 ⁽³⁾ (the Merger Implementing Regulation), the time limit to review the Transaction referred to in Article 10 of the Merger Regulation was suspended from 19 March 2015 until 27 March 2015 inclusive.

III. DRAFT DECISION

7. The draft decision provides for an unconditional clearance of the proposed Transaction. Pursuant to Article 16(1) of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the Parties have been afforded the opportunity of making known their views. I conclude that it does.
8. I have not received any procedural request or complaint from any party. Overall, I conclude that the effective exercise of the procedural rights of the Parties has been respected in this case.

Brussels, 25 June 2015.

Joos STRAGIER

⁽¹⁾ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29).

⁽²⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ L 24, 29.1.2004, p. 1).

⁽³⁾ Commission Regulation (EC) No 802/2004 of 21 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ L 133, 30.4.2004, p. 1).

Summary of Commission Decision
of 29 June 2015
declaring a concentration compatible with the internal market and the functioning of the EEA
Agreement

(Case M.7429 — Siemens/Dresser-Rand)

(notified under document C(2015) 4355)

(Only the English version is authentic)

(Text with EEA relevance)

(2016/C 281/09)

On 29 June 2015 the Commission adopted a Decision in a merger case under Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings⁽¹⁾ (hereinafter 'the Merger Regulation'), and in particular Article 8(1) of that Regulation. A non-confidential version of the full Decision can be found in English on the website of the Directorate-General for Competition, at the following address: http://ec.europa.eu/comm/competition/index_en.html

I. THE PARTIES

- (1) Siemens is a German stock corporation headquartered in Munich, Germany. Siemens offers a wide range of products and services to customers including energy management, power and gas, power generation services, process industries and drives, wind power and renewables.
- (2) DR is a US company headquartered in Houston, Texas. DR focuses on servicing customers in the oil and gas ('O&G') industry with products (mostly compressors gas turbines and steam turbines) designed for applications along the O&G value chain: upstream exploration and production, midstream transportation, LNG and storage and downstream processing, and distribution of O&G and related by-products.
- (3) Siemens will buy all the outstanding shares of DR and will acquire sole control over DR. It follows that the transaction is a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

II. THE OPERATION

- (4) On 9 January 2015 the Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Siemens AG ('Siemens' or 'the Notifying Party') will acquire sole control over Dresser Rand Group, Inc. ('DR'). The proposed transaction entails the acquisition by Siemens of all the issued shares of DR (the 'Transaction'). As a result, Siemens will acquire sole control over DR.

III. THE PROCEDURE

- (5) The Transaction was notified on 9 January 2015. On 13 February 2015 the Commission raised serious doubts as to the compatibility of the Transaction with the internal market and adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation. The Notifying Party submitted its written comments to the Article 6(1)(c) decision on 27 February 2015.
- (6) On 23 March 2015, the Commission adopted two decisions pursuant to Article 11(3) of Regulation (EC) No 139/2004 whereby it required Siemens and Dresser-Rand to supply information that they had previously been requested to provide by 18 March 2015. The Commission received the complete and correct information required by the decisions on 27 March 2015. Consequently, pursuant to Article 10(4) of Regulation (EC) No 139/2004 and Article 9 of Commission Regulation (EC) No 802/2004⁽²⁾ ('the Implementing Regulation (EC) No 802/2004'), the time limits referred to in Article 10 of Regulation (EC) No 139/2004 were suspended from 19 March 2015 until 27 March 2015 inclusive.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

⁽²⁾ Commission Regulation (EC) No 802/2004 of 21 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ L 133, 30.4.2004, p. 1).

IV. EXPLANATORY MEMORANDUM

A. THE RELEVANT PRODUCT MARKETS

- (7) The Parties activities give rise to the following horizontal overlaps:
- (a) the supply of ADGT driven and light IGT driven turbo compressor trains. Particularly the overlap would be for upstream offshore applications and midstream pipeline applications;
 - (b) the supply of ADGT driven and light IGT driven generator sets;
 - (c) the supply of mechanical drive small steam turbines; and
 - (d) the supply of steam turbines for generator drive applications.
- (8) The Parties activities will give rise to vertical overlaps for the following downstream markets for supply of (1) turbo compressor trains; and (2) fluid catalytic cracking (FCC) trains.
- I. Market for ADGT driven and light IGT driven turbo compressor trains with a power requirement above 23 MW**
- (i) *Introduction*
- (9) Customers in the oil and gas industry ('O&G') usually purchase a so-called turbo compressor train to perform the compression jobs required by the processes they run.
- (10) A compressor train comprises a compressor, which is the part actually performing the specific compression job, and a driver, which is the part providing power to the compressor. These two main parts are linked by auxiliary equipment such as gear boxes, piping and instrumentation and control devices. Compressor, driver and all auxiliary equipment are installed on a base frame.
- (11) There are different types of compressors. In previous cases, the Commission has distinguished between air and gas compressors. Gas compressors have been segmented into standard and process compressors and the latter between positive displacement compressors and dynamic/turbo compressors⁽¹⁾. However, the exact market definition was ultimately left open.
- (12) In theory compressors can be driven by any type of driver, which are gas turbines, electric motors and steam turbines. With reference to gas turbines, three different technologies can be identified: heavy-duty industrial gas turbines ('heavy-duty IGT'), which are the traditional gas turbines; aero-derivative gas turbines ('ADGT') which are gas turbines derived from engines mounted on commercial and passenger jets, and light industrial gas turbines ('light IGT'), which are a hybrid between the two others.
- (13) When an end-customer needs to purchase a turbo compressor train, a number of considerations come into play in order to determine the exact technical specifications of the solution to be purchased regarding the driver as well as the turbo compressor. The decisive element is the exact compression job to be performed, which will determine the choice of the compressor. This, in turn, will define the power input required to actually fulfil the task. However, other elements come into play, such as the geographic location of the project, the environmental conditions at site, the availability of fuel. All these elements will shape the technical specifications that the turbo compressor train will have to comply with. These elements, in fact, will define which compressor and which driver can be employed for any specific project.
- (ii) *Market definition*
- (14) Since the Parties' activities overlap with respect to ADGT driven turbo compressor trains in the O&G industry, the Commission analysed whether:
- (a) all types of turbo compressors can be used in all applications or not;
 - (b) there are turbo compressors regarded as substitutes to the ones employed in the application where there is an overlap;

⁽¹⁾ Case M.6222 GE Energy/Converteam (2011), Case M.2834 Alchemy/Compare (2002), Case M.1775 Ingersoll Rand/Dresser Rand/Ingersoll Dresser Pump (1999), Case M.479 Ingersoll Rand/MAN (1994).

- (c) other types of drivers are substitutes to ADGTs;
 - (d) applications for ADGT driven turbo compressor trains may constitute a distinct product market.
- (15) That analysis indicates that:
- (a) there is no demand-side and only very limited supply-side substitution regarding the compressor used in turbo compressor trains; and
 - (b) there is limited demand- and no supply-side substitution regarding the driver used for turbo compressor trains and power ranges as only light IGTs are substitutable with ADGTs for some applications.
- (16) Finally, with reference to specific O&G applications, that analysis, also comforted by the analysis of the bidding data collected from the Parties and third parties, indicated that there is no substitution regarding the turbo compressor trains used in different applications. The analysis of the turbo compressor trains bidding data, in fact, enables the Commission to identify homogenous sets of tenders encompassing the different O&G applications. The Parties' activities overlap in upstream offshore and midstream pipeline applications.
- (17) With reference to compressors, the Commission found that different types of turbo compressors exist. Of these only a limited subset can be employed in upstream offshore and midstream pipeline applications. First, turbo compressors can be divided in integrally geared turbo compressors and single shaft turbo compressors. The Commission takes the view that only the latter are suitable for those applications. Second, single shaft turbo compressors can be either horizontally split or vertically split (so called 'barrel type'). For technical reasons only the latter can be employed in the relevant applications. Within barrel type compressors, manufacturers offer different 'base designs', which are designed to serve in specific applications. There is no demand-side substitutability for base designs of compressors across applications. Also, supply-side substitution proved to be very limited.
- (18) On the driver side of the turbo compressor trains, the Commission found that ADGTs and light IGTs are substitutable whereas this is not the case for electric motors and heavy-duty IGTs. Also, the Commission found that ADGT employed in the production of electricity cannot be used as drivers to compressors. Finally, the Commission found that the competitive situation for the supply of ADGTs and light IGTs above and below 23 MW are different. Therefore, the Commission is of the opinion that the market can be segmented at this power level.
- (19) Finally, also on the basis of the observation of limited substitution between base designs of compressor, the Commission found that turbo compressor trains used in different applications can constitute separate product markets.
- (20) Therefore, the Commission concluded that ADGT and light IGT driven turbo compressor trains with a power requirement above 23 MW for upstream offshore and midstream pipeline applications could constitute a separate product market. However, the exact market definition can be left open as the Transaction would not lead to a significant impediment of effective competition in the internal market under any plausible product market definition.
- (21) The Notifying Party take the view that there is no such market as ADGT-driven compressor trains. In the view of the Notifying Party this merely lumps together a number individual bidding opportunities across distinct applications in which customers end up choosing a technical solution that favours an ADGT to drive the compressor over industrial gas turbines (IGTs) or other drivers. Also, the Notifying Party submits that ADGTs are sometimes preferred for high power requirements because they are often more efficient, smaller, and lighter than equivalent industrial gas turbines. However, industrial gas turbines are increasingly competing with ADGTs in that respect, as new industrial gas turbine models launched are lighter, more compact and more efficient. Thus the Notifying Party claims that the relevant product market is the market for turbo compressor trains.

II. Market for ADGT driven and light IGT driven generator sets

- (22) The Notifying Party considers ADGT driven generator sets do not constitute a distinct product market. The Notifying Party claims that ADGT for mechanical drive applications do not differ from ADGT for generator drive application and the same models could be used interchangeably for both applications.
- (23) The Commission takes the view generator sets constitute a distinct product market from compressor trains. The Commission also concluded that ADGT driven and light IGT driven generator sets are likely substitutable, but ADGT driven and light IGT driven generator sets constitute a distinct product market from heavy-duty IGT driven generator sets. Finally, the Commission concluded that it may be appropriate to distinguish between generator sets driven by ADGT or a light IGT above and below 23 MW.
- (24) However, the exact market definition can be left open as the Transaction does not lead to a significant impediment of effective competition under any conceivable market definition.

III. Differentiation between mechanical drive steam turbines and generator drive steam turbines

- (25) The Notifying Party claims that steam turbines could be segmented into mechanical drive ('MD') and generator drive ('GD') steam turbines, especially the ones at a higher output level.
- (26) In its previous decisions the Commission did not define a separate market for MD steam turbines.
- (27) The market investigation provided the following results:
- (a) First, MD steam turbines usually have to comply with additional technical requirements, such as API standards and other special requirements defined by the customers⁽¹⁾. By contrast, customers generally do not require GD steam turbines to comply with API standards.
 - (b) Second, customers of GD steam turbines have high requirements for efficiency whereas customers of MD steam turbines do not⁽²⁾.
 - (c) Third, customers generally buy GD steam turbines packaged with generators ('gen-sets'), therefore there is a demand for the whole package and not solely for GD steam turbines⁽³⁾.
 - (d) Fourth, MD steam turbines and GD steam turbines target different customer groups. MD steam turbines customers are active in various industries such as O&G, metals, pulp and paper, steel, etc. GD steam turbines customers are usually involved in power generation⁽⁴⁾.
- (28) As the Transaction will not significantly impede effective competition on the basis of any plausible market, the Commission left open the question of the exact product market for mechanical drive steam turbine markets concerned.

IV. Market for mechanical drive steam turbines

- (29) The Notifying Party claims that there is a separate market for MD steam turbines. As regards, power output, the Notifying Party submits that it is not meaningful to define separate markets according to the power output.
- (30) The Commission has considered whether the market for MD steam turbines could potentially be further segmented into different markets according to their power output and end applications.

⁽¹⁾ See ID 2295 Minutes of the call with a competitor and ID 161-Q1 Questionnaire to competitors, replies to question 37.

⁽²⁾ ID 161-Q1 Questionnaire to competitors, replies to question 37.

⁽³⁾ ID 265 Minutes of the call with a competitor, 8.12.2015.

⁽⁴⁾ ID 2295 Minutes of the call with a competitor 6.3.2015 and ID 177 Minutes of the call with a customer 10.12.2014.

- (31) With reference to a possible segmentation according to the power output, the market investigation was inconclusive as to the appropriate dividing point. Some competitors indicated that it is appropriate to distinguish MD steam turbines with a power output comprised between 0 MW to 10 MW, some other respondent pointed out that suppliers generally manufacture MD steam turbines with a power output up to 20 MW, and that therefore no segmentation below this threshold is appropriate.
- (32) Regarding a possible segmentation according to the end application, the respondents to the market investigation pointed to a possible distinction between on the one hand MD steam turbines that are used in the O&G industry (mainly petrochemicals and chemicals) and on the other hand MD steam turbines that are used in other industries, such as metals, pulp and paper, steel, food processing and others.
- (33) As the Transaction will not significantly impede effective competition on the basis of any plausible segmentation, the Commission considers that the question of the exact product market for mechanical drive steam turbines can be left open.

V. Market for steam turbines for generator drive applications

- (34) The Notifying Party argues that there is a separate market for GD steam turbines packaged together with generators. For the purpose of the competitive assessment of this Transaction, the Commission considered a separate market for GD steam turbines packaged together with generators as customers buy a final combined product.
- (35) As the Transaction will not significantly impede effective competition under any plausible market definition, the exact product market definition can, however, be left open.

VI. Market for fluid catalytic cracking (FCC) trains

- (36) Fluid catalytic cracking is a widely used refinery process to convert hydrocarbon fractions of petroleum crude oil to more refined gasoline, olefinic gases and other products. During the process an expander captures energy from the high-temperature flue gas (that is normally wasted). This energy is then applied to drive a generator or the main air compressor. This allows the refinery to reduce energy expense and to improve its overall energy index rating. The equipment performing this activity can either be arranged in one train (an FCC one-train-solution) or in two separate trains (an FCC-two-train solution).
- (37) An FCC one-train solution consists of an expander, an air compressor (the main blower), a steam turbine and a generator. All components are included into a single train.
- (38) An FCC two-train solution consists of two separate trains. In that case, one train consists of an air compressor driven by a steam turbine ('FCC compressor train'). The other train comprises an expander and a generator ('FCC expander train').
- (39) Customers of FCC trains are refineries. They generally purchase the FCC train as a whole rather than its components separately. The customers are also assisted by EPC companies.
- (40) The Notifying Party considers that the relevant product market is the market for FCC trains, including both FCC one-train and FCC two-train solutions⁽¹⁾. The Commission previously did not define a product market for FCC trains.
- (41) In the case at hand, the Commission considers that the question whether or not FCC one-train solutions and FCC two-train solutions are distinct product markets can be left open, as irrespective of the exact boundaries of the relevant product market(s), the Transaction will not significantly impede effective competition in relation to FCC trains. The Commission also considered the possible existence of markets that are upstream to (i) the market for FCC one-train; and (ii) the market for two-train solutions in order to assess any possible vertical effects.

(iii) Geographic market definition

- (42) The geographic market for all the above markets is at least EEA and probably worldwide.

⁽¹⁾ ID 2746 Notifying Party's reply to the Commission RFI of 7 May 2015, paragraph 8.

B. COMPETITIVE ASSESSMENT

I. **ADGT and light IGT driven turbo compressors trains with a power output above 23 MW for upstream offshore and midstream pipeline applications — horizontal assessment**(i) *Framework of analysis*

- (43) While the competitive conditions prior to the merger are generally a reliable proxy for the conditions that would have prevailed without the merger, in the case at hand, the competitive conditions existing at the time of the merger do not necessarily constitute the relevant comparison. This is because the data used to assess the Transaction stems from the time period prior to the completion of a preceding transaction — the Siemens/RR transaction⁽¹⁾, which occurred in December 2014 — by which Siemens acquired Rolls Royce's ('RR') ADGTs. This past data may therefore not fully reflect the future competitive position of the combined entity Siemens/RR absent the notified merger.
- (44) The integration of RR's ADGT business may have changed Siemens' market position and the constraints it exerts on its competitors to a certain extent. Also, Siemens intends to [...] the newly acquired RR product line. Absent the Transaction, the competitive constraints that DR and Siemens/RR would exert on each other will be anywhere between the current situation and the situation in which Siemens manages to [...] the RR products.
- (45) The Commission considers that ultimately it can be left open which of the two alternative scenarios of analysis is more likely as under both scenarios, the Transaction will not lead to a significant impediment of effective competition.
- (46) Furthermore, given that the vast majority of sales are made following a tender process and that turbo compressor trains are highly differentiated and engineered products, the assessment of potential non-coordinated effects of the Transaction needs to be carried out in a 'bidding market' framework with differentiated products. However, given the lack of transparency in most tender processes, the Commission's assessment did not only focus on tendered projects in which the Parties were winner and runner-up but considered all projects in which the Parties were competing.

(ii) *Assessment*

- (47) The Commission concluded that the Transaction will not eliminate a significant competitive force on the market. This is for the following reasons.
- (a) the combined market shares of the Parties are moderate, and in all market segments they will face competition from GE which has a comparable or higher market share;
 - (b) Siemens/RR and DR are not close competitors, as their portfolio of turbo compressors trains is focused on different applications. This is also confirmed by the fact that Siemens and DR competed against each other only in a limited number of projects. The number of projects where one of them won and the other one also submitted a firm bid is even more limited;
 - (c) the elimination of competition between the merging firms is unlikely to lead to a significant reduction of the competitive constraint they exert on GE;
 - (d) the integration of RR's ADGT business is unlikely to increase significantly the competitive constraint that Siemens would exert on DR absent the merger; and,
 - (e) the possible disappearance of the mixed GE-DR offer from the market will not reduce significantly the competitive constraints that the Parties exert on GE.
- (48) The Commission also found that the Transaction will not eliminate a significant competitive force from the market for turbo compressor trains driven by ADGT or light IGT with power output below 23 MW. This is because the combined market shares of the parties are moderate and the increment brought about by the Transaction is small under any possible framework of analysis.

II. **ADGT and light IGT driven turbo compressors trains — non-horizontal assessment**

- (49) The Commission analysed possible non-horizontal effects of the transaction. Under this framework of analysis, the hypothetical market for ADGTs and the market for turbo compressors would be upstream of the market for turbo compressor trains used for O&G applications. In fact, both ADGTs and compressors are essential inputs for the production of compressor trains, for which both elements are needed.

⁽¹⁾ Case M.7284 — Siemens/John Wood/Rolls-Royce Combined ADGT Business/RWG, 4.8.2014

- (50) As Siemens/RR and GE are the only suppliers of ADGTs to third parties, while there are a number of compressor manufacturers, Siemens/RR's ability and incentive to restrict access to its products can only relate to the ADGT but not to its compressors. Therefore, the Commission only assessed whether the merged entity would have the ability and the incentive to restrict access of third parties to its ADGTs, and the effects that such strategy would have on competition.
- (51) The Commission takes the view that, albeit having the ability to foreclose access to ADGTs, the merged entity will not have the incentive to do so. This is because it would not be profitable for Siemens/Rolls-Royce to withhold the supply of ADGTs because it would lose substantially more from refusing to sell ADGTs on a stand-alone basis than it might gain from selling additional compressors as part of all-Siemens compressor trains. Also, sales of ADGT generate a long-term stream of revenues deriving from the servicing thereof.
- (52) In any event, a hypothetical foreclosure strategy would have no significant impact on effective competition, as non-vertically integrated compressor manufacturers very rarely participate in tenders, and even less so manage to win.

III. ADGT driven and light IGT driven generator sets — horizontal assessment

- (53) Despite the significant combined market share of the Parties in the market for ADGT driven and light IGT driven generator sets above 23 MW for O&G applications, the Commission considered that the Transaction will not significantly impede effective competition as it will not eliminate a significant competitive force from the market.
- (54) This is for the following reasons:
- (a) the Parties are not close competitors, as they are focusing on different O&G application segments;
 - (b) DR is not a strong competitive force on the market, as it relies to a significant extent on GE with regard to its ADGT and on third party generator suppliers;
 - (c) as shown by an analysis of the bids of market participants, Siemens/RR and DR do not exert strong competitive constraints on each other;
 - (d) even if following the Transaction, DR generator sets equipped with a GE ADGT are no longer available, the Parties would still be able to exert (at least) the same competitive constraint on GE by offering generator sets equipped with RR ADGT; and,
 - (e) it is likely that the synergies between Mitsubishi Heavy Industries ('MHI') and PW Power Systems ('PWPS') will allow the latter to increase the competitive constraint it currently exerts on the Parties and GE.

IV. Market for mechanical drive steam turbines

- (55) The Commission concludes that the Transaction is unlikely to significantly impede effective competition in relation to MD steam turbines with a power range up to 45 MW or on the power range segment up to 5 MW.
- (56) On the market for MD steam turbines with a power output between 5 MW and 45 MW, the combined market share ⁽¹⁾ of the Parties does not exceed (0-5 %) both at the EEA and at the worldwide level. This is also what the market investigation indicated: in fact, the majority of customers stated that the Transaction will not have impact on competition in this market segment ⁽²⁾.
- (57) As regards MD steam turbines with a power range up to 5 MW, at the worldwide level the combined market share of the Parties is (20-30 %) with Siemens' increment being only (0-5 %). Other major players active are Elliott Ebara (USA), Shin Nippon (Japan), TGM Kanis/Turbinas (Brazil), NG Metallurgica (Brazil) and others ⁽³⁾.

⁽¹⁾ ID 113 Form CO, paragraph 527.

⁽²⁾ ID 195 Q2 — Questionnaire to customers, replies to question 80.16.

⁽³⁾ ID 113 Form CO, paragraph 530.

- (58) At the EEA level the combined market share of the Parties will be (40-50 %). Elliott will remain the number two MD steam turbines supplier and the largest competitor. Other smaller competitors would hold market shares of less than 5 %. Notwithstanding the strong position of the Parties and Elliott, there will be also number of smaller EEA-based competitors, such as MAN Diesel and Turbo (Germany), Fincantieri (Italy), M+M (Germany); as well as players from outside the EEA, namely TGM Kanis/Turbinas, NG Metallurgica and Shin Nippon.
- (59) Despite the Parties' combined market shares and the concentrated nature of the market, the Commission considers that the Transaction is unlikely to significantly impede effective competition in relation to up to 5 MW MD steam turbines as (1) Siemens and DR are not close competitors; and (2) barriers to entry and expansion are low.
- (60) In relation to closeness of competition, Siemens' business focus is on power generation. Dresser-Rand's focus, on the other hand, is MD steam turbines for O&G applications. This is confirmed by the Parties' sales information for the period 2009-2014. More than (80-90 %) of DR's sales within that market segment are for O&G applications, whereas Siemens' sales to the O&G industries represent only about (20-30 %) of Siemens' total sales of MD steam turbines below 5 MW.
- (61) In relation to entry barriers, the market investigation indicated that (1) a number of competitors which are already active in MD steam turbines below 5 MW could easily expand their production in reaction to an increased demand; and (2) companies currently active in the GD steam turbines market could easily start supplying MD steam turbines as long as they are able to comply with addition standards required by the industry, which they claim are in themselves not difficult to fulfil.

V. Market for steam turbines for generator drive applications

- (62) The Commission considers that the Transaction is unlikely to significantly impede effective competition for gen-sets below 45 MW, irrespective of whether the Commission considers an EEA market or a worldwide market. This is for the following reasons:
- (a) First, the combined market share of the Parties will not exceed (20-30 %) whether at the EEA level or at the worldwide level.
- (b) Second, the increment brought about by the Transaction is small whether at the worldwide level or at the EEA level. Whereas Siemens has a market share of (20-30 %), DR is a minor competitor on the gen-sets market, with only (0-5 %) market share. As such, DR cannot be considered a significant competitive constraint on this market.
- (c) Third, customers and competitors of gen-sets with a power output up to 45 MW indicated that Siemens is well known and is an established supplier of gen-sets. They did however not identify DR as a strong and established player in that market ⁽¹⁾.

VI. Market for FCC trains

- (63) For the reasons set out below, the Commission considers that the Transaction will not significantly impede effective competition in relation to FCC trains, irrespective of the exact boundaries of the relevant product market(s). In particular, the Commission carried out its competitive assessment of both horizontal and vertical effects under three plausible downstream markets: (1) FCC trains in a one-train solution; (2) FCC trains in a two-train solution: FCC expander trains and FCC compressor trains; and (3) FCC trains including both one-train solutions and two-train solutions; and came to the conclusion that the Transaction will not significantly impede effective competition in relation to any of these plausible markets.

1. FCC one-train solution

(i) No horizontal effects

- (64) Neither of the Parties is active on the market for FCC one-train solutions, therefore any horizontal effect can be excluded.
- (65) On this market, if regarded as worldwide in scope, MAN (with DR expander) has a market share of (60-70 %) and Elliott Ebara (30-40 %) ⁽²⁾. On the EEA level neither of the companies sold FCC one-train solutions.

⁽¹⁾ ID 177 Minutes of the call with a customer 10.12.2014; ID 2295 Minutes of the call with a competitor 6.3.2015.

⁽²⁾ Market shares are calculated for the period 2004-2015.

(ii) *No vertical effects*

- (66) FCC train suppliers either rely on expanders that they produced themselves or source expanders from third party manufacturers which then are packaged together with the other components. MAN, a compressor and steam turbine manufacturer, won [...] projects as a prime contractor for the FCC trains, sourcing the expanders from DR. Elliott, on the other hand, won one project relying on its own expander and compressor line. Therefore there is possibly an upstream market for the sales of expanders used in FCC trains.
- (67) On this upstream market for expanders DR has worldwide market share of (40-50 %), Elliott Ebara (30-40 %) and GE (20-30 %). At the EEA level only one train was sold by Elliott Ebara ⁽¹⁾.
- (68) FCC one-train solution segment, DR sold very few expanders as part of FCC trains offered by MAN ([...] projects) and Elliott only one as part of an FCC train offered by Elliott itself.
- (69) The Commission considers that the Transaction is unlikely to lead to any anti-competitive input foreclosure. In particular, in line with the non-horizontal merger guidelines ⁽²⁾, the Commission analysed and concluded that: (1) the combined entity would not have the ability to foreclose as suppliers relying on DR input could turn to GE or Elliott; (2) the question as to whether the combined entity would have an incentive to foreclose could be left open; and finally the Commission concluded that (3) even if the merged entity had the ability and incentive to substantially foreclose access to expanders, this would not have a significant detrimental effect on competition at the FCC one-train solution level. The reason is that currently only Elliott and MAN (with a DR expander) compete at that level. As a result, if the Parties were to stop supplying MAN with DR's expanders and instead exclusively combine them with Siemens' compressors, post transaction there would still be two active suppliers, the only difference being that the DR-MAN solution would be replaced by a DR-Siemens solution.

2. *FCC two-train solution*

- (70) FCC trains in two-train solutions consist of two separate trains: (1) FCC expander trains; and (2) FCC compressor trains. Customers usually organise separate tenders for each train. Therefore, the supplier of the expander train is not necessarily the supplier of the compressor train. As a matter of fact, DR supplied [...] expander trains as part of FCC trains in two-train solutions since 2004, whereas it has [...] compressor train as part of this type of FCC trains ⁽³⁾. The Commission conducted the competitive assessment for the FCC expander train and the FCC compressor train separately and came to the conclusion that the Transaction is unlikely to impede effective competition in any of these putative markets.

2.1. *FCC expander trains*

- (71) In the downstream market for the worldwide market of FCC expander train DR has a market share of (30-40 %); Elliott Ebara has a market share of (30-40 %); and GE (20-30 %). On the EEA level only Elliott Ebara has sold FCC expander trains. On this market, Siemens is not active and therefore any horizontal effect can be excluded.
- (72) In this market the expander manufacturer usually acts as prime contractor, generally sourcing the generator from a third party. In such a potential upstream putative market for generators Siemens' share of supply is below [10-20] % in the EEA and worldwide. DR manufactures only a niche product (NovaGen 400) and has minimal market shares both at the EEA and the worldwide levels. That niche product is not used in combination with FCC expanders.
- (73) With respect to input foreclosure, the Commission considers that the merged entity will have neither the ability nor the incentive to foreclose third party expander OEMs from having access to generators. This is because, Siemens has less than (10-20 %) market share in this putative market and DR's market share is minimal; and in any event DR's generators are not used in combination with FCC expanders. Therefore, the suppliers of FCC expander trains will post-merger still have access to generators from Siemens' competitors, many of which are not integrated ⁽⁴⁾.

⁽¹⁾ The market share calculation period is for the years 2004-2015

⁽²⁾ Guidelines on the assessment of the non-horizontal mergers under the Council Regulation on the control of concentrations between the undertakings (OJ C 265, 18.10.2008, p. 7).

⁽³⁾ ID 2745 Annex to the Notifying Party's reply to the Commissions RFI of 7 May 2015.

⁽⁴⁾ ID 2746 Notifying Party's reply to the Commissions RFI of 7 May 2015, paragraph 43-44.

(74) With respect to possible customer foreclosure, the Parties would not have the ability to foreclose access to a sufficient customer base to Siemens' competitors in the market for generators, as generators are used in many other applications, such as generator sets used in O&G applications. Therefore, even if the Parties were to only source generators internally from Siemens to combine them with DR's expanders into FCC expander trains, Siemens' competitors in the market for generators would still have access to a sufficient customer base in other applications.

2.2. FCC compressor trains

(75) Neither DR nor Siemens supply FCC compressor trains. On the upstream market for steam turbines, the combined market share of the Parties is (0-5 %) ⁽¹⁾. Therefore, the Commission considers that the Transaction does not raise any horizontal nor vertical concerns in relation to FCC compressor trains.

3. *FCC trains including both one-train solutions and two-train solutions*

(76) The Commission concluded in the two previous sections that the Transaction is unlikely to impede effective competition on both the putative market for FCC one-train solutions and the putative market for FCC two-train solutions. If both products were part of the same relevant market, this would only reinforce the Commission's conclusion. This is because in case of a hypothetical price increase in one of the two segments customers and/or suppliers could substitute one solution with the other.

V. CONCLUSION

(77) For the reasons mentioned above, the decision concludes that the proposed concentration will not significantly impede effective competition in the Internal Market or in a substantial part of it and therefore that the acquisition of Dresser Rand by Siemens is compatible with the internal market and the functioning of the EEA agreement.

⁽¹⁾ ID 2746 Notifying Party's reply to the Commissions RFI of 7 May 2015, paragraph 13.

New national side of euro coins intended for circulation

(2016/C 281/10)



National side of the new commemorative 2-euro coin intended for circulation and issued by Malta

Euro coins intended for circulation have legal tender status throughout the euro area. For the purpose of informing the public and all parties who handle the coins, the Commission publishes a description of the designs of all new coins ⁽¹⁾. In accordance with the Council conclusions of 10 February 2009 ⁽²⁾, euro-area Member States and countries that have concluded a monetary agreement with the European Union providing for the issuing of euro coins are allowed to issue commemorative euro coins intended for circulation, provided that certain conditions are met, particularly that only the 2-euro denomination is used. These coins have the same technical characteristics as other 2-euro coins, but their national face features a commemorative design that is highly symbolic in national or European terms.

Issuing country: Malta

Subject of commemoration: Ġgantija Temples

Description of the design: The coin depicts the Ġgantija Temples situated on the Island of Gozo. Ġgantija is a megalithic temple complex dating to the Neolithic ages. It is one of the world's oldest free-standing structures, as well as one of the oldest religious structures. Built approximately in the 36th century BC, Ġgantija pre-dates Stonehenge and the Egyptian Pyramids. At the top right the inscription 'ĠGANTIJA TEMPLES' and underneath the years '3800-3200 BC'. At the bottom left the name of the country of issuance 'MALTA' and underneath the year of issuance '2016', flanked by the mint master mark and the mint mark.

The coin's outer ring depicts the 12 stars of the European flag.

Number of coins to be issued: 350 000

Date of issue: July-August 2016

⁽¹⁾ See OJ C 373, 28.12.2001, p. 1 for the national faces of all the coins issued in 2002.

⁽²⁾ See the conclusions of the Economic and Financial Affairs Council of 10 February 2009 and the Commission recommendation of 19 December 2008 on common guidelines for the national sides and the issuance of euro coins intended for circulation (OJ L 9, 14.1.2009, p. 52).

V

*(Announcements)*PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

Notice of initiation of an anti-dumping proceeding concerning imports of purified terephthalic acid and its salts originating in the Republic of Korea

(2016/C 281/11)

The European Commission ('the Commission') has received a complaint pursuant to Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union⁽¹⁾ ('the basic Regulation'), alleging that imports of purified terephthalic acid and its salts originating in the Republic of Korea, are being dumped and are thereby causing material injury to the Union industry.

1. Complaint

The complaint was lodged on 20 June 2016 by BP Aromatics Limited NV, Artland PTA SA and Indorama Ventures Quimica S.L.U. ('the complainants'), representing more than 25 % of the total Union production of purified terephthalic acid and its salts.

2. Product under investigation

The product subject to this investigation is terephthalic acid of a purity by weight of 99,5 % or more and its salts ('the product under investigation').

3. Allegation of dumping

The product allegedly being dumped is the product under investigation, originating in the Republic of Korea ('the country concerned'), currently falling within CN code ex 2917 36 00 (TARIC code 2917 36 00 10). The CN and TARIC codes are given for information only.

In the absence of reliable data on domestic prices for the Republic of Korea, the allegation of dumping is based on a comparison of a constructed normal value (manufacturing costs, selling, general and administrative costs – SG&A – and profit) with the export price (at ex-works level) of the product under investigation when sold for export to the Union.

On this basis the dumping margins calculated are significant for the country concerned.

4. Allegation of injury and causation

The complainants have provided evidence that imports of the product under investigation from the country concerned have increased overall in absolute terms and in terms of market share.

The prima facie evidence provided by the complainant(s) shows that the volume and the prices of the imported product under investigation have had, among other consequences, a negative impact on the quantities sold, the level of prices charged and the market share held by the Union industry, resulting in substantial adverse effects on the overall performance and the financial situation of the Union industry.

5. Procedure

Having determined, after informing the Member States, that the complaint has been lodged by or on behalf of the Union industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

The investigation will determine whether the product under investigation originating in the country concerned is being dumped and whether the dumped imports have caused injury to the Union industry. If the conclusions are affirmative, the investigation will examine whether the imposition of measures would not be against the Union interest.

5.1. **Investigation period and period considered**

The investigation of dumping and injury will cover the period from 1 July 2015 to 30 June 2016 ('the investigation period'). The examination of trends relevant for the assessment of injury will cover the period from 1 January 2013 to the end of the investigation period ('the period considered').

5.2. **Procedure for the determination of dumping**

Exporting producers ⁽¹⁾ of the product under investigation from the country concerned are invited to participate in the Commission investigation.

5.2.1. *Investigating exporting producers*

5.2.1.1. Procedure for selecting exporting producers to be investigated in the Republic of Korea

(a) Sampling

In view of the potentially large number of exporting producers in the Republic of Korea involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties have to do so within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with information on their companies requested in Annex I to this Notice.

In order to obtain information it deems necessary for the selection of the sample of exporting producers, the Commission will also contact the authorities of the Republic of Korea and may contact any known associations of exporting producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the Republic of Korea and associations of exporting producers will be notified by the Commission, via the authorities of the Republic of Korea if appropriate, of the companies selected to be in the sample.

In order to obtain information it deems necessary for its investigation with regard to exporting producers, the Commission will send questionnaires to the exporting producers selected to be in the sample, to any known association of exporting producers, and to the authorities of the Republic of Korea.

All exporting producers selected to be in the sample will have to submit a completed questionnaire within 37 days from the date of notification of the sample selection, unless otherwise specified.

Without prejudice to the possible application of Article 18 of the basic Regulation, companies that have agreed to their possible inclusion in the sample but are not selected to be in the sample will be considered to be cooperating ('non-sampled cooperating exporting producers'). Without prejudice to section (b) below, the anti-dumping duty that may be applied to imports from non-sampled cooperating exporting producers will not exceed the weighted average margin of dumping established for the exporting producers in the sample ⁽²⁾.

⁽¹⁾ An exporting producer is any company in the country concerned which produces and exports the product under investigation to the Union market, either directly or via a third party, including any of its related companies involved in the production, domestic sales or exports of the product under investigation.

⁽²⁾ Pursuant to Article 9(6) of the basic Regulation, any zero and *de minimis* margins, and margins established in accordance with the circumstances described in Article 18 of the basic Regulation will be disregarded.

(b) Individual dumping margin for companies not included in the sample

Non-sampled cooperating exporting producers may request, pursuant to Article 17(3) of the basic Regulation, that the Commission establish their individual dumping margins ('individual dumping margin'). The exporting producers wishing to claim an individual dumping margin must request a questionnaire and return it duly completed within 37 days of the date of notification of the sample selection, unless otherwise specified. The Commission will examine whether they can be granted an individual duty in accordance with Article 9(5) of the basic Regulation.

However, exporting producers claiming an individual dumping margin should be aware that the Commission may nonetheless decide not to determine their individual dumping margin if, for instance, the number of exporting producers is so large that such determination would be unduly burdensome and would prevent the timely completion of the investigation.

5.2.2. *Investigating unrelated importers* ⁽¹⁾ ⁽²⁾

Unrelated importers of the product under investigation from the Republic of Korea to the Union are invited to participate in this investigation.

In view of the potentially large number of unrelated importers involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties must do so within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their companies requested in Annex II to this Notice.

In order to obtain information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under investigation in the Union which can reasonably be investigated within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified.

5.3. ***Procedure for the determination of injury and investigating Union producers***

A determination of injury is based on positive evidence and involves an objective examination of the volume of the dumped imports, their effect on prices on the Union market and the consequent impact of those imports on the Union industry. In order to establish whether the Union industry is injured, Union producers of the product under investigation are invited to participate in the Commission investigation.

⁽¹⁾ Only importers not related to exporting producers can be sampled. Importers that are related to exporting producers have to fill in Annex I to the questionnaire for these exporting producers. In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).

⁽²⁾ The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

In order to obtain information it deems necessary for its investigation with regard to Union producers the Commission will send questionnaires to known Union producers or representative Union producers and to any known association of Union producers, namely to: BP Aromatics Limited NV, Artland PTA SA, Indorama Ventures Quimica S.L.U., PKN Orlen SA, Ottana Polimeri s.r.l., and Indorama Ventures Europe B.V.

The aforementioned Union producers and the associations of Union producers must submit the completed questionnaire within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

Any Union producer and association of Union producers not listed above is invited to contact the Commission, preferably by email, immediately but no later than 15 days after the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, in order to make itself known and request a questionnaire.

5.4. **Procedure for the assessment of Union interest**

Should the existence of dumping and injury caused thereby be established, a decision will be reached, pursuant to Article 21 of the basic Regulation, as to whether the adoption of anti-dumping measures would not be against the Union interest. Union producers, importers and their representative associations, users and their representative associations, and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under investigation.

Parties that make themselves known within the above deadline may provide the Commission with information on the Union interest within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. In any case, information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

5.5. **Other written submissions**

Subject to the provisions of this Notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.

5.6. **Possibility to be heard by the Commission investigation services**

All interested parties may request to be heard by the Commission investigation services. Any request to be heard should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

5.7. **Instructions for making written submissions and sending completed questionnaires and correspondence**

Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' ⁽¹⁾.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

⁽¹⁾ A 'Limited' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

Interested parties are invited to make all submissions and requests by email including scanned powers of attorney and certification sheets, with the exception of voluminous replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail. By using email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Email addresses: TRADE-AD636-PTA-DUMPING@ec.europa.eu
TRADE-AD636-PTA-INJURY@ec.europa.eu

6. Non-cooperation

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

7. Hearing Officer

Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among other things, to dumping, injury, causal link and Union interest. Such a hearing would, as a rule, take place at the latest at the end of the fourth week following the disclosure of provisional findings.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>

8. Schedule of the investigation

The investigation will be concluded, pursuant to Article 6(9) of the basic Regulation within 15 months of the date of the publication of this Notice in the *Official Journal of the European Union*. In accordance with Article 7(1) of the basic Regulation, provisional measures may be imposed no later than nine months from the publication of this Notice in the *Official Journal of the European Union*.

9. Processing of personal data

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

ANNEX I

<input type="checkbox"/>	'Limited' version ⁽¹⁾
<input type="checkbox"/>	Version 'For inspection by interested parties' (tick the appropriate box)

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF PURIFIED TEREPHTHALIC ACID AND ITS SALTS
ORIGINATING IN THE REPUBLIC OF KOREA**

INFORMATION FOR THE SELECTION OF THE SAMPLE OF EXPORTING PRODUCERS IN THE REPUBLIC OF KOREA

This form is designed to assist exporting producers in the Republic of Korea in responding to the request for sampling information made in point 5.2.1.1(a) of the notice of initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

1. IDENTITY AND CONTACT DETAILS

Supply the following details about your company:

Company name	
Address	
Contact person	
Email address	
Telephone	
Fax	

2. TURNOVER AND SALES VOLUME

Indicate the turnover in the accounting currency of the company during the investigation period (export sales to the Union for each of the 28 Member States ⁽²⁾ separately and in total and domestic sales) of purified terephthalic acid and its salts as defined in the notice of initiation and the corresponding weight or volume. State the unit of weight or volume and the currency used.

	Specify the unit of measurement		Value in accounting currency Specify the currency used
Export sales to the Union, for each of the 28 Member States separately and in total, of the product under investigation, manufactured by your company	Total:		
	Name each Member State ⁽¹⁾ :		
Domestic sales of the product under investigation, manufactured by your company			

⁽¹⁾ Add additional rows where necessary.

⁽¹⁾ This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

⁽²⁾ The 28 Member States of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES ⁽¹⁾

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under investigation. Such activities could include but are not limited to purchasing the product under investigation or producing it under sub-contracting arrangements, or processing or trading the product under investigation.

Company name and location	Activities	Relationship

4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

5. INDIVIDUAL DUMPING MARGIN

The company declares that, in the event that it is not selected to be in the sample, it would like to receive a questionnaire and other claim forms in order to fill these in and thus claim an individual dumping margin in accordance with section 5.2.1.1(b) of the notice of initiation.

Yes

No

6. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating exporting producers are based on facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

⁽¹⁾ In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).

ANNEX II

<input type="checkbox"/>	'Limited' version ⁽¹⁾
<input type="checkbox"/>	Version 'For inspection by interested parties' (tick the appropriate box)

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF PURIFIED TEREPHTHALIC ACID AND ITS SALTS
ORIGINATING IN THE REPUBLIC OF KOREA**

INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNRELATED IMPORTERS

This form is designed to assist unrelated importers in responding to the request for sampling information made in point 5.2.3 of the notice of initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

1. IDENTITY AND CONTACT DETAILS

Supply the following details about your company:

Company name	
Address	
Contact person	
Email address	
Telephone	
Fax	

2. TURNOVER AND SALES VOLUME

Indicate the total turnover in euros (EUR) of the company, and the turnover and weight or volume for imports into the Union ⁽²⁾ and resales on the Union market after importation from the Republic of Korea, during the investigation period, of purified terephthalic acid and its salts as defined in the notice of initiation and the corresponding weight or volume. State the unit of weight or volume used.

	Specify the unit of measurement	Value in euros (EUR)
Total turnover of your company in euros (EUR)		
Imports of the product under investigation into the Union		
Resales on the Union market after importation from the Republic of Korea of the product under investigation		

⁽¹⁾ This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

⁽²⁾ The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Croatia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES ⁽¹⁾

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under investigation. Such activities could include but are not limited to purchasing the product under investigation or producing it under sub-contracting arrangements, or processing or trading the product under investigation.

Company name and location	Activities	Relationship

4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

5. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

⁽¹⁾ In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case M.8122 — SEGRO/PSPIB/SELP/Pusignan-DC1)

Candidate case for simplified procedure

(Text with EEA relevance)

(2016/C 281/12)

1. On 25 July 2016, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004⁽¹⁾ by which the undertaking SEGRO plc ('SEGRO', United Kingdom) and Public Sector Pension Investment Board ('PSPIB', Canada) will, indirectly through SEGRO European Logistics Partnership SARL ('SELP', Luxembourg), acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of one income producing logistics asset Pusignan DC1 (France), by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for SEGRO: ownership, asset management and development of modern warehousing, light industrial and data centre properties located around major conurbations and at key transportation hubs across a number of EU countries.
- for PSPIB: investment of the pension plans of the Canadian Federal Public Service, the Canadian Forces, the Royal Canadian Mounted Police and the Reserve Force. It manages a diversified global portfolio including stocks, bonds and other fixed-income securities as well as investments in private equity, real estate, infrastructure and natural resources.
- for Pusignan DC1: a logistics asset located in Lyon in France.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in this Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference M.8122 — SEGRO/PSPIB/SELP/Pusignan-DC1, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

⁽²⁾ OJ C 366, 14.12.2013, p. 5.

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