EN50065-1:2

Signalling on low-voltage electrical installations in the frequency range 3 kHz to 148,5 kHz

Part 1: General requirements, frequency bands and electromagnetic disturbance

(Plus Amendment A1 : 1992, CORIGENDA 1 : 1993)

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- Protection against Electromagnetic Effects
- Protection against Electromagnetic

[illegible]

[illegible]

[illegible]

Article 2

This decision is addressed to:

Tetra Laval BV Amstelrijk 166 1071 LH Amsterdam The Netherlands

Done at Brussels, 30 October 2001.

For the Commission

Mario Monti

Member of the Commission

(1) OJ L 395, 30.12.1989, p. 1; corrected version in OJ L 257, 21.9.1990, p. 13.

(2) OJ L 180, 9.7.1997, p. 1.

(3) OJ C 39, 13.2.2004.

(4) OJ C 39, 13.2.2004.

(5) Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission notice on the calculation of turnover (OJ C 66, 2.3.1998, p. 25). To the extent that figures include turnover for the period before 1 January 1999, they are calculated on the basis of average ecu exchange rates and translated into EUR on a one-for-one basis.

(6) Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.

(7) The polyester resin that is required to make preforms is sourced from large chemical companies such as DuPont, Dow Chemical, Eastman Chemical, ICI Chemicals & Polymers and Shell Chemical.

(8) Aseptic bottle filling is a process whereby pre-sterilised treated products are filled into bottles that are sterile on the inside and are then sealed with closures that have also been sterilised. The filling process takes place in a sterile chamber within the filling machine.

(9) In particular, gas permeability concerns are magnified with respect to beer, the taste of which is rapidly affected by the loss of CO2 and the intrusion of oxygen. Until very recently, these problems have thus prevented PET bottles from penetrating the beer market at all.

(10) [...]*.

(11) Case C-333/94 Tetrafok v Commission [1996] ECR I-5951 (Tetra Pak II (EC)), paragraph 11. Tetra Pak II (EC) was an appeal of the Judgment of the Court of First Instance in Case T-83/91 Tetra Pak v Commission [1994] ECR II 755 (Tetra Pak II (CFI)), as amended for annulment of Commission Decision 92/163/EEC in Case IV/31.043 (OJ L 72, 18.3.1992, p. 1) (Tetra Pak II (Commission)).

(12) See, inter alia, Commission decision of 6 June 1991 in Case IV/M.81 VIAG/Continental Can, paragraphs 10-14; Commission decision of 19 July 1991 in Case IV/M.68 Tetra Pak/Alfa-Laval, OJ L 290, 22.10.1991, p. 35 (Tetra Pak/Alfa Laval); Commission decision of 14 April 1993 in Case IV/M.322 Alcan/Inespal/Pechiney, paragraph 15; Commission decision of 14 December 1995 in Case IV/M.603 Crown Cork & Seal/Carnaud/Metalbox, OJ L 75, 23.3.1996, p. 38; Commission decision of 21 April 1998 in Case IV/M.1109 Owens-Illinois/BTR Packaging, paragraphs 8-22; Commission decision of 1 February 1999 in Case IV/M.1400 Rexam/PLM, paragraphs 8-19; Commission decision of 5 July 1999 in Case IV/M.1539 CVC/Danone/Gerresheimer, paragraphs 6-14; Commission decision of 23 September 1999 in Case IV/M.1656 Huhtamäki Oy/Packaging Industries Van Leer, paragraphs 7-20; Commission decision of 12 July 2000 in Case COMP/M.1813 Industri Kapital-Nordkem/Dyno, paragraphs 50-52; Commission decision of 30 May 2000 in Case COMP/M.1948 Techpak International/Valois, paragraphs 17-20; Commission decision of 11 June 2001 in Case COMP/M.2441 Amcor/Danisco/Ahlstrom, paragraphs 8-13.

(13) See Commission decisions, inter alia, in Cases IV/M.81 VIAG/Continental Can, IV/M.322 Alcan/Inespal/Palco, IV/M.1400 Rexam/PLM, IV/M.1539 CVC/Danone/Gerresheimer, IV/M.1656 Huhtamäki Oy/Packaging Industries Van Leer, COMP/M.1948 Techpak International/Valois, COMP/M.2441 Amcor/Danisco/Ahlstrom.

(14) See Commission decisions, inter alia, in Cases IV/M.81 VIAG/Continental Can, IV/M.68 Tetra Pak/Alfa-Laval, IV/M.603 Crown Cork & Seal/Carnaud/Metalbox, IV/M.1109 Owens-Illinois/BTR Packaging, IV/M.1400 Rexam/PLM, IV/M.1539 CVC/Danone/Gerresheimer, IV/M.1656 Huhtamäki Oy/Packaging Industries Van Leer, COMP/M.1813 Industri Kapital-Nordkem/Dyno, COMP/M.1948 Techpak International/Valois, COMP/M.2441 Amcor/Danisco/Ahlstrom.

(15) Memorandum to the Commission dated 30 August 2001.

(16) The Commission has followed the same approach in Tetra Pak/Alfa Laval (cited in footnote 11). This approach was also confirmed by the Court in the Tetra Pak II (EC) (cited in footnote 10). In these cases, the Commission and the Court found that carton packaging systems did not compete with packaging systems using other materials such as glass or plastic bottles. These decisions were based on an assessment of market conditions in the 1980s and early 1990s. In the current merger review, the Commission will of course consider how the market is functioning and the appropriate definition of the relevant market based upon the current and likely future situation.

(17) Commission notice on the definition of relevant market for purposes of Community competition law (OJ C 372, 9.12.1997, p. 3) paragraph 7.

(18) The notifying party seems to agree with this analysis (albeit concluding that the two materials do not compete) when it argues that "no beverage company will ever see the two types of packaging equipment as direct substitutes for an identified packaging need". Submission of the notifying party of 21 June 2001.

(19) End-use segmentation for the review of the aseptic and non-aseptic carton packaging equipment markets was used by the Court of First Instance in Tetra Pak II (CFI) (cited in footnote 10).

(20) See Warrick Research, "Aseptic Packaging Markets" (2000), p. 1.

(21) See Commission decision in Tetra Pak/Alfa Laval (cited in footnote 11).

(22) See Tetrafok II (EC2) and Tetra Pak II (CFI) (cited in footnote 10).

(23) The fastest growing PET segment has been water and CSDs mainly due to a switch from glass packaging. PET is popular with consumers and producers due to its transparency, malleability (many different shapes of bottle), "unbreakability", re-closeability, good recycling properties, ability to include brand logos on plastic etiquettes, etc.

(24) Figures provided for 1999. Source: Research company Canadean and the notifying party.

(25) The Commission excludes from its analysis of the common products the water segment for which carton is considered as a "losing" technology, even though it is used in some EEA countries, and wine for which both PET and carton have very little prospects of use in the future.

(26) Sidel 1999 annual report, page 20.

(27) Figures provided by the notifying party have been prepared by the notifying party's consultant Canadean, an expert in the field of the beverage and liquid-food packaging industry. The study prepared by Canadean was submitted to the Commission on 24 August 2001.

(28) Response of the notifying party dated 26 July 2001 (page 6) to the Article 11 questionnaire.

(29) American Dairy Science Association, "Effectiveness of Poly and HDPE in protection of milk flavor", M. van Aard, S. Duncan and J. Marcy, 2001.

(30) The study uses the term PETE instead of the more common PET for polyethelene tephthalate.

(31) Tetra has one filling machine under development, the LFA-20 ONL which will be capable of filling aseptically both HDPE and PET bottles.

(32) PET strategies 2000, "Aseptic packaging into plastic bottles" by Thomas Szemplenski. It is not clear whether the study refers to HDPE or PET bottles or both. The reference to hot-fill suggests that the study takes into account the filling of PET bottles; HDPE bottles are not filled with the hot-fill method.

(33) Lehman Brothers France, "Sidel", 24 February 2000.

(34) Warrick Research Report Packaging Markets (2000) "Aseptic Packaging Markets World & Western Europe".

(35) Ibid., page 25.

(36) Ibid., page 18.

(37) See www.elopak.com/innovation/pet/break.shtml.

(38) See www.elopak.com/newsroom.

(39) PCI (PET Packaging, Resin & Recycling) Limited, "The Potential For PET in the Packaging of Liquid Dairy Products", 2001, page 12.

(40) Ibid., page 12.

(41) Such a level was however predicted by some market participants.

(42) Parmalat introduced the PET bottle for milk in the Italian market in 1998.

(43) Canadean study submitted to the Commission on 24 August 2001.

(44) The market grew from around 10 % to just over 21 % during the period 1994 to 2000.

(45) Sidel response dated 4 September 2001.

(46) See www.elopak.com/innovation/pet/break.shtml.

(47) PCI (PET Packaging, Resin & Recycling) Limited, "The Potential For PET in the Packaging of Liquid Dairy Products", 2001, page 26.

(48) Canadean, "The Growth of PET Bottles for Selected Beverages in Western Europe", a special study for Tetra, submitted to the Commission on 24 August 2001.

(49) A univariate forecasting was used, applying a standard exponential smoothing technique. Several assumptions were made including that the price/filled cost relationships between different pack types will remain constant, current trends in pack substitution will either continue or that certain pack types will hit a given "ceiling" and that adequate production capacity exists in or near the counties concerned to produce the different pack in the volumes predicted.

(50) PCI study, page 8.

(51) PCI study, page 12, emphasis added.

(52) Non-white milk including flavoured milk, milky drinks, yoghurt drinks, etc.

(53) PCI study, page 33.

(54) PCI study, page 13.

(55) Warrick Research Report Packaging Markets, "Aseptic Packaging Markets World & Western Europe", 2000.

(56) Warrick Report, pp. 16, 25.

(57) Warrick Report, page 20.

(58) Warrick Report, page 21.

(59) Warrick Report, page 18.

(60) Warrick Report, page 11.

(61) Warrick Report, page 12.

(62) Warrick Report, page 16.

(63) Warrick Report, page 6.

(64) Warrick Report, page 32.

(65) Pictet Report, page 5.

(66) Pictet Report, page 5, emphasis added.

(67) Pictet Report, page 5.

(68) Pictet Report, page 11.

(69) Pictet Report, page 11.

(70) Pictet Report, page 15.

(71) Pictet Report, page 15.

(72) Dossier de Presentation Sidel, Communication Sidel, 2000.

(73) Presentation Sidel, Group Annual Meeting, May 2000.

(74) PET Planet Insider Volume 2 NO4+5/01 Francis Oliver, President of Sidel France "Innovation is my added value to the company".

(75) Notification, paragraph 68.

(76) This is accepted by Canadean in its study for Tetra submitted to the Commission on 24 August 2001. Canadean concludes: "Yes, PET (and HDPE) will eat into carton and glass share" in the FFD segment. Canadean concludes: "PET will threaten cartons" in the tea/coffee segment.

(77) Pictet Report, page 5. The analysis speaks about mass consumption markets in CSDs and water but also makes clear that future PET growth will be underpinned by the use of PET bottles with improved barrier qualities for oxygen-sensitive products.

(78) In particular, low-capacity SBM machines can use linear technology which convey through the SBM machine a line of PET preforms in sequential batched movements. Rotary technology involves a continuous cam-driven movement around a complex carousel-wheel mechanism enabling a rapid and fluid flow of bottle conversion.

(79) Reply, paragraph 45.

(80) Paragraph 43 of the Commission's notice on the definition of relevant market for the purposes of Community competition law (OJ C 372, 9.12.1997, p. 3).

(81) Paragraph 47, page 18 of the notification.

(82) The World of PET, Sidel publication, page 8, emphasis added.

(83) See paragraph 69, page 28, of the notification.

(84) In addition, in its agreement with Graham Machinery Group for the sale of EBM machines to produce HDPE bottles Tetra and Graham have been able to define in precise terms the permitted end-uses of the EBM machines. [...]*.

(85) Memorandum by the notifying party's economists to the Commission dated 30 August 2001.

(86) The overall goodness-of-fit of the model was poor because important variables like capacity were not used in the regression. The regression was indicating that margins follow a pure random walk which is clearly unrealistic. Given the omission of variables, the error term could be correlated with included explanatory variables, a potential cause of a lack of robustness.

(87) Capacity, time trend, dummy variables for oil, CSD, beer, water; firms based in Germany, France and United Kingdom.

(88) Reply, page 27.

(89) Oxygen scavengers as active chemical compounds used in PET bottles in conjunction with barrier materials. While barrier materials act as a passive defence to keep gas out of the bottle, oxygen scavengers actively consume oxygen that is already in the bottle.

(90) The parties have argued that non-PET materials such as PEN (polyethyene naphtalate) or Barex (a modified co-polymer) should be included in the monolayer category. These materials are much more expensive than PET and also in the case of Barex cannot be used on PET SBM machines. The Commission therefore concludes that they should be excluded from the relevant product market.

(91) Tetra has recently discontinued the use of Selica technology.

(92) Nonetheless, the parties' view that technologies for plastic material other than PET (i.e. the HDPE multilayer applications and the enhanced materials technologies such as the Barex and the Pen technologies) belong to the same market is questionable and the Commission has decided to exclude them from the relevant product market. Excluding such materials enhances the parties' market share but does not change the competitive assessment.

(93) See Tetra Pak/Alfa-Laval (cited in footnote 11).

(94) The Court of First Instance has held that the market for carton packaging machines covers the whole of the Community (see Tetra Pak II (CFI) (cited in footnote 11), paragraphs 86-99. The Commission's market investigation has confirmed that there have not been any significant changes in the market and that therefore the Court's assessment remains relevant.

(95) Annual Report of Tetra Laval Group (2000), pp. 6, 14 and 15.

(96) Tetra Pak II (Commission) (cited in footnote 10).

(97) Tetra Pak II (CFI) (cited in footnote 10).

(98) Tetra Pak II (ECJ) (cited in footnote 10).

(99) Tetra Pak/Alfa-Laval (cited in footnote 11).

(100) Tetra Pak/Alfa Laval (cited in footnote 11).

(101) Tetra Pak II (CFI) (cited in footnote 10), paragraph 118, confirmed by the Court of Justice in Tetra Pak II (ECJ) (cited in footnote 10), paragraphs 28 to 29.

(102) Reply, paragraph 41.

(103) See paragraph 120 of Tetra Pak II (CFI) and paragraph 29 of Tetra Pak II (ECJ) (both cited in footnote 10).

(104) See paragraph 31 of Tetra Pak II (ECJ) (cited in footnote 10).

(105) See paragraph 119 of Tetra Pak II (CFI) (cited in footnote 10).

(106) Annual Report of Sidel (1999), p. 19.

(107) Equity research of BNP Paribas on Sidel of 9 October 2000.

(108) Annual Report of Sidel (1999), p. 3.

(109) Annual Report of Sidel (1999), pp. 8, 27; "The World of PET", p. 32.

(110) Reply, paragraph 43.

(111) French original: "nous placent loin devant nos principaux concurrents", interview of 13 April 1999.

(112) In particular, Sidel's 8100 series, 8200 series and 8300 series. See "The World of PET", p. 21.

(113) According to Sidel's most recent estimates (August 2001), its market share in the low-capacity SBM machine market was higher: [40 to 50 %]* on the basis of sales in 2001. According to Tetra's estimates and the Commission's own analysis, Tetra's market share remains [at 20 to 30 %]* on the basis of sales in the year 2001.

(114) According to figures provided by the parties, Sidel machines are indeed consistently more expensive than Tetra's. However, the price differential is not so high as to justify in itself that the two machines be placed at opposite ends of the low-capacity market.

(115) Reply, paragraph 59.

(116) See JP Morgan, London, 20 February 2001, company update Sidel, page 12.

(117) Ibid, page 13.

(118) For example, in its response to an Article 11 request for information dated 17 August 2001, Sidel provided updated figures for the aseptic filling market on a worldwide basis. According to Sidel's calculations, [20 to 30]* machines were sold worldwide in 2001. Sidel sold [...]* of those machines, whilst Serac sold [...]* and Procomac [...]*. On the basis of these few sales in 2001, Procomac is clearly the market leader with [20 to 30 %]* market share with Sidel having [10 to 20 %]* and Tetra [0 to 10 %]* (Tetra did not sell any machines in the first two quarters of 2001).

(119) Internal Tetra document provided as Annex 3 to the notification, pursuant to paragraph 5.4 Form CO.

(120) Tetra Laval's Annual Accounts 2000, page 15.

(121) Extended-shelf-life (ESL) milk is fresh pasteurised milk which has a shelf life of approximately 90 days. This places it between UHT (aseptic) milk and short-life fresh milk.

(122) During the Commission's market investigation, a major dairy suggested that the parties were the only source in the EEA of EBM machines capable of producing aseptic HDPE bottles with handles which are particularly used for large size packs of milk. The Commission's investigation revealed that the Graham machines for which Tetra is the sole source of supply in the EEA [...]* and the new Sidel [...]* are indeed capable of producing aseptic HDPE bottles with handles. However, the investigation revealed that two other suppliers, Bekum and Techne, also supply machines capable of producing aseptic HDPE bottles with handles. The Commission decided to send the notifying party a supplementary statement of objections concerning, inter alia, EBM machines, on 24 September 2001. The statement supplemented the original statement by including a more accurate description of the parties' activities in the HDPE field. In the light of Tetra's reply dated 1 October 2001 and the Commission's analysis, the Commission concluded that the position of other players' alleged concerns about dominance in a potential market for machines producing aseptic HDPE bottles with handles.

(123) In the reply, Tetra maintains that its market share is closer to [0 to 10 %]* according to the Commission's method of calculation (open market) and closer to [0 to 10 %]* if in-house production is taken into account.

(124) Notification, paragraph 172.

(125) Closures are air/watertight seals for packaged products which offer the possibility of closing and re-closing the packaging and are manufactured separately from the packaging.

(126) Response to the Commission's market investigation submitted on 8 June 2001.

(127) Third-party response dated 8 June 2001.

(128) Market response dated 8 June 2001.

(129) For example, the notifying party produced evidence showing that converters do not have specific needs for the top-end high-capacity machines (e.g. above 40000 bottles per hour) which only Sidel could satisfy.

(130) Reply, page 34.

(131) Internal Tetra document submitted as Annex 3 to the notification.

(132) Submission of the notifying party dated 8 June 2001.

(133) Third-party response by a major company to the Commission's market investigation.

(134) The notifying party's contention as to prefirm production is correct. Neither Tetra nor Sidel supply machines that make preforms. These are supplied by independent companies such as the Canadian company Husky (the leading player). As a result, converters do not depend on Tetra/Sidel for their preform production. This is not part of the "channel conflict" created by the simultaneous presence of the merger entity in the machinery market and packaging market, i.e. as a supplier and competitor of converters.

(135) It is also worth noting that cardboard is a commodity product but enhanced-multilayer cardboard which contains aluminium foil as a barrier to oxygen is not. This is the type of carton that Tetra sells to its customers on an on going basis.

(136) Submission of the notifying party dated 21 June 2001 and other submissions including the notifying party's reply, in paragraphs 77 et seq.

(137) Reply, paragraph 5.

(138) Reply, paragraphs 77-81.

(139) Reply, paragraphs 38-39.

(140) Submission of the notifying party's economists dated 26 September 2001.

(141) It is noteworthy that Canadean in the study prepared for Tetra submitted to the Commission on 24 August 2001 maintains that in the market for LDPs "glass is the main loser, while cans continue their downward drift".

(142) Elopak does not manufacture PET equipment but, realising the necessity of offering both carton and PET to its clients, has entered into alliances with PET equipment manufacturers to address its customers' needs.

(143) Reply, paragraphs 95 to 99.

(144) Submission of the notifying party dated 18 July 2001.

(145) Internal Tetra document provided as Annex 3 to the notification.

(146) Canadean study submitted to the Commission on 24 August 2001 "The Growth of Pet Bottles for Selected Beverages in Western Europe", pp. 66-67.

(147) PET Planet Insider Vol. 2 NO4+5/01 Francis Oliver, President of Sidel France "Innovation is my added value to the company".

(148) Around [...]* customers representing around [...]* of Sidel's customers across all end-use product segments.

(149) Submission of the notifying party dated 21 June 2001.

(150) According to Canadean the following companies use (already in 2000) both PET and carton. In the juice segment: Del Monte; Pepsi; Joker; Eckes Granini; Coca Cola; Gerber; Ernig; Conserve Italia; Parmalat. In FFDs: Britvic; Schweppes; Garcia Carrion; Chaudfontaine; Glaxo (Ribena); Parmalat. In iced tea: Liptons; San Benedetto; Nestle/Coca-Cola; Migros. In LDPs: Campina; Parmalat; Granarolo; Cooperlat; Friesland; NOM; Bergland Milch.

(151) Third-party response to Commission questionnaire dated 8 June 2001.

(152) Internal Tetra document provided as Annex 3 to the notification.

(153) Submission of the notifying party dated 21 June 2001 and subsequent submissions.

(154) Complements in the economic sense of the term are products which are consumed together like coffee and milk or sinks and taps or produced together like petrol and diesel oil.

(155) Reply, paragraph 106.

(156) This has already been explained in the market definition section discussing SBM machines, Section IV.4.1.5.

(157) Memorandum by the notifying party's economists to the Commission dated 30 August 2001.

(158) As explained in "A Guide to Econometrics" (Peter Kennedy, Blackwells, 1992), a dummy variable is an artificial variable constructed such that it takes the value unity whenever the qualitative phenomenon it represents occurs, and zero otherwise. They are used just like any other explanatory variable.

(159) The overall goodness-of-fit of the model was poor because important variables like capacity were not used in the regression. The regression was indicating that margins follow a pure random walk which is clearly unrealistic. Given the omission of variables, the error term could be correlated with included explanatory variables, a potential cause of a lack of robustness.

(160) Capacity, time trend, dummy variables for oil, CSD, beer, water; firms based in Germany, France and United Kingdom.

(161) Table 8, column 5 of the notifying party's economic analysis dated 26 September 2001.

(162) As explained in "A Guide to Econometrics" (Peter Kennedy, Blackwells, 1992), multicollinearity is an approximate linear relationship amongst some of the regressors. The consequence is that the variances of the collinear variables are quite large. These arise because the estimation procedure is not given enough independent variation to calculate with confidence the effect it has on the dependent variable. As a result, the estimates are not precise and do not provide reliable results.

(163) Table 8 of the party's economic analysis dated 26 September 2001.

(164) See Commission decision in Tetra Pak/Alfa Laval (cited in footnote 11), where the Commission stated that "TetraPak holds a position of great market power. ... When faced with such a high degree of dominance, the Commission must be particularly careful, because in such circumstances even a very small increase in market power can have a disproportionately large negative effect on the competitive conditions on the market place." In the same case, which was cleared by the Commission, the Advisory Committee expressed its view that "concentrations involving market-dominating undertakings with very high market shares should be judged particularly critically as regards their potential effect of strengthening market domination".

(165) Tetra follows a similar approach in its PET preforms business.

(166) Reply, paragraphs 93-107 and submission of the notifying party dated 26 September 2001, pp. 14-17.

(167) Sidel explains in its annual accounts 1999 that, the traditional markets for CSD and water having matured, PET is now entering its second era which focuses on "sensitive" products.

(168) Equity research of BNP Paribas on Sidel 9 October 2000, page 3.

(169) Sidel Annual Accounts 1999, page 38.

(170) Pictet Report, page 31.

(171) Sidel Annual Accounts 1999, page 5.

(172) Pictet Report, page 5.

(173) Tetra's Annual Accounts 2000, page 17.

(174) Tetra's Annual Accounts 2000, page 17.

(175) Reply, paragraph 92.

(176) See Tetra Pak/Alfa-Laval (cited in footnote 11).

(177) CDC Bourse on Sidel 30 November 2000, page 1.

(178) "The Sidel Saga 1961-1998+", Sidel Communication, pp. 2 and 3.

(179) Internal Tetra document provided as Annex 3 to the notification.

(180) Warrick Report.

(181) Notification, page 65.

(182) Warrick Report.

(183) All calculations are based on figures provided by the notifying party which were supplied by Canadean. In each case, Tetra's share of the relevant market in carton is based on Tetra's share of the market for carton packaging equipment. Calculation of shares in the PET and HDPE sectors is more complicated because, unlike carton which includes a single process, the PET packaging process is fragmented in different segments (blowing-SBM machine; filling-PET filling machine). In the light of the above and given that, when looking at specific equipment, the transaction would be likely to cause concerns in the SBM sector primarily, PET market shares have been based on a conservative calculation of Sidel's share of SBM machine sales which, in terms of capacity, are in the region of 60 % for Sidel and [0 to 10 %]* for Tetra. Sidel's HDPE share is assumed to be [10 to 20 %]* and Tetra's [0 to 10 %]*.

(184) I.e. the current parties to the EEA Agreement.

(185) Annex 3 of the commitments provides a list of Sidel SBM machines, which fall within the scope of the licence. [...]*.

(186) New machines are defined in the commitments as machines "manufactured on the basis of a new machine design being more than an improvement of the current technology, by incorporating one or more technologies leading to a fundamental change in a component of, or any of the principal processes in, the machine that in turn leads to improved performance beyond normal adjustments to the present design".

(187) According to Sidel's most recent estimates (August 2001), its market share in the low-capacity SBM machine market was higher: [40 to 50 %]* on the basis of sales in 2001. According to Tetra's estimates and the Commission's own analysis, Tetra's market share remains [at 20 to 30 %]* (and could be [40 to 50 %]*) on the basis of sales in the year 2001.

(188) Commission Notice on remedies acceptable pursuant to Council Regulation (EEC) No 4064/89 and pursuant to Commission Regulation (EC) No 447/98 (OJ C 68, 2.3.2001, pp. 3-11), paragraph 6.

(189) Court of First Instance, Judgment of 25 March 1999, in Case T-102/96 Gencor v Commission [1999] ECR II-753, paragraph 316; Commission notice on remedies, paragraph 9.

ANNEX

The full original text of the conditions and obligations may be consulted on the following Commission website:

http://europa.eu.int/comm/competition/index_en.html.