UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of

CHICAGO BRIDGE & IRON COMPANY N.V. a foreign corporation,
CHICAGO BRIDGE & IRON COMPANY, a corporation, and
PITT-DES MOINES, INC., a corporation.

Docket No. 9300

COMPLAINT

The Federal Trade Commission ("FTC" or "Commission"), having reason to believe that respondents Chicago Bridge & Iron Company N.V., a foreign corporation, Chicago Bridge & Iron Company, a corporation, (collectively "CB&I"), and Pitt-Des Moines, Inc. ("PDM"), a corporation, all subject to the jurisdiction of the Commission, entered into an agreement, in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, pursuant to which CB&I acquired assets of PDM, in violation of Section 5 of the Federal Trade Commission Act, as amended, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18; and that a proceeding by the Commission in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

THE PARTIES

1. Respondent Chicago Bridge & Iron Company N.V. is a foreign corporation organized and existing under the laws of The Netherlands, with its principal place of business at Polarisavenue 31, 2132 JH Hoofddorp, The Netherlands.

2. Respondent Chicago Bridge & Iron Company, a wholly owned subsidiary of Chicago Bridge & Iron Company N.V., is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 1501 North Division Street, Plainfield Illinois 60544.

3. CB&I, headquartered in Amsterdam, is one of the world's leading global engineering and construction companies. CB&I designs, engineers, fabricates, and repairs field-erected storage facilities and steel plate structures. In 2000, CB&I had total revenue of $634 million.

4. Respondent Pitt-Des Moines, Inc. is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal place of business at 1450 Lake Robbins Drive, Suite 400, The Woodlands, Texas 77380.

5. Prior to the Acquisition, described in Paragraph 8, PDM was a diversified engineering and construction company specializing in the engineering and design, procurement, fabrication, erection and rehabilitation of steel products, including liquid and cryogenic storage and processing systems, water storage systems, bridges and buildings, principally in the Western Hemisphere. PDM was also engaged in the distribution of steel.

6. In 2000 PDM had total revenue of $667 million, of which $152 million was earned by the Engineered Construction Division.

JURISDICTION

7. Respondents CB&I and PDM are, and at all times relevant herein have been, engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and are corporations whose business is in or affects commerce as "commerce" is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

THE ACQUISITION

8. On or about February 7, 2001, CB&I acquired, pursuant to agreement with PDM, PDM's Water Division and Engineered Construction Division for approximately $84 million ("the Acquisition").

RELEVANT MARKETS

9. Relevant lines of commerce in which to assess the effects of the Acquisition are:

a. thermal vacuum chambers;

b. LNG tanks;

c. LNG peak shaving plants;

d. LNG import terminals;

e. LPG tanks; and

f. LIN/LOX/LAR tanks.

10. Field-erected structures are constructed on-site at a location specified by the customer and are generally larger than similar structures that are manufactured at a fabrication facility and then transported to the customer's site.

11. Thermal vacuum chambers are large, field-erected chambers that are used to simulate the environment of outer space (high vacuum and extreme variations in temperature) and are used for testing satellites and other aerospace and defense equipment.

12. LNG tanks are very large, field-erected tanks used to store liquefied natural gas ("LNG") at cryogenic (extremely low) temperatures of approximately -260 F.

13. LIN/LOX/LAR tanks are large, field-erected tanks used to store liquid nitrogen, liquid oxygen and liquid argon ("LIN/LOX/LAR"), at cryogenic temperatures ranging from approximately -300 F to -320 F, and field-erected spheres used to store liquid hydrogen and liquid helium at cryogenic temperatures as low as -450 F.

14. LPG tanks are field-erected tanks that are used to store liquefied petroleum gas ("LPG") at low temperatures of approximately -50 F.

15. LNG peak shaving plants are used to liquefy natural gas and store the natural gas in liquid form for use during periods of peak demand. LNG peak shaving plants are field-erected and consist of two essential components: LNG storage tanks, and LNG liquefaction units. In LNG peak shaving plants, natural gas from a pipeline is refrigerated in the liquefaction unit and stored in liquid form in an LNG tank. The stored LNG can be heated, vaporized and put back into the supply stream to meet demand peaks.

16. LNG import terminals are complexes that are used to receive LNG from ocean tankers and store the LNG. The stored LNG is typically converted to natural gas and then further transported or distributed by pipeline. LNG tanks are an essential component of LNG import terminals.

GEOGRAPHIC MARKET

17. The relevant geographic market in which to assess the effects of the Acquisition in each of the relevant lines of commerce is the United States as a whole.

18. Foreign producers of the relevant products are at a cost disadvantage in attempting to compete with CB&I and PDM in the supply of the relevant products in the United States. Foreign producers of the relevant products cannot economically compete with CB&I and PDM in the supply of the relevant products in the United States.

MARKET STRUCTURE

19. Each of the relevant lines of commerce is highly concentrated in the United States.

20. Prior to the Acquisition, CB&I and PDM were direct and actual competitors in the construction and sale of thermal vacuum chambers in the United States. Defendants competed with each other on price, service, and timeliness of project completion and competed through innovation to enhance the efficiency, performance and reliability of thermal vacuum chambers. CB&I and PDM were the only significant producers of thermal vacuum chambers in the United States.

21. The Acquisition combined the only significant producers of thermal vacuum chambers in the United States. The Acquisition may create a monopoly in the United States in thermal vacuum chambers.

22. Prior to the Acquisition, CB&I and PDM were direct and actual competitors in the design, engineering, construction and sale of LNG tanks and were the only significant producers of LNG tanks in the United States. Respondents competed with each other on price, service, and timeliness of project completion.

23. The Acquisition combined the only significant producers of LNG tanks in the United States. The Acquisition may create a monopoly in the United States in LNG tanks.

24. CB&I bids for and sells LNG peak shaving plants, consisting of both the LNG storage tank and the liquefaction unit. In bidding for the construction of new LNG peak shaving plants, CB&I has declined to bid for the sale of its LNG tanks separate from its LNG liquefaction units, thereby disadvantaging competitors which supply LNG liquefaction units only.

25. Prior to the Acquisition, PDM competed with CB&I in the design, engineering, construction and sale of LNG peak shaving plants by bidding for the construction of the LNG tank in partnership or coordination with a manufacturer of the LNG liquefaction unit. Typically, PDM partnered with Air Products and Chemicals, Inc., which would submit a bid for the LNG peak shaving plant based on an LNG tank to be constructed by PDM.

26. CB&I and PDM/Air Products have built all of the LNG peak shaving plants constructed in the United States since 1990. Prior to the Acquisition, CB&I management concluded that by refraining from bidding separately for construction of an LNG tank, CB&I would limit to only two competitive bidders, CB&I and PDM/Air Products, the competition for construction of an LNG peak shaving plant.

27. By eliminating PDM as a competing supplier of LNG tanks, the Acquisition eliminates CB&I's only significant competition for the construction of LNG peak shaving plants in the United States. The Acquisition may create a monopoly in the United States in LNG peak shaving plants.

28. Prior to the Acquisition, CB&I and PDM competed in the design, engineering, construction and sale of LNG import terminals, individually or by partnership or coordination with others. Prior to the Acquisition, CB&I and PDM were the principal competitors in LNG import terminals in the United States.

29. The vast majority of LNG import terminals in the United States have been built by CB&I or by PDM, either individually or by partnership or coordination with others.

30. The Acquisition combined the two largest producers of LNG import terminals in the United States. The Acquisition may create a monopoly in the United States in LNG import terminals.

31. Prior to the Acquisition, CB&I and PDM were direct and actual competitors in the construction and sale of LPG tanks in the United States. Defendants competed with each other on price, service, and timeliness of project completion. CB&I and PDM were the leading competitors among only few producers of LPG tanks in the United States. CB&I and PDM built most of the LPG tanks that were constructed in the United States since 1990.

32. The Acquisition combined the two largest producers of LPG tanks in the United States. The Acquisition may create a dominant firm in the United States in LPG tanks.

33. Prior to the Acquisition, CB&I and PDM were direct and actual competitors in the construction and sale of LIN/LOX/LAR tanks in the United States. Defendants competed with each other on price, service, and timeliness of project completion. PDM and CB&I were leading competitors among five producers of LIN/LOX/LAR tanks in the United States. The only other leading producer exited the market prior to the Acquisition. CB&I and PDM built most of the LIN/LOX/LAR tanks that were constructed in the United States since 1990.

34. The Acquisition combined the two largest producers of LIN/LOX/LAR tanks in the United States. The Acquisition may create a dominant firm in the United States in LIN/LOX/LAR tanks.

35. Entry into the relevant product markets would not be timely, likely, or sufficient in its magnitude, character, and scope to deter or counteract anticompetitive effects of the Acquisition.

36. Reputation is a barrier in each of the relevant markets. Customers are reluctant to engage the services of a new entrant for the construction of relevant products because of the possibility of economic loss inherent in product failure. LNG tanks, LPG tanks, and LIN/LOX/LAR tanks hold large quantities of flammable or otherwise dangerous liquid gases.

37. Satellite manufacturers depend on timely completion and reliable and economic operation of thermal vacuum chambers to facilitate timely and economic delivery of satellites to their aerospace customers. Missing a satellite delivery deadline can trigger costly liquidated damages clauses.

38. A new entrant would lack CB&I's and PDM's strong reputations for successful and timely completion of the relevant products. Consequently, customers would likely pay a premium for the services of the merged firm, and a new entrant would not effectively constrain noncompetitive price increases in the relevant markets.

39. A new entrant likely would operate at a higher cost than either CB&I or PDM. Through completing multiple projects in the relevant markets over the years, CB&I and PDM have developed customized construction equipment and procedures, which the companies consider proprietary. A new entrant would lack documented and standardized construction procedures and thus would likely have difficulty completing construction of the relevant products as economically as CB&I or PDM, or with the same assurance of quality.

ANTICOMPETITIVE EFFECTS OF THE ACQUISITION

40. The Acquisition may substantially lessen competition in the following ways, among others:

a. it eliminates actual, direct and substantial competition between CB&I and PDM;

b. it removes PDM, a low cost producer and bidder for the relevant products;

c. it increases the level of concentration in the relevant markets;

d. it eliminates innovation competition between CB&I and PDM and may lead to reduced innovation competition in thermal vacuum chambers and in other relevant products;

e. it may lead to increases in price for the relevant products;

f. it may increase barriers to entry into the relevant markets;

g. it may give CB&I market power in the relevant markets;

h. it may allow CB&I unilaterally to exercise market power in the relevant markets, through the combination of CB&I and PDM, which are the two closest competitors by virtue of their long record of timely and successful completion of these specialty projects;

i. it may eliminate one or more competitors of CB&I as suppliers of LNG peak shaving plants; and

j. it may diminish pricing and innovation competition in the sale of LNG liquefaction units for use in LNG peak shaving plants by foreclosing one or more competitors to CB&I from selling LNG liquefaction units.

VIOLATIONS CHARGED

COUNT I -- ILLEGAL ACQUISITION

41. The allegations contained in Paragraphs 1- 40 are repeated and realleged as though fully set forth here.

42. The effect of the Acquisition may be substantially to lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

COUNT II -- UNFAIR METHOD OF COMPETITION

43. The allegations contained in Paragraphs 1- 40 are repeated and realleged as though fully set forth here.

44. CB&I and PDM, through the Acquisition and the Acquisition agreement described in Paragraph 8, have engaged in unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

NOTICE

Proceedings on the charges asserted against you in this complaint will be held before an Administrative Law Judge (ALJ) of the Federal Trade Commission, under Part 3 of the Commission's Rules of Practice, 16 C.F.R. § 3.1, *et seq.* A copy of Part 3 of the Rules is enclosed with this complaint.

You may file an answer to this complaint. Any such answer must be filed within 20 days after service of the complaint on you. If you contest the complaint's allegations of fact, your answer must concisely state the facts constituting each ground of defense, and must specifically admit, deny, explain, or disclaim knowledge of each fact alleged in the complaint. You will be deemed to have admitted any allegations of the complaint that you do not so answer.

If you elect not to contest the allegations of fact set forth in the complaint, your answer shall state that you admit all of the material allegations to be true. Such an answer will constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the ALJ will file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. Such an answer may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice.

If you do not answer within the specified time, you waive your right to appear and contest the allegations of the complaint. The ALJ is then authorized, without further notice to you, to find that the facts are as alleged in the complaint and to enter an initial decision and an order.

The ALJ will schedule an initial prehearing scheduling conference to be held not later than 14 days after the last answer is filed by any party named as a respondent in the complaint. Unless otherwise directed by the ALJ, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, and Rule 3.31(b) obligates counsel for each party, within 5 days of service of respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

A hearing on the complaint will begin on January 25, 2002, at 10:00 A.M. in Room 532, or such other date as determined by the ALJ. At the hearing, you will have the right to contest the allegations of the complaint and to show cause why a cease and desist order should not be entered against you.

NOTICE OF CONTEMPLATED RELIEF

Should the Commission conclude from the record developed in any adjudicative proceedings in this matter that the acquisition challenged in this proceeding violates Section 7 of the Clayton Act, as amended, or Section 5 of the Federal Trade Commission Act, as amended, the Commission may order such relief against respondents as is supported by the record and is necessary and appropriate, including, but not limited to:

1. An order to cease and desist from any action to effect the acquisition or continued holding by CB&I of any assets or businesses of PDM.

2. Rescission of the acquisition.

3. Reestablishment by CB&I of two distinct and separate, viable and competing businesses, one of which shall be divested by CB&I, engaged in the design, engineering, construction and sale of the lines of commerce alleged in the complaint, including all improvements to existing products and new products developed by CB&I or PDM, and in such other businesses as necessary to ensure each of their viability and competitiveness in the lines of commerce alleged in the complaint and each possessed, including through divestiture, replacement and reconstitution by CB&I, of all assets, tangible and intangible, including but not limited to all intellectual property, knowhow, trademarks, trade names, research and development, customer contracts, and personnel, including but not limited to management, sales, design, engineering, estimation, fabrication and construction personnel, and such other arrangements as necessary or useful in restoring viable competition in the lines of commerce alleged in the complaint.

4. Such other or additional relief as is necessary to ensure the creation of one or more viable, competitive independent entities to compete against CB&I in the manufacture and sale of any relevant product.

5. A requirement that CB&I and PDM provide the Commission with notice in advance of acquiring the assets or securities of, or any other combination with, any person engaged in the manufacture or sale of any relevant product.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this complaint to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C. this twenty-fifth day of October, 2001.

By the Commission, Commissioner Anthony recused.

Donald S. Clark
Secretary

SEAL: