

I Told him that [redacted] is
a corporation engaged in commerce through its subsidiaries
[redacted] and it most report

[Large redacted block]

[Redacted block]

(JP)

[Large redacted block]

June 4, 1987

RECEIVED BY DISTRICT OF COLUMBIA BAR
EXCEEDED BY MAIL

JUN 5 11 07 AM '87

MEMBER OF DISTRICT OF COLUMBIA BAR
MEMBER OF NEW YORK AND S. C. BARS

Premier Notification Office
Bureau of Competition, Room 303
Federal Trade Commission
Washington, D.C. 20580

Attention: Joseph Price, Esq.

Dear Sirs:

We are hereby requesting an informal interpretation of the applicability of the Hart-Scott-Rodino Antitrust Act of 1976 (the "Act") and the rules promulgated thereunder (the "Rules") pursuant to § 803.30 of the Rules as regards the definition of the term "engaged in commerce" contained in Rule § 801.1(a)(2) when applied to determine whether a foreign governmental corporation constitutes an "entity" for purposes of the Act. The transaction and relevant facts are described below.

[redacted] intends to purchase certain assets (the "Assets") of [redacted] including, inter alia, the assets of [redacted] an [redacted] corporation controlled by [redacted] in turn, is an

June 4, 1987

[REDACTED] d by [REDACTED]
per la [REDACTED], an agent
of the [REDACTED]. A creature of statute,
Group has no outstanding capital stock and is funded,
when necessary, by grants from the [REDACTED] government.

Both [REDACTED] intend
to file Notification and Report Forms under the Act in
connection with the acquisition of the Assets by [REDACTED].
We believe that, by reason of Rule § 801.1(a)(2) our
client, [REDACTED], should be deemed to be its own ultimate
parent entity within the meaning of the Rules. Our
reasons for this conclusion are set forth below.

Section 801.1(a)(2) provides in pertinent part,
"the term 'entity' shall not include any foreign state,
foreign government, or agency thereof (other than a
corporation engaged in commerce), nor the United States,
any of the States thereof, or any political subdivision
or agency of either (other than a corporation engaged
in commerce)."

In prior conversations with the staff of the
Commission's Premerger Notification Office, it has been
agreed that, by reason of § 801.1(a)(2) of the Rules,
[REDACTED] is exempt from the reporting requirements of
the Act because it is a non-corporate governmental agency.
Thus [REDACTED] is not an "entity" within the meaning
of the Rules. Similarly we believe that [REDACTED]
is not an "entity" because it is also an agency of the
[REDACTED] and, while corporate in form, is not
"engaged in commerce" within the meaning of the Rules.

[REDACTED] is a holding corporation which
coordinates and controls the activities of companies
in [REDACTED] involved in mechanical related industries.
The operating companies held by [REDACTED] are the
following: (1) [REDACTED] (research, planning and manufactur-
ing of [REDACTED] and [REDACTED]
and [REDACTED] and [REDACTED]
and [REDACTED]; (2) [REDACTED] (research, planning
and manufacturing of [REDACTED]

[REDACTED] and other projects related to [REDACTED]; (3) [REDACTED]
[REDACTED]. (manufacturing of components for
the [REDACTED] and [REDACTED]; and
(4) [REDACTED] (manufacturers of
[REDACTED]. As described above, these companies

Premerger Notification
Office

- 3 - June 4, 1987

are established and coordinated so that each company deals in a wholly different industry from the other companies.

On a worldwide level, [redacted] does not manufacture products or sell any services in any market. Its only function is to assist the [redacted] companies within its holding structure, and in this spirit, [redacted] has in the past issued financial instruments in the [redacted] to raise capital.

In the United States, [redacted] provides only administrative advisory and support services for the [redacted] companies through its offices at [redacted]. The entire [redacted] staff is employed directly by [redacted] and consists of only four persons, including secretarial and administrative personnel. [redacted] has no United States subsidiaries.

Significantly, [redacted] does not provide services to any companies other than those within the [redacted]. Thus, it cannot be deemed "engaged in commerce" because its activities are on behalf of and conducted entirely within a single corporate family. While it may be argued that a single party can "affect commerce", Rule § 801.1(a)(2) is expressly limited to parties "engaged in commerce" and [redacted] cannot be said to be so engaged, as it does not sell or otherwise provide services or goods to any third parties.

In addition, it should be noted that [redacted] only office within the United States and only U.S. personnel are located only in [redacted]. No services are provided outside of [redacted]. Thus, [redacted] activities can be described as being entirely intrastate. Accordingly, for this additional reason, [redacted] should not be deemed "engaged in commerce".

For the reasons set forth above, we respectfully request that the Commission concur with our conclusion that, for purposes of the definition of term "entity" set forth in Section 801.1(a)(2), the phrase "corporation engaged in commerce" does not include [redacted]. Because [redacted] would like to file its Notification & Report Form with respect to the acquisition of the Assets in the very near future, we would appreciate your advice as respects this request by no later than June 10, 1987.

Premerger Notification
Office

- 4 -

June 4, 1987

If you need further information with respect
to our request, please call [REDACTED]
or [REDACTED] collect at [REDACTED]. Thank
you for your prompt attention to this matter.

Sincerely,

[REDACTED]

[REDACTED]

cc: [REDACTED]