

5 The views of Cook and the other main parties

THE VIEWS OF WILLIAM COOK PLC

Development of Cook

5.1. Cook stated that the acquisitions referred to the MMC should be regarded as a part of the growth strategy it had been following since the early 1980s. This had the objective of securing the survival of the United Kingdom steel castings industry in the face of strong international competition by establishing a foundry group large enough to compete effectively with overseas suppliers and by improving the quality of its management. In 1981/82 Cook had been one of a large number of relatively small specialised foundries and employed only 239 people. The decision was then taken to rebuild the company through organic growth and its single foundry was enlarged and re-equipped by acquiring second-hand plant. By 1986 there was little scope to expand the foundry further and Cook decided to continue growing and increase its range of products by means of acquisitions. The Weir Group foundries, Catton, Holbrook, O H Hi-Tec (now renamed Hi-Tec Integrity Castings) and the Jopling Foundry, were acquired in 1986 and a programme of rationalisation and investment, which included the closure of the Jopling Foundry, was carried out. The David Brown Foundry at Penistone was acquired in 1988 and merged with Hi-Tec. Cook stated that all these acquisitions took place at the invitation of the previous owner and led to several run-down foundries being revitalised. In 1989 the Robert Hyde Foundry, Neepsend Castings (Sheffield) Ltd, Blair and Blckett Hutton were acquired to extend Cook's product range further and to provide scope for transferring orders to other foundries following rationalisation. As part of this process Neepsend Castings was closed.

5.2. Cook considered that this programme of increasing its strength and size so as to respond effectively to international competition should continue. It would have to include both a programme of reinvestment to replace worn-out assets (often bought second-hand) and to improve facilities, and a major training effort to restore the numbers of skilled craftsmen and managers in the business to the necessary level. The three reference acquisitions then followed as a logical extension of this strategy of development through organic growth and acquisitions aimed at securing the future of the industry and reducing the level of imports. Cook told the MMC that its objectives would continue to be to improve the performance of its businesses and to build on these activities by investing when appropriate growth opportunities arose. Its strategy could include acquiring a tube-spinning business or other downstream activities such as machining or related engineering activities. Although Cook had no plans for the acquisition of any major foundry operations at the moment, it would consider acquiring foundries as 'infill' to its existing activities.

Reasons for the mergers

5.3. In Cook's view none of the three acquisitions fundamentally changed the scope of its business or conferred market dominance. They were made with the objectives of adding complementary, but similar, products to Cook's range together with the corresponding design capability, and of obtaining useful plant and machinery at economic prices.

5.4. The Paramount acquisition was made to provide a more regular flow of work to other high integrity foundries in the group and in particular to improve asset utilisation at Holbrook. It would also enable Cook to gain experience in the manufacture of castings for the petrochemical industry. The terms of sale required Cook to vacate the site by November 1990 and Cook therefore intended to transfer the purchased assets to its other foundries, in particular Lloyds (Burton), Blckett Hutton, Hi-Tec and Holbrook.

5.5. Cook considered that Lloyds (Burton) had suffered from under-investment but had useful capabilities which would increase Cook's range of products and services. These capabilities included the manufacture of castings for the rock-crushing industry, of certain cast parts for tank turrets, and of complex large castings which were in competition with fabrications. Much of the remaining activity at Lloyds (Burton) was similar to that carried out elsewhere in the group (for example, the manufacture of tank track) and this would eventually permit rationalisation with increased efficiency through the production of longer runs of each product.

5.6. Although Cook considered that Armadale would never be viable as a going concern, it had proceeded with the acquisition of the site and certain assets because it considered that a number of items of equipment would be of considerable value to its Hi-Tec foundry at Penistone. The 25-tonne capacity electric arc furnace could be relocated at Hi-Tec and would enable that foundry to increase its maximum size of casting from 15 tonnes to 25 tonnes. Other items of equipment which would be of value to Hi-Tec included a large shot blaster, many large moulding boxes, crack detection equipment, welding tackle and fume extraction plant.

Cook's view of the market

5.7. Cook considered that the United Kingdom foundries had generally been weak in their response to increasing overseas competition. This was largely caused by overcapacity, pricing at uneconomic levels, inefficient management and lack of investment. Faced with a contraction in its traditional United Kingdom customer base, and by castings being substituted by other processes and products, the United Kingdom industry had suffered many years of decline. As demand declined some firms continued in business but failed to invest, other firms went into liquidation and others changed hands. Cook felt that this process could lead to a continuing decline unless foundries were willing to rationalise, regenerate their capital base and improve their skills. As the return on capital was unsatisfactory and international competition was intense this was not a market in which a producer could obtain dominance.

5.8. Cook stated that there were hundreds of foundries in Western Europe able to supply United Kingdom customers. Imported castings were a real alternative as transport costs only represented 5 to 10 per cent of the selling price and the specifications were largely international. Customers could switch supplier quickly and at low cost since they owned the patterns and the drawings. Although the official statistics were unreliable, Cook estimated that imports amounted to about 30 per cent of the United Kingdom market. Cook identified in particular 20 foundries in Europe which provide strong competition in the United Kingdom market for all qualities of castings, and were in many cases already supplying Cook Group customers. Cook was certain that some of the less efficient overseas competitors were assisted by financial support from their governments and this applied, albeit to a lesser extent, to the leading companies. United Kingdom foundries were also vulnerable to imports of finished plant and machinery which incorporated cast steel components and displaced the products of United Kingdom manufacturers, reducing their requirements for castings.

5.9. Cook considered that many of the remaining United Kingdom foundries had increased their effectiveness and now competed vigorously in the market. Clyde Shaw, River Don and Weardale were strong producers of heavy high integrity castings and provided major competition for Cook's Hi-Tec foundry. Wilsons, Goodwin, Glencast, Dewramet and Darwins provided competition in small and medium high integrity castings, and Willan Metals, Wilsons and Dewramet were specialist valve makers. There was also a wide range of United Kingdom suppliers of commercial castings including Mechcast, ASI, Bonds Foundry and Firth Brown.

5.10. In Cook's experience substitution by iron castings, steel forgings and fabrications was also a serious source of competition, and it identified business which it had lost to these substitutes. Cook felt that user requirements were becoming more demanding and that users were able to use the threat of alternative suppliers or alternative products to eliminate any dependence on their present supplier. This gave the customers control over the product design, the source of supply and the price. Cook believed that there were no United Kingdom customers of any significance who could not readily switch to other suppliers.

5.11. Cook estimated that it had a market share of about 30 per cent of the United Kingdom steel castings market prior to the referred acquisitions, and that the acquisitions increased this market share to about 38 per cent. Cook acknowledged, however, that these figures were subject to considerable uncertainty given the lack of accurate import statistics.

Effects of the mergers on the supply of steel castings

5.12. Cook considered that none of the acquisitions would act against the public interest because any reduction in competition would be slight and the intense international competitive pressure would not allow a dominant position to be established. Most of the products produced by Paramount, Lloyds (Burton) and Armadale were complementary to Cook's product range rather than in competition with it. Users would still have extensive choice of suppliers and could often switch to substitute products if Cook failed to offer a satisfactory service. Cook considered that both Armadale and Paramount would be closed if the acquisitions did not proceed and could not therefore have continued to provide additional customer choice. Indeed, the closure of Armadale had been announced before Cook bought certain assets of that foundry. The acquisitions would improve Cook's range of capabilities and would enable more effective use to be made of its existing foundries to the benefit of customers.

5.13. It was Cook's view that further substantial capital investment was needed to modernise and improve the foundry industry as well as substantial investment in recruiting and training new people. Although customers might benefit in the short term from prices that were insufficient to remunerate new investment this would result in the industry having no long-term future. Cook's acquisitions would enable it to continue its programme of rationalisation, investment and training which would provide customers with secure long-term supplies. Cook did not expect that the acquisitions would have any particular effect on prices. Although Cook aimed to set prices at a level which would allow the necessary investment to take place, its pricing decisions were constrained particularly by the level of import competition.

5.14. Cook formally submitted that the acquisition of part of the assets of Armadale did not constitute a merger qualifying for investigation within the terms of section 64 of the Fair Trading Act (the Act). In support of this submission Cook questioned whether the assets acquired constituted an 'enterprise' within the meaning of section 63(2) of the Act since by virtue of decisions taken by the vendors activities were to be ceased at the Armadale site before the purchase was completed and no employees or contracts were transferred to Cook. Cook also argued that in any event the acquisition of the Armadale assets did not increase its market share.

5.15. Cook regarded the Armadale acquisition as a purchase of second-hand equipment. Since this type of plant could also be acquired on the open market, it was also available to competitors. In Cook's opinion the acquisition did not therefore affect competition at all. The manufacture of railway crossing blocks was already to be transferred from Armadale to ANI's Bathgate foundry and the remaining section of the Armadale business had no significant United Kingdom customers. Even if Cook succeeded in obtaining business from all these United Kingdom customers, it would represent a small fraction of the previous Armadale order book.

5.16. In contrast with the Armadale acquisition, Cook considered that the acquisition of Paramount and Lloyds (Burton) had involved the acquisition of active businesses. However, the customers previously supplied by Cook, Paramount and Lloyds (Burton) scarcely overlapped and there were important differences in the products these foundries made. Furthermore, Cook considered that there was considerable international competition in the areas of overlap and there would therefore be only a slight reduction in the degree of competition.

5.17. Cook intended that employment at Lloyds (Burton) would be maintained at approximately its current level to the extent that there continued to be sufficient demand for its goods and services. Since it believed that Paramount would have been closed if the acquisition had not been made, and the closure of Armadale had already been announced by the vendors prior to its acquisition, Cook considered that none of the acquisitions had any effect on the balanced distribution of industry and employment in the United Kingdom.

THE VIEWS OF LAKE & ELLIOT INDUSTRIES LTD

5.18. Lake & Elliot was acquired by Mr Martyn Meade from Suter plc in March 1987. In March 1988 Lake & Elliot acquired APV Paramount Ltd (APV) and proceeded to relocate APV's Paramount Sand foundry from Crawley to Braintree where it was merged with the existing Lake & Elliot Braintree foundry. Lake & Elliot hoped that the combined turnover of the two businesses would lead to a satisfactory level of profitability. This was not achieved, however, and the merged Lake & Elliot Paramount Foundry (Paramount) continued to lose money despite considerable capital investment. Since the management team had limited foundry experience, Lake & Elliot recruited a new Managing Director for Paramount to rectify the position. Immediately following this appointment, however, and despite assurances to the contrary which he gave to Lake & Elliot, he left for the Cook Group.

5.19. Lake & Elliot then reassessed the position and decided that, as there was unlikely to be a long-term future for a heavy engineering business with an ageing workforce in the Braintree area, Paramount should be sold. It was intended to concentrate on developing Lake & Elliot's profitable tube-spinning foundry at Billingham and certain related activities were transferred to Billingham from Paramount.

5.20. Cook had from an early stage expressed an interest in purchasing Paramount. Lake & Elliot considered that it was the only potential buyer and proceeded to negotiate the sale of the remaining activities of Paramount. If this sale had not taken place, Lake & Elliot considered that it would have had to close Paramount. In its view most of the diverse customers of Paramount would find reasonable alternative sources of supply in the United Kingdom or Europe. Lake & Elliot did, however, consider that there could be some concern over prices and that some of its relatively small customers would be reluctant to obtain supplies from other European countries because of language problems and the advantages of a local supplier in the United Kingdom. Lake & Elliot stated that Cook had a reputation for good management and for producing good quality castings.

THE VIEWS OF TRIPLEX LLOYD PLC

5.21. Triplex Lloyd stated that it had decided to sell Lloyds (Burton) because its steel castings business was no longer consistent with the corporate strategy of its Power and Defence Division, of which Lloyds (Burton) was a part. The division's remaining foundries were investment casting foundries based on technologies and markets totally different from the traditional steel foundry at Lloyds (Burton). By divesting Lloyds (Burton) the group's balance sheet would be strengthened giving it the flexibility to finance further growth in higher technology castings.

5.22. Triplex Lloyd considered that Lloyds (Burton) was vulnerable to a downturn in the market and faced a serious threat from imports and substitution by forgings and fabrications. Cook had appeared to be the only United Kingdom company likely to be interested in acquiring Lloyds (Burton) as there were now no other large companies left in this market following the closures that took place in the 1980s. Triplex Lloyd felt, however, that an overseas buyer might have been found but it had chosen to accept Cook's offer rather than to investigate this possibility.

5.23. Triplex Lloyd felt that the steel castings market would continue to decline in the face of strengthening substitution. In this situation foundries could only survive by a continuing process of merger and rationalisation. The growth of Cook should enable it to negotiate better terms for supplies of electricity and scrap but was unlikely to enable Cook to increase prices significantly given the availability of overseas suppliers. Triplex Lloyd regarded Mr Andrew Cook as a 'man with a mission' who was determined to make his companies more efficient and to reduce imports. If he succeeded in this, the customers would ultimately benefit from the greater efficiency.

THE VIEWS OF AUSTRALIAN NATIONAL INDUSTRIES

5.24. ANI acquired NBSG, including Armadale and the Bathgate foundry, as part of its acquisition of Aurora in December 1988. From August 1989 its activities were effectively controlled by Bradken Consolidated, the ANI division responsible for the group's Australian steel foundries. ANI told the MMC that it had decided to close Armadale following losses there which were felt to be irreversible. ANI considered that the plant and machinery was in a poor state of repair and was subject to breakdown and a high product rejection rate. It was considered that substantial sums needed to be invested if the business was to continue.

5.25. During the autumn and winter of 1989 Lake & Elliot offered to buy NBSG and ANI entered into negotiations in response. After Lake & Elliot withdrew from this deal on 29 January 1990, ANI had decided to close Armadale and to move some of its activities to the Bathgate foundry which was considered to be viable. This decision was announced on 2 February 1990 and ANI's account of the subsequent timetable of events is included in Appendix 3.4. At the same time ANI opened negotiations with Cook which had previously expressed an interest in buying NBSG. Although an attempt to arrange a management buy-out of Armadale (led by Mr J Meek the Works Manager) was made immediately following the closure announcement, this was abandoned on 15 February. The only other attempt to bid was made by Alan Harris and Associates (advised by Derek Douglas and Associates) in association with the Menzies family, who had formerly been proprietors of Armadale. In ANI's view the Harris/Menzies team had been unable to present an adequate offer supported by finance. On 5 March 1990 Mr Bonnette of ANI, who had authority to complete the sale of Armadale, arrived in the United Kingdom and ANI then signed an agreement with Cook on 9 March 1990 to sell land, buildings and certain plant, equipment and machinery at Armadale to Cook. Completion of the sale was to take place on or before 30 June 1990. ANI stated that the business carried on at Armadale was not sold as a going concern and was to be closed down before completion with the plant and equipment relating to railway trackline previously being moved to ANI's Bathgate foundry.

5.26. ANI believed that it conducted all negotiations relating to Armadale in a manner which was fair to all parties including Mr Harris and Mr Menzies. Once the Lake & Elliot negotiations failed, ANI considered that it had to take urgent action to stem the losses that were being suffered and to resolve the uncertainty which was leading to a loss of customers to its competitors. All the interested parties had been provided with information and the offer of access to NBSG's auditors and had been permitted to make site visits. No sudden unexpected deadlines had been imposed. Rather, ANI considered that Mr Harris had persistently failed to comply with the deadlines for making a firm offer which he had agreed with ANI. Cook's unconditional offer had been on the table for over a fortnight before Mr Harris failed to meet the final deadline for making a firm offer, 5 March.

5.27. ANI considered that the sale of the Armadale assets would have no effect on competition as Armadale would have been closed in any case. It also considered that there was strong competition in the steel castings market from foundries in many countries including Korea, Spain and South Africa. In ANI's view there was still some degree of overcapacity in the United Kingdom market.