

***Case No IV/M.1506 -  
SINGAPORE  
AIRLINES / ROLLS-  
ROYCE***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 10/05/1999

*Also available in the CELEX database  
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## COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10. 05. 1999

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

**Subject: Case No IV/M.1506 – SINGAPORE AIRLINES/ROLLS-ROYCE**

Notification of 07.04.1999 pursuant to Article 4 of Council Regulation No 4064/89

1. On 07.04.1999, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the undertakings SIA Engineering Company Private Limited (“SIAEC”) [a wholly owned subsidiary of SIA], Rolls-Royce plc (“Rolls-Royce”) and Hong Kong Aero Engine Services Limited (“HAESL”) [jointly controlled by Rolls-Royce and Hong Kong Aircraft Engineering Company Limited (“HAECO”)], acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of a newly created company constituting a joint venture.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

### **I. THE PARTIES' ACTIVITIES AND THE OPERATION**

3. Rolls-Royce is an UK company, active in civil and military aerospace (and especially aero engines), marine power, power generation equipment and materials handling. HAESL is a commercial aero engine joint venture owned by HAECO and Rolls-Royce, which operates out of Hong-Kong and services aero engines. SIAEC is a wholly owned subsidiary of SIA (the national airline of Singapore), which services aeroplanes and aircraft engines, both on its own and through Eagle Services Asia Private Limited (“ESA”), a joint venture with Pratt&Whitney.

4. Following the signature of a joint venture agreement, Rolls-Royce, SIAEC and HAESL will set up a joint venture, Singapore Aero Engine Services Private Limited (“SAESL”), which will operate out of Singapore and will perform overhaul and repair services primarily in countries in Asia/Pacific, Australasia and the Middle-East.

## **II. COMMUNITY DIMENSION**

5. Rolls-Royce, SIA and HAECO (together with HAESL) have a combined aggregate worldwide turnover in excess of EUR 5 billion (Rolls-Royce, EUR 6.6 billion; SIA, EUR 4.0 billion). Rolls-Royce and SIA have a Community-wide turnover in excess of EUR 250 million (Rolls-Royce EUR [...] and SIA [...]). Finally, the parties do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension. It does not constitute a cooperation case under the EEA Agreement.

## **III. CONCENTRATION**

### *Joint control*

6. The capital of SAESL is shared between SIAEC (50%), Rolls-Royce (30%) and HAESL (20%). According to the joint venture agreement, the Board of Directors of SAESL will consist of six members (comprising three directors nominated by SIAEC, two directors nominated by Rolls-Royce and one director nominated by HAESL), which will have to agree unanimously on major decisions, including *inter alia* the approval of the annual business plan and the appointment of the senior managers of SAESL. It is therefore concluded that the joint venture will be jointly controlled by the parties.

### *Full function joint venture operating on a lasting basis*

7. After an initial start up period (which is expected to last for approximately three years), SAESL will operate from a new repair and overhaul facility, and it will take over repair and overhaul activities currently carried out by SIAEC. Although SIA is expected to be the main customer of SAESL, activities for third party customers will amount to approximately [in excess of 40%] by volume of the joint venture’s business initially (and will reach about [in excess of 50%] by 2008). Finally, although SAESL will initially essentially service Rolls-Royce engines, it will be able to expand its business to meet any demand in the market.
8. In the light of the above, SAESL will perform on a lasting basis all the functions of an autonomous economic entity. Therefore, the proposed operation constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

## **IV. COMPETITIVE ASSESSMENT**

### **A. Relevant product market**

9. The notifying parties state that the relevant product market is the repair and overhaul of commercial aero engines. However, they consider that it may be possible to divide this market into two smaller segments, corresponding to the repair and overhaul of small aero engines (aero engines used in commercial passenger carrying aircraft of less than 100 seats) and to the repair and overhaul of large aero engines (aero engines used in commercial passenger carrying aircraft of 100 seats or more).

10. A further subdivision could even be made, where the repair and overhaul of each family of engines would constitute a specific product market, although there appears to be substantial supply-side substitutability in that sector.
11. However, it is not necessary to further delineate the relevant product markets because, in all alternative market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

### ***B. Relevant geographic market***

12. Airlines often issue international tenders for the repair and overhaul of their engines, and a number of contracts have been awarded to repair and overhaulers whose facilities were located outside the continent where their customer mainly operates. This would indicate that the relevant geographic market is worldwide.
13. However, the notifying parties state that the relevant geographic market should be limited to South East Asia (where SAESL will primarily operate), on the ground that the costs and timescales associated to the transport of aero engine are large in relation to the cost of repair.
14. Nevertheless, it is not necessary to further delineate the relevant geographic markets because, in all alternative geographic market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

### **C. Assessment**

#### *Dominance*

15. SAESL will operate out of Singapore. If the relevant geographic market is limited to South East Asia, it can therefore be concluded that the operation will have no material impact on competition in the EEA.
16. If, alternatively, the relevant geographic market were worldwide, the combined market share of the parties would not exceed [5 - 10%] for the repair and overhaul of large aero engines.
17. An analysis based on a narrower product market definition, where the repair and overhaul of each family of engines would constitute a specific product market, shows the parties (directly or through joint ventures) would be the only companies currently active in the repair and overhaul of Trent engines (manufacture by Rolls-Royce).
18. However, this situation is due to a large extent to the fact that Trent engines are new engines, which account for less than [0 - 5%] of the total installed capacity of large engines worldwide. It can be expected that Trent engine repair and overhaul capacity will be developed by companies independent from Rolls-Royce as the sales of Trent engines increase, which is further indicated by the fact that a majority of the repair and overhaul of Rolls-Royce engines is currently carried out by third party repair and overhaulers. Furthermore, airlines are sophisticated customers, which often carry out their own repair and overhaul activities (and account for approximately [45 - 50%] of repair and overhaul of large engines worldwide) and have significant market power. And finally, the competitive behaviour of the parties will be constrained by the fact that airlines can always decide not to purchase Trent engines if they are not satisfied with the conditions offered for the repair and

overhaul of such engines. In that respect, it must be noted that Rolls-Royce engines do not exceed [10 - 15%] of all engines installed and on order.

19. Similarly, although SIA is active in air transport, which is downstream of the activities of the joint venture, it operates less than [0 - 5%] of all large engines installed and on order worldwide.
20. In view of the above, the proposed concentration does not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

#### *Coordination of competitive behaviour*

21. Pursuant to Article 2(4) of the Merger Regulation, a joint venture having as its object or effect the coordination of the competitive behaviour of undertakings that remain independent has to be appraised in accordance with the criteria of Article 81(1) and 81(3) of the EC Treaty. In order to establish a restriction of competition in the meaning of Article 81(1), it is necessary that the coordination of the parent companies' competitive behaviour is likely and appreciable and that it results from the creation of the joint venture, be it as its object or its effect.
22. Rolls-Royce and HAESL on the one hand, and SIAEC on the other hand, will keep competing activities in the repair and overhaul of large engines. Depending on the relevant geographic market chosen, these companies are either actual or potential competitors on markets including the EEA. This sector is therefore a candidate for examination under Article 2(4) of the Merger Regulation.
23. There are no indications that the creation of SAESL has as its *object* the coordination of the competitive behaviour of Rolls-Royce and HAESL, and SIAEC. It should therefore be examined whether the notified operation might have as its *effect* the coordination of the competitive behaviour of the parents.
24. However, Rolls-Royce and HAESL on the one hand, and SIAEC and ESA on the other hand, do not service the same types of engines. Furthermore, SIAEC and ESA have no activities in Europe. And finally, the repair and overhaul activities of engines directly conducted by SIAEC will be transferred to the joint venture. Consequently, there are no indications which would allow the conclusion that the setting up of SAESL will lead to the coordination of the parents' competitive behaviour. Furthermore, any coordination would not have appreciable effects in the EEA or any significant part of it.

## **V. ANCILLARY RESTRAINTS**

### *Non competition agreements*

25. The parties have agreed that :
  - (1) As long as SIAEC, Rolls-Royce and HAESL are shareholders in SAESL, then SAESL will seek business only in the Asia, Australasia and Middle East region;
  - (2) As long as a party is a shareholder in SAESL, it will not compete [...]. Furthermore, as long as SIAEC, Rolls-Royce and HAESL are shareholders in SAESL, then the

parties will [only invest in competing businesses in the same region in certain circumstances].

26. Clause (1) defines the scope of the joint venture. It follows that it is an integral part of the operation, and does not fall within the scope of ancillary restraints.
27. Clause (2) ensures that the parent companies which are not currently active on the same business as that of the joint venture will not compete with SAESL. This clause aims at preserving the value of the investment by the parent companies. However, it can be considered directly related and necessary to the operation only to the extent that it does not protect HAESL from the competition by the other parent companies.

*Licences of industrial and commercial property rights and of know-how*

28. The parties have agreed that, for an unlimited period :
  - (1) Rolls-Royce will grant SAESL a non-exclusive licence for use of intellectual property rights which are necessary for SAESL to carry out its repair and overhaul activities;
  - (2) SAESL will not disclose any proprietary information licensed.
29. Clause (1) relates to the granting of a non exclusive licence, and therefore does not amount to a restriction of competition, and Clause (2) ) merely protects the value of the intellectual property rights licensed to the joint venture without entailing any restriction of competition either. Consequently, none of these clauses fall within the scope of ancillary restraints.

**VI. CONCLUSION**

30. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission,