

***Case No IV/M.1559 -
STN ATLAS MARINE
ELECTRONICS / SAIT
RADIO HOLLAND***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 08/09/1999

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 08.09.1999

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.1559 – STN ATLAS MARINE ELECTRONIC / SAIT RADIO HOLLAND

Notification of 6 August 1999 pursuant to Article 4 of Council Regulation No 4064/89

1. On 6 August 1999, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89¹ by which the undertakings STN ATLAS Holding GmbH (“STN ATLAS”), Germany, and SAIT RADIO Holland S.A. (“SAIT RH”), Belgium, 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 examining the notification, the Commission has concluded that the notified concentration 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 functioning of the EEA Agreement.

I. THE PARTIES

3. STN ATLAS, which belongs to the Rheinmetall AG group, produces electronic systems for naval ships, i.e. command and weapon control systems, sonar equipment for surface vessels and submarines, land and air forces, i.e. equipment of ground-based military vehicles, satellite communication, simulation systems for military and civil applications.
4. SAIT RH, a subsidiary of the Compagnie Financière de Paribas group (“Paribas”), sells marine electronic equipment and services, and produces electronic equipment for terrestrial

¹ OJ L 395, 30.12.1989, p.1; corrected version OJ L 257 of 21.9.1990, p. 13; as last amended by Regulation (EC) No 1310/97, OJ L 180, 9.7.1997, p. 1, corrigendum in OJ L40, 13.2.1998, p. 17.

and space communication. Furthermore, the company offers services in the field of maritime telecommunications, i.e. accounting and billing.

II. THE OPERATION

5. The proposed operation is the creation of a joint venture, which will be active in the field of navigation and marine communication equipment. Both parent companies will contribute their entire marine electronics businesses to the joint venture.

III. CONCENTRATION

6. STN ATLAS and SAIT RH will hold [...] each in a jointly controlled newly created company called EMG EuroMarine Electronics GmbH (“EuroMarine”). Furthermore, the joint venture will receive from its parents their participation in EuroCom Industries (“ECI”), Denmark, a joint venture, in which STN ATLAS and SAIT RH each hold a participation of [...] and which is jointly controlled. STN ATLAS and SAIT RH transfer their participation in ECI into EuroMarine.

Joint control

7. EuroMarine will be managed by the Managing Board and controlled and supervised by the Shareholders’ Committee to which STN ATLAS and SAIT RH each nominate [...] members. The Shareholders’ Committee shall adopt its resolutions by a simple majority vote. Unanimity is required concerning, *inter alia*, the business plan and the strategic commercial behaviour of EuroMarine. Therefore, the JV will be jointly controlled by its parent companies. Moreover, the requirement of unanimity concerning all matters related with ECI shall guarantee exercising joint control over ECI by STN ATLAS and SAIT RH.

Fullfunction joint venture

8. The joint venture will develop, manufacture and sale/distribute navigation and marine communication equipment and will provide related services for these products. For this purpose, STN ATLAS and SAIT RH transfer their respective operations to the joint venture.
9. The joint venture will perform on a lasting basis all the functions of an autonomous economic entity. The proposed operation, therefore, constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

10. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion². Each of them has an aggregate Community-wide turnover in excess of EUR 250 million. Only one undertaking, the Paribas group, does achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State.

2 Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

The notified operation therefore has a Community dimension. It does not constitute a co-operation case under the EEA Agreement, pursuant to Article 57 of that Agreement.

V. COMPETITIVE ASSESSMENT

A. Relevant product markets

11. The notifying parties submit that the product markets of maritime electronic equipment can be divided in principal between production, sales/distribution and services. In this respect, they refer to previous Commissions' decisions³. Furthermore, a principal distinction can be made between navigation and marine communication equipment as far as their production and sales/distribution are concerned. The underlying technology differs significantly in production as navigation equipment applies radar technologies whereas communication equipment uses advanced radio and satellite techniques. Moreover, both kind of equipment is purchased typically separately except for integrated navigation and marine communication systems. The latter are typically requested from shipyards when a new ship is built. However, it is the shipyard that makes the choice of equipment, and only in approximately 20% of all newbuilding tenders a sole system supplier has been requested over the last period.
12. In contrast to the notifying parties' views, customers, which replied to the Commission's request for information, have expressed their view that no separate product markets exist in the field of navigation and marine communication as far as sales/distribution are concerned. Customers appear to purchase these products as a complete package, and, moreover any product purchase is connected with a service contract. Small individual purchases are done with specialised dealers whereas purchasers of navigation and maritime communication equipment for vessels requiring such devices by regulation prefer sales channels, which are directly or indirectly linked with the manufacturer.

Production of navigation equipment

13. A further distinction could be made between radars as stand alone equipment and integrated navigation systems. The former is considered as a basic navigation aid installed on almost every vessel and, if applicable, required by regulation. Integrated navigation systems are more sophisticated and comprise typically systems such as radars, collision avoidance systems, GPS, echosounders. Ship owners and shipyards purchase integrated navigation systems as a whole. For the purpose of this case, however, it can be left open whether or not these are separate relevant product markets, since even on a narrower definition, the proposed operation would not lead to the creation or strengthening of a dominant position.

Services relating to navigation and marine communication equipment

14. In contrast to production and sales/distribution for which a distinction has been made between navigation and marine communication equipment, the notifying parties submit that services for such equipment constitute a single product market as they are typically offered for both product categories. Vessels, which are required to have certain navigation

³ IV/M.622 – Ricoh/Gestetner, IV/M.563 – British Steel/UES; IV/M.511 – Texaco/Norsk Hydro; IV/M.622 – Ricoh/Gestetner; IV/M.1004 – Blohm/Voss, IV/M.221 – ABB/BREL

and marine communication equipment by regulation, in general have service contracts for the complete installation. Moreover, it appears that few ships, mostly for private and leisure purposes, could only have either product category installed.

15. Customers, however, refer to the technical complexity of such equipment. In most circumstances, therefore, a specialist would be required, typically from the manufacturer and/or the sales/distribution channel, to repair or exchange, in particular with larger installations. However, service contracts usually cover both product categories as they are often sold through the same distributor.

Conclusion

16. It can be concluded from the above, that, for the purpose of this case, production of navigation equipment, production of marine communication equipment, sales/distribution of navigation equipment, sales/distribution of marine communication equipment and services relating to navigation and marine communication equipment can be considered as the relevant product markets.

B. Relevant geographic markets

17. The notifying parties have taken the view that the markets for production and sales/distribution of both, navigation and marine communication equipment, comprises at least the EEA, and is produced for a world-wide market. Such equipment has to meet international minimum technical requirements. Moreover, within the EU, some Directives⁴ govern maritime equipment. Customers purchase maritime equipment world-wide, as vessels operate almost anywhere in the world. Third parties largely have confirmed the parties' view. The Commission, therefore, considers the geographic scope to be at least EEA-wide.
18. As far as services related to navigation and marine communication equipment is concerned, the notifying parties claim that the geographical scope is national. Maintenance and repair is typically carried out at the closest possibility. Ship owners either contact the local representative of the manufacturer or sales/distribution agent, or request services from the company with which a maintenance contract has been signed and which hence sent a local repair/maintenance agent. However, more complex service work always requires to sent the service experts from its headquarter to in principal anywhere in the world. Customers, who replied to the Commission's request for information, however, expressed the view that the service market could be considered wider than national. In view of the fact that vessels, mainly for commercial purposes, operate on a world-wide basis, services have to be carried out from both, national agents and international operating agents. The Commission, therefore, considers the geographic market to be national with a tendency to widen its scope towards at least EEA-wide.

⁴ Council Directive 96/98/EC of December 20, 1996; Commission Directive 98/85/EC of November 11, 1998

C. Competitive Assessment

a) Production

19. STN ATLAS is active in the production of navigation equipment whereas SAIT RH has no production operations. Furthermore, STN ATLAS receives approximately [<10]% of ECI's production output in marine communication equipment which is labelled as OEM-product (Original Equipment Manufacture). SAIT RH markets approximately [<10]% of ECI's production output as OEM-product. According to the notifying parties, all communication products produced by ECI, however, are sold for the same price to the various distributors as well as to the parent companies, whereas minor variations in end-user price occur mainly due to differences in transportation costs. The market share of ECI in this market is approximately [30-40]% in the EEA, in which the OEM-product sales have already been included. The proposed operation, therefore, would not lead to any addition of market shares.
20. Furthermore, larger manufacturers, mainly Japanese and American producers, have started to build-up their own sales/distribution networks during the past years in order to be able to offer services on a world-wide basis. Moreover, some producers of navigation equipment, for example Raytheon, have started to offer integrated navigation and marine communication systems, for which they source the marine communication system component from either newly acquired production facilities or third parties.

b) Sales/distribution

21. The proposed operation would lead to overlaps in sales/distribution as demonstrated below.

Product market / Market shares in EEA (in%)	STN ATLAS	SAIT RH	Combined	Competitors
Sales/distribution of navigation equipment	[<10]	[10-20]	[10-30]	More than 10 competitors: 3 - 25
Sales/distribution of marine communication equipment	[<10]	<10 -20]	[10-20]	More than 10 competitors: 5 - 15

22. A large number of sales/distribution companies operate on the markets concerned by the proposed operation. In sales/distribution of navigation equipment, competitors are, *inter alia*, Furuno, LMS, Nautel, Sicom, Elna, with market shares in the range as indicated in the table above. As far as sales/distribution of marine communication equipment is concerned, competitors are, *inter alia*, Hagenuk, Litton, Nautel, Furuno, Elna, Crame, having market shares in the range as given above. Moreover, some new competitors have entered the sales/distribution market during the past five years.
23. Distributors are usually not bound by exclusive distribution agreements, except if they are subsidiaries of manufacturers. Distributors offer competing brands of wide range in

navigation and marine communication products, as customers have specific requirements with respect to technology and service.

24. Moreover, large distributors market their own brand labels. SAIT RH as well as some of its competitors have established their own brand labels over the past years. In view of the fact that distribution organisations are typically present in almost any part of the world, customers can receive the same kind of service for the brand. Own branding also allows distributors to exercise significant counter-vailing power towards manufacturers as the former are typically in close contact with their customers, and, therefore, very familiar with their technical requirements.

c) Services relating to navigation and marine communication equipment

25. In the EEA, the market share of STN ATLAS, which is [<10]%, and that of SAIT RH, which is [5-15]%, would add up to [10-20]% in 1998. Competitors, for example Hagenuk, Elna, LMS, Sicom, Eissing, enjoy market shares in the range of 10-19%.
26. If considering the relevant market for services on a national basis, the combined market shares of the new entity vary significantly between Member States. For example, in the Netherlands the new entity would achieve a combined market share of [50-60]%, in Belgium approximately [60-70]%, in Portugal approximately [30-40]%, in Germany approximately [30-40]%, whereas in other Member States the combined market share is below [<5]%. However, only SAIT RH has significant activities on these national markets and STN ATLAS contributes a small portion of approximately [<5]%. The situation is opposite only in Germany, where STN ATLAS has a market share of [25-35]% and SAIT RH contributes approximately [<5]%. A number of competitors operate, as mentioned in the paragraph before, on the service market enjoying market shares in the range of 5%-21% on a national level.
27. Customers, who replied to the Commission's request for information, largely see bundling of maritime electronic equipment with its related service. Service contracts are signed between the customer and the manufacturer or the distributor. From the Customers' replies it appears that the latter is mostly common. In view of the large number of distributors that also offer services, however, the proposed operation would not create or strengthen a dominant position for services on a national basis.

d) Vertical aspects

28. The notifying parties submit activities upstream and downstream to some of the relevant product markets namely production and sales/distribution of maritime equipment. In few individual Member States, either STN ATLAS or SAIT RH achieves market shares in excess of 25%. As the geographic scope of production and sales/distribution of maritime equipment in the respective upstream/downstream markets can be considered as at least EEA-wide, the market position of the new entity would not be strengthened through these vertical effects of the proposed operation.

e) Summary

29. It can be concluded from the above that the proposed operation would 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.

VI. CONCLUSION

30. For the above reasons, the Commission decides 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,