

***Case No COMP/M.2370 -
THALES / AIRSYS-ATM***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 21/05/2001

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.05.2001

SG (2001) /D288661

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 party

Dear Sirs,

Subject: Case No COMP/M.2370 - THALES/AIRSYS-ATM

Notification of 11.04.2001 pursuant to Article 4 of Council Regulation No 4064/89

1. On 11.04.2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89¹ by which the Thomson-CSF ("Thales") acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Thomson-CSF Airsys ATM SAS ("Airsys ATM").
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. Thomson-CSF, which has recently changed its name into "Thales", is a French company (jointly controlled by Alcatel, a company primarily active in telecommunications, transportation and energy infrastructure and the French Government) active in professional electronics and defence systems.

¹ OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

4. Airsys ATM is also a French company active in the field of Air Traffic Management (“ATM”) systems and turnkey airport systems. Airsys ATM results from the merger² of Thales’ and Siemens’ ATM activities, and it is jointly controlled by Thales and Siemens.
5. Pursuant to the joint-venture agreement between Thales and Siemens concerning Airsys ATM, Siemens had a put option under which it could require Thales to purchase all of Siemens’ shares in Airsys ATM. Siemens having exercised this put option, and a price has been agreed between Siemens and Thales, so that Thales is now bound to purchase the Siemens shares. It follows that, after the proposed transaction, Thales will own 100% and have sole control of Airsys ATM, and that the present operation amounts to a concentration pursuant to Article 3(1)b of the Council Regulation.

II. COMMUNITY DIMENSION

6. The aggregate world-wide turnover of Thales for the fiscal year 1999 was approximately EUR 6,889 million. The aggregate world-wide turnover of Airsys ATM for the fiscal year 1999 was approximately [...]. Therefore, the undertakings concerned have a combined aggregate world-wide turnover of more than EUR 2 500 million.
7. In 1999, Thales and Airsys ATM had a combined aggregate turnover of more than EUR 100 million in each of France, Germany, and the United Kingdom. The individual aggregate turnover of each of the parties is also in excess of EUR 25 million in each of the above Member States.
8. Finally, the aggregate Community-wide turnover of each of the parties is more than EUR 100 million, and neither of the undertakings concerned achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension within the meaning of Article 1(2) of the Merger Regulation. It does not constitute a co-operation case under the EEA Agreement.

III. COMPETITIVE ASSESSMENT

9. Thales has moderate activities in the same field as Airsys ATM, both on its own and through interests in other companies (such as the Spanish professional and defence electronics group Indra). However, first, those other activities account for less than 5% ATM sales either at EU or world-wide level. And secondly, it appears that the notified operation will not have any material impact on competition for those products, both because Thales already controlled Airsys ATM before the operation; and because there is no indication that, before the operation, Siemens’ interests in Airsys ATM conflicted with those of Thales. It follows that 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.

² See case N° IV/M.953- Thomson/Siemens/ATM

IV. CONCLUSION

10. 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

(signed)
Romano PRODI
President