

***Case No COMP/M.2842 -
SAIPEM / BOUYGUES
OFFSHORE***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 02/07/2002

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 02/07/2002

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Sir/Madam,

**Subject: Case No COMP/M. 2842 - Saipem/Bouygues Offshore
Notification of 03.08.2002 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 03/06/2002, the Commission received a notification of a proposed concentration by which the undertaking Saipem S.p.A (“Saipem”), Italy, acquires control of Bouygues Offshore S.A (“BOS”), France, currently controlled by Bouygues Construction S.A., by means of the purchase of shares.
2. After examining the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No.4064/89² and that it does not raise serious doubts as to its compatibility with the common market and with the EEA agreement.

I. THE PARTIES

3. Saipem is controlled by the Italian energy company ENI S.p.A. and active as a contractor for the provision of services to the oil and gas industry. In particular, Saipem is active in:

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).

² 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).

(i) offshore production systems and laying of subsea pipelines; (ii) land and offshore drilling; (iii) construction of oil and gas plants; and (iv) laying of cross country land pipelines.

4. BOS provides design, procurement, construction and installation of onshore and offshore oil and gas production facilities. Other activities include: (i) maintenance of existing plants and platforms; (ii) engineering, procurement and construction of chemical, refining and power plants as well as liquefied natural gas terminals; and (iii) maritime and river works.

II. THE OPERATION

5. The operation consists of the proposed acquisition by Saipem from Bouygues Construction S.A. of 51.1% of the issued and outstanding shares in the share capital of BOS, by which the undertaking Saipem acquires sole control of BOS.

III. CONCENTRATION

6. The transaction thus constitutes a concentration within the meaning of Article 3(1)(b) of Council Regulation (EEC) No. 4064/89, as amended.

IV. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than € 5 billion³ (ENI; € 48 925 million; BOS; € 1 028 million). Each of the undertakings have a Community-wide turnover in excess of € 250 million (ENI; € [...], BOS; € [...]), but they 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.

V. COMPETITIVE ASSESSMENT

A. THE RELEVANT MARKETS

8. The parties have submitted that the transaction gives rise to horizontal overlaps in the following markets:

- Worldwide market for engineering, procurement, construction and installation of offshore oil and gas platforms, excluding subsea pipelaying ("**Offshore Construction**")
- Worldwide market for the laying of submarine large diameter and small diameter pipelines ("**Subsea pipelaying**")
- Worldwide market for engineering, procurement and construction of onshore oil and gas plants, terminals and pipelines ("**Onshore Construction**")

Product markets

³ 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.

Offshore construction

9. With regard to *offshore construction*, oil and gas installations are considered to belong to the same product market, as many companies tender for contracts for both types of installations and the orders derive from the same set of customers⁴. The same type of argument applies to standing and floating installations where the choice from a demand point of view depends on technical aspects such as the location of the field and water depth. Offshore contracts may be awarded on a piecemeal basis with different contractors involved to perform different tasks. Some customers award contracts on a turnkey basis, whereby one contractor would be responsible for the entire project and, as the case may be, would engage subcontractors. The abbreviation EPCI (Engineering, Procurement, Construction and Installation) is used as an industry specific term for the activities required in order to complete turnkey offshore projects. Third parties have generally confirmed the suggested product market definition even though some third parties have pointed out that pipe laying on some occasions have formed part of EPCI contracts.

Subsea pipelaying

10. *Subsea pipelaying* involves the design and laying of submarine pipelines. The services involved include: diving services, survey and positioning services, remote operated vehicle services, pipecarriers and cargo barges etc. The industry normally distinguishes between two different types of pipelines: (i) large pipelines with a diameter of 16 inches and above (so-called "trunklines") and (ii) short pipelines, with diameter of less than 16 inches ("flowlines"). A trunkline represents a major transportation system as a trunkline is a long pipeline linking main offshore oil and gas fields to the shore and it serves as an interconnection within and between offshore fields under the sea. A flowline represents a minor transportation system between wells and offshore platforms. Third parties have generally supported the view of the parties that subsea pipelaying should be divided into trunklines and flowlines respectively.

Onshore construction

11. *Onshore construction* involves, according to the parties, engineering, procurement and construction of oil and gas plants, terminals and pipelines. The parties argue that onshore activities require specific expertise, know how and equipment, which distinguishes it from offshore construction. According to the parties contractors normally carry out onshore pipe laying as part of a single onshore construction project, and the customers generally award contracts for entire projects including plants, terminals and pipelines. Third parties have generally supported the parties' view that onshore construction constitutes a separate product market even though some third parties consider that onshore laying of pipelines may constitute a separate product market. However, for the purpose of the present decision it is not necessary to finally decide on the scope of any of the product markets mentioned above as the operation does not lead to the creation or strengthening of a dominant position in any market.

Geographic markets

⁴ IV/M.731 - Kvaerner/Trafalger, COMP M. 2117 - Aker Maritime/Kvaerner

Offshore construction

12. The parties have submitted that the geographic scope of the market for offshore construction (EPCI) is world wide as such services are being provided wherever oil and gas fields and contracts are awarded on the basis of world-wide tenders. The off shore construction market has in previous decisions by the Commission been considered to be either global or regional (e.g. the North Sea or the Norwegian Shelf). The third parties participating in the Commissions market investigation have generally supported that this market is global.

Subsea pipelaying

13. The parties have also submitted that the market for subsea pipelaying is global based on the same arguments as put forward concerning the offshore construction market. In general, third parties also consider the subsea pipelaying market to be world-wide.

Onshore construction

14. Finally, the parties are also of the view that the onshore construction market is world-wide in scope and this view has been supported by most third parties in the Commission's investigation.
15. However, for the purpose of the present decision it is not necessary to finally decide on the geographic scope of any of the markets mentioned above as the operation does not lead to the creation or strengthening of a dominant position in any market.

B. ASSESSMENT

16. The customers in the offshore construction sector require a full range of services which cover the entire value chain of EPCI of a given project. Such requirements have traditionally induced the constructors to form consortia in order to provide the required skills and technology. However, the offshore construction industry is currently experiencing an ongoing consolidation process as the companies involved appear to prefer more stable forms of co-operation and integration. Examples of this development are Technips' acquisition of Coflexip in 2001 and the acquisition of Kvaerner by Aker Maritime earlier this year.
17. The parties submit that the market for offshore construction is world-wide but in previous decisions the Commission has also considered the possibility of regional markets. With regard to the world-wide offshore construction market the parties have a combined market share of [10-20]% (ENI Group: [5-15]% and BOS: [0-10]%) if subsea pipelaying is included in the market share calculation. However, if subsea pipelaying is excluded in order to estimate the parties' position on the offshore EPCI market, their combined market share amounts to [0-10]% on the world-wide EPCI market. On a regional basis the parties would only account for a market share of [0-10]% for EPCI on the EEA/North Sea level as BOS is not active in the North Sea area. If the offshore construction market were considered to be a regional market, the operation would therefore not give rise to overlapping activities.
18. The parties are of the opinion that the geographic market for the laying of subsea pipelines is worldwide as well. According to the parties the operation has no impact on the worldwide market for subsea pipelaying (trunklines and flowlines) as BOS in their

view is a negligible player in such markets. The activities of this company in this market are carried out through SaiBOS, a joint venture with Saipem. Due to the move from joint to sole control over SaiBOS the proposed Transaction does not result in any significant horizontal overlap. The combined market share of the parties on the worldwide market for both flowlines and trunklines would amount to [20-30]%, whereas on an EEA level market share of the ENI Group (Saipem) would amount to [30-40]% for trunklines and [15-25]% for flowlines respectively. These markets share estimates have been confirmed by some third parties. The parties indicated that neither BOS nor SaiBOS are active in the market for the construction of subsea pipelines in the EEA and that, as a consequence, the operation would not give rise to overlapping activities in this market.

19. With regard to the market for onshore construction on a world-wide basis it can be considered whether the construction of gas plants and terminals, on the one hand, and onshore pipelaying, on the other hand, belong to the same product market. However, worldwide the parties' market share would be less than 15 % in each of these two subsegments if they were assessed individually. Moreover, in the EEA only the ENI Group is present in the onshore construction market and accounts for a market share below 15%.

VI. CONCLUSION

20. 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)

Mario MONTI
Member of the Commission