EN

Case No COMP/M.3230 - STATOIL / BP / SONATRACH / IN SALAH JV

Only the English text is available and authentic.

REGULATION (EEC) No 4064/89
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 19/12/2003

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

Dear Sir/Madam,

**Subject: Case No COMP/M.3230 – Statoil/BP/Sonatrach/ In Salah JV
Notification of 20.11.2003 pursuant to Article 4 of Council Regulation No 4064/89[1]**

1. On 20.11.2003, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89, as last amended by Regulation (EC) No 1310/97, by which the undertakings Statoil ASA ("Statoil", Norway), controlled by the Norwegian State; BP plc ("BP", UK); and Société Nationale pour la recherche, la production, le transport, la transformation et la commercialisation des hydrocarbures ("Sonatrach", Algeria), belonging to the Algerian State, acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the undertakings In Salah Gas Limited and In Salah Gas (Services) Limited (together "In Salah JV", Channel Islands), currently jointly owned and controlled by BP and Sonatrach, by way of purchase of interests.

2. After examining the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and that it does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

[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).

I. THE PARTIES

3. *BP* is the holding company of a multi-national exploration, petroleum and petrochemical group. *Statoil*, which is controlled by the Norwegian State, is involved in the exploration for and production of oil and gas, the supply of gas, the delivery of energy and products to retail markets, and the processing of petroleum. *Sonatrach* is a wholly owned company of the Algerian State operating in the field of exploration, production, transportation, processing and world-wide commercialisation of hydrocarbons. The joint venture In Salah is currently jointly controlled by BP and Sonatrach. In Salah is active in the exploration, development, production and expects first gas to occur in 2004 from the In Salah region in Southern Algeria.

II. THE OPERATION

4. The proposed transaction consists of the sale of a half of BP's 49% interest in the In Salah JV to Statoil as a result of which Statoil and BP on the one side will acquire joint control of the In Salah JV together with Sonatrach on the other side. Each of BP, Sonatrach and Statoil will then jointly control the JV.

5. In 1996 the Commission cleared the establishment of the joint venture[2] pursuant to Article 6(1)(b) of Council Regulation 4064/89.

III. CONCENTRATION

6. Based on the above it can be concluded that the proposed transaction constitutes a concentration under Article 3(1)(b) of Council Regulation 4064/89.

IV. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion[3]. Each of BP, Sonatrach and Statoil have a Community-wide turnover in excess of EUR 250 million (BP €[…] million, Sonatrach €[…] million, Statoil €[…] million), 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

8. As will be shown below, the operation will not create nor strengthen a dominant position. This applies whether or not one takes account of the proposed transaction notified to the Commission on 20 November 2003 in case COMP/M.3288 – BP-TNK/Sibneft/Slavneft.

Horizontal effects

9. Upstream activities comprise various types of commercial activity: the finding of new reserves, the development of those reserves and, finally, the commercial exploitation of those reserves. The finding of new reserves is generally described as "exploration".

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2 Case No. IV/M.672.

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). .

Development concerns the setting up of adequate infrastructure for future production (e.g. pipelines, terminals, etc.). The exploitation of reserves is called "production and sales".

Gas and oil Exploration

10. In Exxon/Mobil[4], the Commission considered that gas and oil exploration constituted a separate worldwide market distinct from the development, production and sale of natural gas. The parties agree with this market definition.

11. The joint venture relates to the exploration of natural gas in only one licensed area, the In Salah region. On the basis of capital expenditure, this is a small proportion (less than 1%) of total worldwide oil and gas exploration. Even taking into account all BP, Sonatrach and Statoil activities, these still constitute less than 10% of the worldwide market. (BP: [<5] %; Sonatrach: [<1] % and Statoil [<2] %).

Development, production and sale of natural gas

12. In Exxon/Mobil the Commission identified the relevant product market and geographic market as being the development, production and sale of natural gas in the EEA and, possibly, Russia and Algeria. The parties follow Commission's past practice in approaching the definition of the relevant product and geographic markets.

13. Natural gas exported by the In Salah JV will be sold at the border between Algeria and Tunisia or Morocco. Strictly speaking therefore such sales are made to customers located outside of the EEA/Algeria/Russia market. However, these customers typically sell the gas into the EEA. Accordingly, the parties have provided market shares estimates attributing such sales to the EEA/Algeria/Russian market.

14. The In Salah JV itself accounts for only around 1 % of the EEA/Algeria/Russia market and approximately 2% in the EEA alone. Combining actual sales for BP, Statoil, Sonatrach and anticipated sales for the In Salah JV in 2005 the parties combined share (based on 2001 market size) is approximately 16% (BP: [0-5]%; Statoil: [0-5]%; Sonatrach: [0-10]%; In Salah: [around 1]%). If the geographic market was to be the EEA, the parties combined market share is 27%. (BP: [0-10]%; Statoil: [0-10]%; Sonatrach: [10-20]%; In Salah: [around 2]%).

15. In any case, the combined entity will face significant competition from important suppliers such as Gazprom ([50-60]% in EEA/Algeria/Russia and [10-20]% in EEA), ExxonMobil ([0-10]% in EEA/Algeria/Russia and [10-20]% in EEA) and Shell ([0-10]% in EEA/Algeria/Russia and [0-10]% in EEA).

Vertical effects and risk of co-ordination

16. The parties state that the joint venture will only account for [around 1]% of the EEA/Algeria/Russia gas market. In the EEA alone, the JV's share would be [around 2]% Based on this the vertical effects of the proposed transaction will be insignificant. Even if one were to take account of highest possible combined market share ([20-30]%, paragraph 14 above), there would still not be any foreclosure effect likely to create or strengthen a dominant position on downstream markets.

4 Case No IV/M.1383

17. Insofar as the JV's parents are active on the same markets outside the In Salah joint venture, especially in the supply of gas to interruptible customers and the supply of gas to large industrial and commercial customers in Great Britain, the proposed transaction will not create competition concerns such as those envisaged by Article 2(4) of the ECMR. This is because the combined market share will in any event remain below 40% on any market, so that co-ordination of the relevant activities remains unlikely.

VI. CONCLUSION

18. 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

Mario MONTI
Member of the Commission