

*Case No IV/M.721 -
Textron / Valois*

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

Article 6(1)(b) NON-OPPOSITION
Date: 20/03/1996

*Also available in the CELEX database
Document No 396M0721*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20-03-1996

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

**Subject: Case No. IV/M.721 - Textron/Valois
Notification of 19 February 1996 pursuant to Article 4 of
Council Regulation No. 4064/89**

1. On 19 February 1996, the Commission received a notification of a proposed concentration pursuant to Article 4 of a Council Regulation (EC) No. 4064/89 by which Textron Inc. acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of Valois Industries S.A. by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation 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' ACTIVITIES AND THE OPERATION

3. The business activities of the undertakings concerned are :
 - for Textron : manufacture of aircraft, automotive components, aerospace and defence components;
 - for Valois Industries : design and manufacture of fastenings and components for the automotive and other industries.

II. COMMUNITY DIMENSION

4. The undertakings concerned have a combined aggregate worldwide turnover in excess of 5,000 million ECU. Each party has a Community-wide turnover in excess of 250 million ECU, but 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, but does not constitute a cooperation case under the EEA Agreement.

III. COMPATIBILITY WITH THE COMMON MARKET

A. Relevant product markets

5. The businesses being acquired include the manufacture and sale of automotive fasteners which are activities in which both Textron and Valois participate. There are a variety of different types of automotive fasteners manufactured for different purposes. The parties also produce fasteners for non-automotive uses, but there is no overlap between the parties' operations in terms of end users. It is unnecessary further to delineate the relevant product markets because even using the narrowest product market definition there is no significant impact impeding competition in the EEA area.

B. Relevant geographic markets

6. The relevant geographic market appears to be at least EEA wide when supplies of a new component are being sought. This is partly because car manufacturers are increasingly sourcing their requirements on a global basis. However, that market may narrow once a small number of suppliers have been selected by the car manufacturer to be suppliers of that component and also because transport costs can account for a relatively high proportion of the total costs of some fasteners. However, it is not necessary further to delineate the relevant geographic markets because even in the narrowest geographic market there is not a significant impact impeding competition in the EEA area or any substantial part of it.

C. Assessment

7. According to the information provided by the notifying parties, in the European Union, Valois has a market share of [10-15%]⁽¹⁾ in 1995 whilst Textron had a market share of [below 5%]⁽²⁾. the only country in which there was a significant overlap is Germany (Valois [below 15%]⁽³⁾, Textron [below 10%]⁽⁴⁾). The combined market share total of [below 25%]⁽⁵⁾ represents the highest which will exist in any individual country in the EU. There are a large number of competitors on the market, a fact which was confirmed by the parties' customers.

(1) Business secret

(2) Business secret

(3) Business secret

(4) Business secret

(5) Business secret

8. In view of the market position of Textron and Valois, the presence of several other important suppliers, and the considerable bargaining power of customers (including the car manufacturers and second tier parts manufacturers) it appears that the notified operation will have a minimal impact on competition in the European Union.

IV. ANCILLARY RESTRAINTS

9. The parties have asked for four provisions of the sale and purchase agreement to be declared ancillary to the concentration. Two of these provisions only cover the period up until the closing date of the transaction which inter alia confer certain exclusive negotiating rights for Textron and restrict Valois from making material changes to the business during this period. These restrictions do not amount to a restriction of competition.
10. The third provision imposes a confidentiality obligation on the seller in respect of Valois Industries following the transaction. The final one is a non-compete clause which prevents the seller from competing with, or soliciting employees from, or interfering with the business relationships (eg reducing the goodwill of the company following the sale) of Valois for [...] ⁽⁶⁾ years from the date of the transaction. Both of these provisions are directly related and necessary for the implementation of the concentration and can be declared ancillary to the transaction.

V. CONCLUSION

11. 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 functioning of the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation No 4064/89.

For the Commission,

(signed)

⁽⁶⁾ Deleted business secret