



EUROPEAN COMMISSION  
DG Competition

***Case M.8658 - UTC / ROCKWELL COLLINS***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Decision on the implementation of the commitments -  
Purchaser approval  
Date: 06.09.2018



## EUROPEAN COMMISSION

Brussels, 06.09.2018  
C(2018) 5935 final

### **PUBLIC VERSION**

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.

#### **To the notifying party**

Dear Sir/Madam,

**Subject: Case M.8658 – UTC / Rockwell Collins  
Approval of Loar Group, Inc. as purchaser of Rockwell Collins, Inc.’s  
SMR Technologies, Inc. and the change in Key Personnel following your  
letters of 07.06.2018 as well as of 28.08.2018 and the Trustee’s opinions of  
14.06.2018 as well as of 29.08.2018**

#### **I. FACTS AND PROCEDURE**

1. By decision adopted on 4 May 2018 (the “Decision”) based on Articles 6(1)(b) and 6(2) of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings<sup>1</sup> (the “Merger Regulation”), the Commission declared the concentration by which the undertaking United Technologies Corporation (“UTC”) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Rockwell Collins Incorporated (“Rockwell Collins”) compatible with the internal market subject to certain conditions and obligations (the “Commitments”). UTC and Rockwell Collins are hereinafter referred to as the “Parties”.

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<sup>1</sup> OJ L 24, 29.01.2004, p. 1. With effect from 1 December 2009, the Treaty on the Functioning of the European Union (“TFEU”) has introduced certain changes such as the replacement of “Community” by “Union” and “common market” by “internal market”. The terminology of the TFEU will be used throughout this decision

2. In particular, the Commitments provide that in order to address serious doubts related to the Parties' activities on pneumatic ice protection systems, the Parties would divest Rockwell Collins' SMR Technologies, Inc. business ("SMR Technologies"), which manufactures pneumatic ice protection systems and other ice protection products, along with *inter alia* fuelling systems and other industrial products, hovercraft skirts, composites and commercial aviation products, and represents Rockwell Collins' global ice protection systems (the "IPS Divestment Business" or the "Ice Protection Final Commitments").
3. The IPS Divestment Business includes all tangible and intangible assets and personnel and the site of SMR Technologies located in Fenwick (West Virginia, United States) that will be completely divested, except for the WEMAC product line (e.g., air gasper valves, interior signage components, etc.) and related equipment and machinery, which will be carved out and retained by Rockwell Collins. The WEMAC product line is not related to other activities carried out in Fenwick as different technologies, materials and assets are used for the manufacturing of the WEMAC product line.
4. By letter of 07.06.2018, the Parties proposed Loar Group, Inc. ("Loar" or "the Proposed Purchaser") for approval by the Commission as purchaser of the IPS Divestment Business and submitted the proposed Purchase Agreement (the "Agreement").
5. On 14.06.2018, ING Bank N.V. (the "Trustee") submitted an assessment of Loar's suitability as a purchaser and in particular has indicated that Loar fulfils the criteria of the purchaser requirements in Section D of the Ice Protection Final Commitments attached to the Decision as Annex 3. In this assessment, the Trustee also indicated that, on the basis of the Agreement, the IPS Divestment Business would be sold in a manner consistent with the Commitments.

## **II. ASSESSMENT OF THE PROPOSAL**

### **(a) Suitability criteria for the Purchaser**

6. Pursuant to paragraph 16 of the Ice Protection Final Commitments, the Commission has to verify that the Purchaser fulfils the purchaser criteria and that the IPS Divestment Business is being sold in a manner consistent with the Commitments.
7. According to paragraph 16 of the Ice Protection Final Commitments, in its assessment of the Proposed Purchaser, the Commission should verify in particular that:
  - a. The Proposed Purchaser is independent of and unconnected to UTC and Rockwell Collins and their affiliated undertakings.
  - b. The Proposed Purchaser has the financial resources, proven expertise and incentives to maintain and develop the IPS Divestment Business as a viable and active competitive force in competition with the Parties and other competitors.
  - c. The Purchaser shall have an existing presence in the aerospace industry.
  - d. The acquisition of the IPS Divestment Business by the Proposed Purchaser must neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the

implementation of the Commitments will be delayed. In particular, the Proposed Purchaser must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the IPS Divestment Business.

**(b) Presentation of the Purchaser**

8. Loar was incorporated in December 2011, with headquarters in New York (U.S.). It specialises in the design and manufacture of aerospace components, becoming a leading specialty supplier of such components.
9. Loar has grown through successive and successful acquisitions of several companies in the defence and aerospace industries, and its activities are currently conducted through its eight wholly owned subsidiaries, which include six manufacturing facilities located in the U.S.
10. Loar has diverse manufacturing capabilities, supported by engineering design and testing services that include the following segments: (i) precision forming and machining of both metallic and non-metallic components; (ii) composites; (iii) specialty products; (iv) MRO services; (v) fluid controls and filters and (vi) ultra-high temperature plastics.

**(c) Independence from the Parties**

11. The Trustee submits that there are no ownership links between Loar and the Parties. The Trustee has not found any evidence of material dependency between the Parties and Loar in terms of equity/corporate links.
12. With regard to commercial links, Loar does not purchase products from either the Parties but it supplies products to them. In 2017, Loar supplied to both UTC and Rockwell Collins products of a considerable value.
13. The Trustee considers that post-Closing the commercial links between IPS Divestment Business and the Parties would be limited in scope and would not cause Loar to be considered unsuitably dependent on, or connected to, the combined UTC/Rockwell Collins. The Trustee took into account the following elements:
  - a. Loar's sales to the Parties represented a significant percentage of Loar's sales in 2017 ([...]), and post-Closing, they will represent a smaller, but still significant percentage ([...]). The Trustee indicates that these commercial relations are at arm's length.
  - b. Loar's sales to the Parties are spread over several affiliates and subsidiaries, covering a relatively disparate set of components and products, and they account for a limited fraction of the purchases of the Parties. Moreover, [...]. According to the Trustee, this could work to preclude coordinated action or behaviour aimed at either maintaining sales (by Loar) or reducing purchases (by the Parties).
  - c. Loar achieves on average [...] gross margin on sales to the Parties [...]. According to the Trustee, [...].

- d. In the light of the purchase price, Loar's acquisition of the IPS Divestment Business would, according to the Trustee, increase any incentive for Loar to compete in the market.
14. In addition, the Parties indicated that cross-supply relationships are prevalent in the aerospace industry. Moreover, according to the Parties, cross-supply relationships do not typically have an impact on strategic conduct but they are based on which competitor is able to reliably supply the best product, at the most competitive price.
15. Besides the elements described above, the Commission also considered that:
  - a. The Parties are likely to encounter disruptions in their supply chains should [...].
  - b. The business relationships between Loar and the Parties [...].
  - c. Loar would have the ability to place its products with other customers on the market or to use the newly available capacity for other customers.
16. Therefore, based on the information provided by the Trustee and the Parties, the Commission thus considers that the Proposed Purchaser is independent from and unconnected to the Parties.

**(d) Financial resources, proven expertise and incentive to maintain and develop the IPS Divestment Business as a viable and active competitor**

17. The Trustee submits that the Proposed Purchaser has sufficient financial resources, proven expertise and incentive to develop and maintain the IPS Divestment Business as a viable and active competitive force.
18. According to the Trustee, Loar has sufficient resources as it is evident from the unaudited adjusted income statement for the financial year 2017 and other financial data.
19. Loar has indicated that it intends to finance the purchase price of the IPS Divestment Business through a combination of cash on hand, and committed loan facilities. Loar will not require any additional external financing for the transaction. Furthermore, Loar's shareholders hold significant combined assets under management.
20. As regards proven expertise, since its incorporation in 2011, Loar has acquired and continues to operate eight companies which each manufacture components for the aerospace industry. According to Loar, the acquisitions have performed well under its ownership.
21. Moreover, the CEO and co-chairman of Loar was also previously the CEO of McKechnie Aerospace (between 2007 and 2010) and many of Loar's key managers have also previously worked at McKechnie Aerospace. This is a US based manufacturer of aerospace components and systems, which was sold by JLL Partners (the former owner of Loar) in December 2010.
22. As regards the incentive to maintain and develop the IPS Divestment Business, the acquisition of the IPS Divestment Business fits well with Loar's strategy of acquiring manufacturers of niche aerospace components and parts. The addition of the IPS

Divestment Business will broaden Loar's product offering in the aerospace components market.

23. Moreover, the Trustee submits that Loar's business plan appears to be consistent with the objective of creating a viable and active competitive force in the market with sales revenue and EBITDA increasing throughout the forecast period.
24. Furthermore, given the financial investor profile of the shareholders, the Trustee notes that [...]. But the financial returns forecasted for the Divestment Business and the purchase price agreed outline a clear financial incentive to maintain and develop the IPS Divestment Business in competition with the Parties and other competitors [...].
25. In view of the above considerations, the Commission considers that the Proposed Purchaser has the financial capabilities, proven expertise and incentive to maintain and develop the IPS Divestment Business as a viable and active competitive force in competition with the Parties and other competitors.

**(e) Existing presence on the aerospace industry**

26. The Trustee submits that Loar has an existing presence on the aerospace industry. Loar has acquired since 2011 eight companies which are engaged in the manufacture of a variety of components for the aerospace industry. Loar acquired, integrated and operated these companies successfully.
27. Moreover, Loar is led by an experienced management team that has worked, even as CEOs, in other aerospace companies.
28. Furthermore, through its subsidiaries, Loar serves a customer base including aerospace component manufacturers, aircraft manufacturers and airlines, such as Boeing, Airbus, Honeywell, UTC, General Electrics, Rockwell Collins or Cessna.
29. In view of the above considerations, the Commission considers that the Proposed Purchaser has the required existing presence on the aerospace industry.

**(f) Absence of prima facie competition problems**

30. Pursuant to clause 16(d) of the Commitments, the acquisition of the IPS Divestment Business by the Proposed Purchaser must neither be likely to create *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed.
31. The divestment of the IPS Divestment Business does not create any competition concerns, as it does not give rise to any horizontal overlaps or vertical relationships. Loar does not currently manufacture ice protection systems and despite the fact that both Loar and the IPS Divestment Business manufacture a product category known as "composites", according to the Parties, the composites they manufactured are different. SMR Technologies' composites include wing cooling valves for the [...], aircraft shafts for MRI machines and a composite wing leading edge, whilst Loar's composites relate to high-strength, lower-weight carbon fibre reinforced polymer.

32. In addition, the Trustee does not expect the acquisition of the IPS Divestment Business to be subject to mandatory pre-closing antitrust filings.<sup>2</sup>
33. On the basis of the above and taking into account the reasoned opinion submitted by the Trustee, the Commission concludes that the acquisition of the IPS Divestment Business by Loar does not create *prima facie* competition concerns nor does it give rise to a risk that the implementation of the Commitments will be delayed.
34. This *prima facie* assessment is based on the information available for the purpose of this buyer approval and does not prejudice the competition assessment of the acquisition of the Divestment Business by a competent competition authority under applicable merger control rules.

### III. ASSESSMENT OF THE TRANSACTION DOCUMENTS

35. The proposed transaction will be effected pursuant to the Agreement dated 31 May 2018 and it is documented by the Agreement itself to which are attached 8 Exhibits and a set of disclosure and other schedules.
36. The Trustee identified six modifications between the terms of sale set out in the Agreement and the Ice Protection Final Commitments:
  - a. Inventory of finished goods. The IPS Divestment Business comprises the inventory of finished goods to the extent related to SMR Technologies business (excluding the WEMAC product line). The HSM indicated that certain inventory [...] may already be at vendor locations for outside processing.
  - b. Shared agreements. There is one material agreement shared between the IPS Divestment Business and other entities of Rockwell Collins: a framework agreement with [...] under which the divested business provides [...]. This agreement would not be split; it would continue unchanged until its term ends, [...]. Between Closing and the end of the agreement, the IPS Divestment Business would continue to provide products to Rockwell Collins who would pass back the corresponding compensation to the IPS Divestment Business.
  - c. Key personnel. [...] employees listed as Key personnel left the IPS Divestment Business. Moreover, [...], also identified as Key Personnel in the Commitments, expressed a desire to retire [...].
  - d. Personnel. [...] employees listed in the Ice Protection Final Commitments have left the IP Divestments Business and [...] positions also listed in the Ice Protection Final Commitments as unfilled [...]. [...].
  - e. Closing date. The EU Commitments require Closing within [...] from approval of a purchaser and the terms of sale; [...].
  - f. Retention and elimination of information. Rockwell Collins is still evaluating whether certain information or documentation should be retained and the timeline

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<sup>2</sup> The UTC/Rockwell Collins transaction remains under review with the U.S. Department of Justice and with China's State Market Regulatory Administration.

within which it expects the elimination of other IPS Divestment Business' information and documentation to occur.

37. Against that background, the Commission considers that with regard to:
- a. The inventory of finished goods, the Parties have reiterated their commitment to transfer this inventory with the IPS Divestment Business, and would amend the Agreement if that would be found to be required. Moreover, the Trustee will continue to oversee that this is done.
  - b. The shared agreements, it would only remain unchanged for a very limited period of time following the approval of the Proposed Purchaser, i.e. until [...].
  - c. Key personnel, the [...] employees that left the IPS Divestment Business have been replaced with alternative staff well suited to carry out the functions of those [...] key personnel and the HSM confirmed his agreement with the replacements. With regard to Key Personnel in general, the obligations of the Parties remain clear and where any Key Personnel would exceptionally leave prior to Closing, the Parties would be expected to provide a reasoned proposal to the Commission and the Trustee on how the departure would be fully and adequately addressed. Moreover, Loar [...]. In addition, all remaining Key Personnel [...].
  - d. Personnel, the [...] employees/positions currently unfilled and listed in the Ice Protection Final Commitments would be met by existing personnel and [...] people not included in the Commitments have been added to the current employee roster of the IPS Divestment Business. Moreover, [...] further new positions not included in the Commitments have also been identified as required and half of them have already been filled.
  - e. The Closing date, the obligations of the Parties are clear, extensions of the Closing period must be formally requested to the Commission in accordance with paragraph 42 (Review Clause) of the Commitments and would at such time be submitted for the Commission's consent, subject to an assessment by the Trustee and the Commission, if the Parties show good cause.
  - f. Retention and elimination of information, the Trustee would closely oversee which information and documentation is retained as well as the effective elimination of all other information and documentation related to the IPS Divestment Business.
38. In the light of the above considerations and taking into account the reasoned opinion submitted by the Trustee, the Commission concludes that the transaction documents are consistent with the Commitments and that, accordingly, the IPS Divestment Business is being sold in a manner consistent with the Commitments.

#### **IV. CONCLUSION**

39. On the basis of the above assessment, the Commission approves Loar as a suitable purchaser for the above-mentioned reasons.



40. On the basis of the Agreement, its exhibits, disclosures and schedules, the Commission further concludes that the IPS Divestment Business is being sold in a manner consistent with the Commitments.
41. This decision only constitutes approval of the Proposed Purchaser identified herein and of the Agreement. This decision does not constitute a confirmation that the Parties have complied with their Commitments.
42. This decision is based on Section D of the Ice Protection Final Commitments attached to the Commission Decision of 4 May 2018.

*For the Commission*

*(Signed)*  
*Johannes LAITENBERGER*  
*Director-General*