EUROPEAN COMMISSION
DG Competition

Case M.10760 - AIRBUS / SAFRAN / TAC / AUBERT & DUVAL

Only the English text is available and authentic.

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 22/12/2022

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EUROPEAN COMMISSION

Brussels, 22.12.2022
C(2022) 10036 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 Where possible the information omitted has been replaced by ranges of figures or a general description.

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Subject: **Case M.10760 – Airbus / Safran / TAC / Aubert & Duval**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 17 November 2022, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004, by

[1] OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). 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] OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

which Airbus SAS ('Airbus', France - ultimately controlled by Airbus SE, the Netherlands), Safran SA ('Safran', France) and Tikehau Ace Capital S.A.S. ('TAC', France) (together 'the Acquirers', 'Notifying Parties' or 'Consortium members') acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control over Aubert & Duval S.A. ('Aubert & Duval' or the 'Target', France), currently solely controlled by Eramet Group ('Eramet' or the 'Seller', France) (the 'Transaction'). Airbus, Safran, TAC and Aubert & Duval are referred to as the 'Parties'.

1. THE PARTIES

(2) **Airbus** is a European company incorporated under Dutch law and publicly listed on the stock exchanges of Frankfurt, Madrid, and Paris. Airbus is active on a worldwide basis in aeronautics, space and defence related services. Its business is organised into three operating segments: (i) Airbus (Commercial Aircraft); (ii) Airbus Helicopters; and (iii) Airbus Defence and Space.

(3) **Safran** is a French-registered company listed on the Paris stock exchange focusing on three main areas: (i) aerospace propulsion; (ii) aircraft equipment, defence, and aerospace systems; and (iii) aircraft interiors. Safran covers the entire lifecycle of engines, systems and equipment for civil and military fixed and rotary-wing aircraft.

(4) **TAC** is an asset management company, focusing on two sectors: strategic industries (aerospace, defence, and maritime) and trusted technologies (cyber and software risk analysis, and cybersecurity). TAC is a wholly-owned subsidiary of Tikehau Capital SCA, a French-registered company listed on the Euronext Paris stock exchange and the parent company of an asset management and investment group.

(5) **The Target**, Aubert & Duval S.A., incorporated in France, is a supplier of advanced metallurgical products in the form of parts, long products, and metal powders for various industrial applications, including aviation, space, nuclear, defence and energy.

2. THE OPERATION

(6) On 20 June 2022, the Acquirers and the Seller entered into a Share Purchase Agreement (the 'SPA') together with a special purpose vehicle AD Holding (the 'SPV'). The SPV will acquire 100% of the shares in the Target, minus one 'Golden Share', which will be held by the French State as required by national legislation. [Description of the Target's ownership and control structure resulting from the Transaction]

(7) The Transaction consists in the acquisition of joint control over the Target by the Consortium members. All strategic decisions of the Target require the approval of all Acquirers. [Description of the Acquirers' veto rights]

(8) In view of the strategic nature of certain sensitive assets operated by the Target and its subsidiaries or affiliates, the French State benefits from exceptional rights arising from the specific share held in the share capital of Eramet SA (the 'Golden Share'). [Description of the rights of the French State associated with the Golden Share and measures taken to maintain such rights].

(9) The Transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. UNION DIMENSION

(10) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million (Airbus EUR […]; Safran EUR […], TAC EUR […] and Aubert & Duval EUR […]). Each of them has a Union-wide turnover in excess of EUR 250 million (Airbus EUR […]; Safran EUR […], TAC EUR […] and Aubert & Duval EUR […]) and they do not each achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State. The notified operation therefore has a Union dimension according to Article 1(2) of the Merger Regulation.

4. MARKET DEFINITION

4.1. Product market

(11) The Target is a supplier of a variety of metallurgical products used as input, *inter alia*, by the Acquirers.

(12) The products listed under the upstream market section are, *inter alia*, produced by the Target and used as an input for the products listed under the downstream products section below, which are manufactured either by Airbus or by Safran, among others, as the case may be.

4.1.1. Upstream markets

4.1.1.1. Bars

(13) Bars are round, flat or square shaped products, manufactured through a process of hot conversion, such as rolling or forging (i.e., hammering / pressing). Bars are semi-finished products, which means that they require further processing, such as a closed-die forging process or a machining process, before becoming a finished product. They can be produced from different types of materials, such as steel, titanium or super-alloy.

4.1.1.1.1. Steel bars

(14) The Commission has in past cases relating to steel products constantly distinguished steel products based on the one hand on the chemical composition of the steel (metallurgical characteristics) and on the other hand on the physical shape of the products.

(15) Based on the chemical composition, the Commission has distinguished four broad categories of steel products: (i) carbon steel, (ii) stainless steel, (iii) specialty steels and (iv) electrical steel.[3]

[3] Case COMP/M.7839 – *Outokumpu/Hernandez Edelstahl*, paragraphs 18-19, Case M.7155 – *SSAB/Rautaruukki*, paragraphs 22 and 25, Case COMP/M.6471 – *Outokumpu/Inoxum*, paragraphs 116 and 117, Case COMP/M.4137 – *Mittal/Arcelor*, paragraph 9 and Case COMP/ECSC.1351 – *Unisor/Arbed/Aceralia*, paragraph 13 and following.

(16) As to the physical shape of products, the Commission has distinguished between long products and flat products in previous cases.[4] Within long steel products, the Commission considered potential segmentations between (i) ingots and billets; (ii) wire rod; (iii) hot rolled and forged bars; (iv) bright bars; and (v) drawn wire.[5]

(17) In view of those broad distinctions, the Commission has considered further potential segmentations, as regards stainless steel products, for: (i) cold rolled flat products; (ii) hot rolled flat products; (iii) quarto plates; (iv) long products, such as bars, rods, and sections; (v) welded tubes; and (vi) fittings.[6]

(18) Within speciality steels, the Commission previously distinguished between engineering steel, high speed steel, and tool steel.[7]

4.1.1.1.2. Titanium bars

(19) As concerns titanium products, the Commission previously segmented the relevant market into melted products and milled products. Within milled products, the Commission considered a further segmentation according to form, namely (i) long (billets and bars); (ii) flat (plate and sheet) and (iii) pipe; as well as by end-use.[8]

4.1.1.1.3. Super-alloy bars

(20) The Commission has not specifically considered closed-die forgings in any of its previous decisions.

(21) In a decision concerning its input materials, nickel and cobalt, it referred to super-alloys mentioning that *'super-alloys are used in applications requiring operation in high-temperature and high-stress environments. Such applications include in particular the power generation (industrial gas turbines ('IGTs'), nuclear reactors), aerospace (various engine components, turboprop engines, rocket engines), and medical (prosthetic implants) industries.*[9]

(22) Based on the abovementioned decisional practice, chemical composition and shape of the products, the Notifying Parties propose that the following markets are relevant for the assessment of the present Transaction:

(a) General engineering steel bars;

(b) Stainless steel bars;

(c) Super-alloy bars;

(d) Titanium bars.

(23) The replies from customers and competitors received in the market investigation confirmed that each of the abovementioned types of bars constitutes a separate product market.[10] This is due to their different chemical composition, which

4 Case COMP/M.7839 – *Outokumpu/Hernandez Edelstahl*, paragraph 21.
5 Case COMP/M.6962 – *Renova Industries/Schmolz & Bickenbach*, paragraph 16, Case COMP/M.4211 – *Schmolz + Bickenbach/Ugitech*, paragraphs 10–13, and Case COMP/M.5211 – *Outokumpu/Sogepar*.
6 Case COMP/M.5211 – *Outokumpu/Sogepar*, paragraphs 9-11.
7 Case COMP/M.6962 – *Renova Industries/Schmolz & Bickenbach*, paragraph 15.
8 Case COMP/M.7593 – *Alcoa/RTI International Metals*, paragraphs 12-21.
9 Case COMP/M.4000 - Inco/Falconbridge, paragraph 126.
10 Response to the eRFI to market participants, question B.A.A.1.

influences their choice at the design phase based on a number of physical properties. Once a specific type of bar has been chosen by the designer, it cannot be substituted by any other type in the production process, due to the abovementioned physical properties arising from its chemical composition.

(24) A competitor of the Target explained that: *'These different products cannot be substituted for one another considering, in particular, (a) their different chemical compositions, (b) the differences in metallurgical properties and performance characteristics that results from those differing chemistries, and (c) the price differences between them.'*. Another competitor of the Target indicated that *'The above mentioned products are typically specified into parts and substitution is not possible.'* This was confirmed by yet another competitor explaining that *'substitution of these materials - once the aircraft or its components are designed - is not possible; during the design phase of a new aircraft the engineer may choose between these materials if the applicable norms and requirements allow so.'* A Target's customer confirmed that *'The products are not substitutable as the material specification is key (although there are a number of suppliers available who can supply the same specification).'*[11]

(25) Based on its previous decisional practice, the Commission agrees with the proposal of the Notifying Parties, largely confirmed by the market investigation that general steel engineering bars, stainless steel bars, super-alloy bars and titanium bars constitute each a separate product market.

(26) For the purpose of this decision, the exact product market definition can in any event be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition.

4.1.1.2. Closed-die forged parts

(27) Forging is the shaping of solid metal using localised compressive forces, typically via presses or hammers powered by compressed air, electricity, hydraulics or steam. Closed-die forging is the process of forming complex-shaped parts from a metal semi-product between two engraved tools (so-called 'dies') by pressing with a closed-die forging press.

(28) With regard to titanium based forged products, the Commission previously considered whether segmentations should be made between aerospace components (which is subject to rigorous certification criteria) and other uses. Within forged titanium components for aerospace applications, the Commission considered additional sub-segmentations into (i) rotating engine components; (ii) nonrotating engine components (including forged rings); (iii) airframe structures; (iv) aerostructures; and (v) fasteners.[12]

(29) Furthermore, the Commission previously defined the market in relation to aerostructures. These are components or subsystems of the airframe of an aircraft, which generally include the wings, fuselage structures, empennages, nacelles, and other fabricated parts. In some decisions, the Commission considered the overall

[11] Response to the eRFI to market participants, question B.A.A.2.

[12] Case COMP/M.7593 – *Alcoa/RTI International Metals*, paragraphs 22-28, Case COMP/M.7342 – *Alcoa/Firth Rixson*, paragraphs 26-27, and Case COMP/M.6765 – *Precision Castparts/Titanium Metals*, paragraphs 33-34

market for aerostructures and did not find it necessary to further segment the market at the level of individual products (such as wing aerostructures, empennage, and other nacelle structures).[13]

(30) In other decisions, however, the Commission adopted a component-by-component approach regarding the manufacturing and sale of components for aerostructures.[14]

(31) The Target produces three types of forgings relevant for this decision, distinguished by the purpose of their use or application: (i) structure parts, (ii) engine parts and (iii) space parts[15], which can be further sub-divided as follows:

(a) Closed-die forged structure parts

- Forged fuselage and wing parts;
- Forged landing gear parts;
- Nacelle parts;
- Forged helicopter structure parts.

(b) Closed-die forged engine parts

- Forged helicopter engine parts.

(c) Space parts

(32) The vast majority of replies from customers and competitors received in the market investigation confirmed that each of the abovementioned types of parts (forged fuselage and wing parts, forged landing gear parts, nacelle parts, forged helicopter structure parts, forged helicopter engine parts and space parts) constitutes a separate product market[16]. To this effect a customer of the Target explained that *'At our best knowledge, these products constitute distinct product markets, nevertheless in a near future, composite materials parts could gradually be credible alternative for some of them'*. Another customer of the Target confirmed that *'The forged landing gear part cannot be substituted by an alternative product like a bar or a plate due to technical properties and dimensions. Laminated bars and plates have a thickness limitation.'* A competitor of the Target explained that *'Each of these types of components can be regarded as a separate product market due to their high degree of specialization on both the supply and the demand side.'* Another competitor specified that *'Substitution of die forged structure parts - once the aircraft or its components are designed - is usually not foreseen; during the design or re-design phase of an aircraft the engineer may choose other materials (e.g. CFRP) or parts produced in a different way, if the applicable norms and requirements allow so.'*[17]

(33) The Notifying Parties further indicate that forged fuselage and wing parts, forged landing gear parts, forged helicopter structure parts and forged helicopter engine parts can be manufactured exclusively by closed-die forging manufacturing process. On the other hand, nacelle parts and space parts can be manufactured by

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13 See Case COMP/M.1438 – *British Aerospace/GEC Marconi*, paragraph 13-15, Case COMP/M.4561 – *GE/Smiths Aerospace*, paragraph 7.

14 See Case COMP/M.8948 – *Spirit/Asco*, paragraphs 19-36, Case COMP/M.2168 – *Snecma/Hurel-Dubois*, paragraph 8, and Case COMP/M.6410 – *UTC/Goodrich*, paragraph 117.

15 Form CO, paragraph 159.

16 Response to the eRFI to market participants, question B.A.A.1.

17 Response to the eRFI to market participants, question B.A.A.2.

using two distinct industrial manufacturing processes and thus can be supplied by distinct suppliers: closed-die forging and plate machining process. The plate machining process consists in converting a sheet of metal into functional parts by controlled material removal processes, such as milling, boring or turning.[18]

(34) The Notifying Parties explained that forging is the preferred manufacturing method where tensile strength, durability, and flexibility are the most critical aspects of a part (i.e., where toughness matters). For example, in case of landing gears, the resistance to shocks, deformation, tensile, and fatigue at every landing and take-off is important and therefore the landing gear parts need to hold up under significant stresses. This can only be achieved by forging, which confers such resistance properties to the metal. In case of structure parts, forging also addresses constraints of resistance of torsion or stretching of the metal. In other words, forging tends to yield more massive and therefore more robust products, and is generally used for structural and rotating parts, such as (i) the main structural parts of the nose and main landing gears; (ii) the rotor hub, flapping hinges/sleeves, and rotor mast in the helicopter rotor system; and (iii) rotating parts for helicopter engines such as compressor discs, impeller, and turbine discs.[19]

(35) The Notifying Parties consider that forged and non-forged nacelle parts and forged and non-forged space parts are entirely substitutable from the customers' point of view. They are (i) functionally equivalent (can be used on the same types of end-products), (ii) similar in terms of price and (iii) quality (same lifespan and maintenance requirement). By contrast, the Notifying Parties submitted that non-forged fuselage and wing parts are not substitutable with forged fuselage and wing parts, non-forged landing gear parts are not substitutable with forged landing gear parts, non-forged helicopter structure parts are not substitutable with forged helicopter structure parts and non-forged helicopter engine parts are not substitutable with forged helicopter engine parts.

(36) As to the possible substitutability of forged and non-forged nacelle parts, the market participants provided mixed views, referring mostly to low substitutability potential due to design requirements. A competitor of the Target explained that *'once the aircraft or component is certified, a substitution is not foreseen; during the design or re-design the engineer may choose between different alloys and materials (forged metals vs. machined from palte or CFRP)'*. On the other hand, a relevant customer of the Target mentioned that *'Generally, forged and non-forged parts are not substitutable, but there may be exceptions.'* [20]

(37) As to the potential substitutability of forged and non-forged space parts, the market investigation provided no specific feedback. Nevertheless, two customers of space parts indicated that certain large forged space parts may constitute a specific market segment due to the fact that only one press of specific dimensions and forging parameters is available in the accessible parts of the world, i.e. EEA and the US (excluding Russia and China). It is the large press of the Target that is able to process forged parts with […] of diameter with force of 65 000 Metric Tons ('MT') (the 'Large Press'). They also indicated that for small forged space parts, a number of smaller presses can be employed that are available with various

18 Form CO, page 70.
19 Form CO, page 73.
20 Response to the eRFI to market participants, question B.A.B.4.

suppliers within the accessible parts of the world, in particular in the EEA and the US.[21]

(38) Based on the abovementioned considerations and in particular on the component-by-component approach adopted in its previous decisions, the Commission retains that each of the following parts - forged fuselage and wing parts, forged landing gear parts, nacelle parts, forged helicopter structure parts, forged helicopter engine parts and space parts – constitutes a separate product market because of its distinct purpose for the use in the downstream applications.

(39) The Commission also retains that further subdivision of nacelle parts into forged and non-forged nacelle parts does not appear appropriate for this decision due to the inconclusive market feedback, demand side substitutability as evidenced by the Notifying Parties, and lack of impact on the competitive analysis of the Transaction.

(40) Finally, the Commission finds that there may be a specific market for large space parts requiring the use of a large press able to process products […] in diameter and requiring the forging force of 65 000 MT. In any event, for the purpose of this decision, it can be left open whether large forged space parts are distinct market or form part of the wider space parts market, as it has no impact on the competitive analysis in this decision.

4.1.2. Downstream markets

4.1.2.1. Aircraft manufacturing

(41) Among the Consortium members, only Airbus is active on the downstream markets for aircraft manufacturing.

(42) In its decisional practice, the Commission has generally identified the following main categories of aircraft: (i) commercial aircraft; (ii) military aircraft; (iii) helicopters; and (iv) general aviation aircraft.[22]

(43) **Within commercial aircraft,** the Commission further differentiated between three segments:[23]

(a) Large commercial aircraft (i.e., aircraft with more than 100 seats, a range of greater than 2,000 nautical miles, and a cost in excess of USD 35 million). Within large commercial aircraft, the Commission considered a further distinction between narrow-body / single-aisle aircraft, which have approx. 100-200 seats and travel medium distances (2,000-4,000 nautical miles) and wide-body / twin-aisle aircraft, which typically carry 200-850 passengers and can travel longer routes (4,000-8,000+ nautical miles).

(b) Regional aircraft (i.e., aircraft with approx. 30-90 seats, a range of less than 2,000 nautical miles and a cost of up to USD 30 million).

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21 Non-confidential minutes with [Name of customer] and [Name of customer].

22 Case COMP/M.8985 – *Boeing/KLX*, paragraph 15, Case COMP/M.8858 – *Boeing/Safran/JV (Auxiliary Power Units)*, paragraph 12; and Case COMP/M.1601 – Allied Signal/Honeywell, paragraph 11.

23 Case COMP/M.8985 – *Boeing/KLX*, paragraph 15, Case COMP/M.8858 – *Boeing/Safran/JV (Auxiliary Power Units)*, paragraph 13; Case COMP/M.2220 – *General Electric/Honeywell*, paragraph 10; Case COMP/M.1601 – *Allied Signal/Honeywell*, paragraph 13; and Case IV/M.877 – *Boeing/McDonnell Douglas*, paragraphs 15-16.

(c) Business / corporate jets (i.e., aircraft designed for corporate activities and with a cost generally in the region of USD 3-70 million).

(44) As far as commercial aircraft are concerned, the Notifying Parties generally agree with the Commission's decisional practice, but submit that the exact product market definition can be left open, as the Transaction does not lead to serious doubts as to its compatibility with the internal market under any plausible alternative definition.[24]

(45) The vast majority of market participants expressing their view confirmed the segmentations of aircraft according to the Commission decisional practice.[25]

(46) A customer of Airbus, for example, mentioned that *'This is a reasonable segmentation of different types of aircraft.'* A competitor of Airbus admitted that *'Each product mentioned above is destined for a specific market segment.'* and a customer of Safran mentioned that *'The commercial segmentation is correct.'*[26]

(47) It follows that, in line with the Commission's decisional practice, large commercial aircraft, regional aircraft and business / corporate jets are considered separate product markets for the purpose of this decision. Whether large commercial aircraft should be further sub-segmented can be left open for the purpose of the present decision, as the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition.

(48) **Within helicopters,** the Commission identified distinct product markets for military helicopters and civil helicopters based on product characteristics, the structure of demand, and the conditions of competition. The Commission also found that it is not necessary to further segment the helicopter markets, for example, based on the helicopter's engine, its size, its weight, or its mission.[27]

(49) The Notifying Parties generally agree with the Commission's decisional practice, but submit that the exact product market definition can be left open, as the Transaction does not lead to serious doubts as to its compatibility with the internal market under any plausible alternative definition.

(50) The vast majority of market participants expressing their view confirmed that military and civil helicopters constitute separate product markets.[28]

(51) For the purpose of this decision, the exact product market definition can be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition.[29]

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24 Form CO, page 82.

25 Response to the eRFI to market participants, question B.A.J.1.

26 Response to the eRFI to market participants, question B.A.J.2.

27 Case COMP/M.6410 – *UTC/Goodrich*, paragraphs 145-148, Case COMP/M.1745 – *EADS*, paragraphs 48-50; Case COMP/M.1501 – *GKN Westland/Agusta/JV*, paragraphs 9-12; and Case IV/M.0017 – *Aerospatiale/MBB*.

28 Response to the eRFI to market participants, question B.A.I.1.

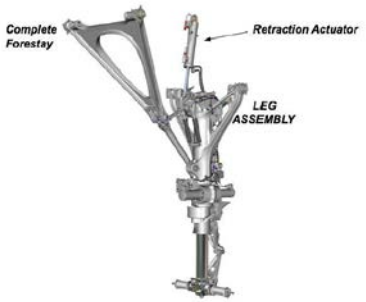
29 Based on the market shares provided by the Notifying Parties, the possible downstream market for military helicopters is not an affected market for the purposes of this decision. Table 1 below therefore contains only civil helicopters as affected downstream market for the purposes of this decision.

4.1.2.2. Landing gears

(52) Among the Consortium members, only Safran is active on the downstream market for landing gears.

(53) The landing gear supports the entire weight of an aircraft while on the ground and absorbs most of the energy at landing and during taxi or take-off phases, damping shocks from irregularities on the runway. A landing gear must bear extreme loads at landing and during manoeuvres on the ground. Landing gear original equipment is provided to the aircraft manufacturer by Tier-1 suppliers and spare parts are delivered at a later stage to airlines as needed.

Figure 1 - Two-wheel main landing gear



Source: Form CO, page 90

(54) In its decisional practice, the Commission examined a market encompassing all landing gears, however considering that the landing gear market is divided into two customer segments, civil and military.[30]

(55) According to the Notifying Parties, while the type, complexity, and number of landing gears may vary according to the type and size of the aircraft, the basic technology used remains standard across the various types of aircraft equipped. All the landing gear suppliers can build all types of landing gears. The Notifying Parties therefore agree with the Commission's decisional practice and submit that there is an overall relevant market for landing gears.

(56) The vast majority of market participants expressing their view confirmed that landing gears represent a specific product market.[31] Furthermore, a majority of respondents specified that although they may share some commonalities, landing gears for civil aircraft and landing gear for military aircraft represent distinct product markets.[32]

(57) It follows that, in line with the Commission decisional practice, landing gears can be considered a separate product market for the purpose of this decision. Whether landing gears should be subdivided into landing gears for civil aircraft and military aircraft can in any event be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition.

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30 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraphs 73-77; Case COMP/M.368 – *Snecma/IT*, paragraphs 16-20.

31 Response to the eRFI to market participants, question B.A.F.1.

32 Responses to the eRFI to market participants, question B.A.F.2.

4.1.2.3. Brakes and wheels

(58) Among the Consortium members, only Safran is active on the market for brakes and wheels through its division Safran Landing Systems.

(59) In its decisional practice, the Commission considered that brakes and wheels belong to the same relevant product market and originally left open whether the market could be further segmented according to the various types of aircraft.[33] However, in a more recent decision,[34] the Commission considered it appropriate to define separate product markets for the manufacture and supply of aircraft brakes and wheels for each aircraft type, namely aircraft brakes and wheels for general aviation aircraft, business jets, military fixed-wing unmanned aerial vehicles (UAVs), military fixed-wing trainers and helicopters. As to the possible segmentations (i) by weight range within each category of aircraft (e.g., general aviation and business jets); and (ii) based on brake material (i.e., steel versus carbon), the Commission concluded that there is no need to define separate product markets.

(60) The Notifying Parties submit that brakes and wheels form one and the same relevant market for the following reasons:

(a) from a demand-side perspective, airlines purchase brakes and wheels together from the same manufacturer; and

(b) from a supply-side perspective, brakes and wheels are designed and manufactured simultaneously. Hence, a further distinction is irrelevant from a technical point of view as the conception of the brakes and wheels is linked.

(61) The Notifying Parties also submit that there is no need to distinguish between the various types of aircraft, given that all suppliers are able to supply all types of aircraft as technologies are identical for all applications.

(62) The vast majority of market participants expressing their view indicated that brakes and wheels for large commercial aircraft represent a specific product market.[35] The results of the market investigation as to further subdivision into (i) brakes and wheels for narrow-body/single-aisle large commercial aircraft and (ii) brakes and wheels for wide-body/twin-aisle large commercial aircraft was inconclusive.[36]

(63) The Commission considers that, for the purposes of this decision, the exact product market definition can in any event be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition.[37]

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33 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraphs 78-84.

34 Case COMP/M.10506 – *Parker/Meggitt*, paragraphs 14-71.

35 Response to the eRFI to market participants, question B.A.G.1.

36 Responses to the eRFI to market participants, question B.A.G.2

37 Based on the market shares provided by the Notifying Parties, the downstream market for brakes and wheels for wide-body/twin-aisle large commercial aircraft is not an affected market for the purposes of this decision. Table 1 below therefore contains only brakes and wheels for large commercial aircraft and brakes and wheels for narrow-body/single-aisle large commercial aircraft as affected downstream market for the purposes of this decision.

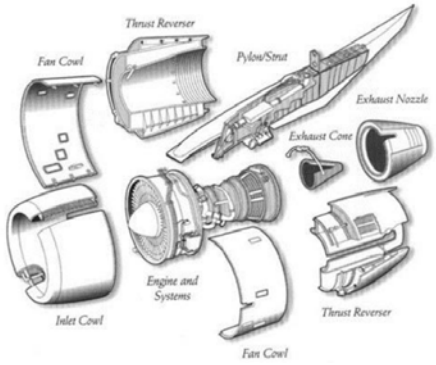
4.1.2.4. Nacelles/Thrust reversers

(64) Among the Consortium members, only Safran, through its subsidiary Safran Nacelles, is active in the manufacture and supply of nacelles. Safran is an integrator of nacelles for all types of aircraft: large commercial aircraft, business / corporate jets, and regional aircraft. Safran does the technical and physical integration of components into the nacelle.

(65) Nacelles are enclosures on the exterior of an aircraft, often attached to the wings, used to house the engine and its components. Large commercial aircraft, regional aircraft, and corporate jets have nacelles. On the contrary, helicopters do not have nacelles. The main functions of the nacelle are to contribute to the performance of the propulsion system, to ensure the best aerodynamics, and to participate in the braking of the aircraft through thrust reversers. It also helps reduce engine noises, and incorporates safety components to protect the aircraft from the engine heat.

(66) The thrust reverser is the most important component of the nacelle in terms of mass and cost, representing more than half the value of the nacelle. It is located next to the engine and plays an essential role in landing the aircraft. It helps the aircraft slow down on the ground by reversing the airflow, to produce a retarding backward force. To do so, the thrust reverser obstructs the primary airflow so that the aircraft engine's exhaust is directed forward rather than backwards.

Figure 2 - Nacelle components



Source: Form CO, page 104

(67) In its decisional practice, the Commission considered that nacelles may constitute a separate product market.[38] The Commission also found that a further segmentation according to the size and the type of aircraft served (i.e., large commercial aircraft versus regional aircraft) may not be appropriate due to supply-side substitution considerations.[39]

(68) In past decisions, the Commission also identified separate product markets for each of the main components of the nacelle, i.e., thrust reversers, air inlets, exhaust, and fan cowl doors.[40] The Commission highlighted that these components are subject to

38 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraphs 103-106, Case COMP/M.6410 – *Goodrich/UTC*, and Case COMP/M.2168 – *Snecma/Hurel-Dubois*.

39 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraph 106, Case COMP/M.6410 – *Goodrich/UTC*, paragraphs 110-1.

40 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraph 107, Case COMP/M.6410 – *Goodrich/UTC*, paragraph 117, and Case COMP/M.2168 – *Snecma/Hurel-Dubois*, paragraph 8.

specific technological requirements and perform different functions within nacelles.

(69) The Commission previously took the view that a further segmentation of the market for thrust reversers based on their type is not appropriate, because there is broad supply-side substitutability as the majority of suppliers are able to manufacture all types of thrust reversers. The Commission left open whether it is necessary to further sub-segment the market for thrust reversers according to the aircraft types.[41]

(70) The Notifying Parties agree with the Commission's decisional practice and submit that there is a separate product market for nacelles. The Notifying Parties do not find it appropriate to further segment the market for nacelles according to the size / type of aircraft served or the application.

(71) The Notifying Parties also agree with the Commission's decisional approach that each component of the nacelle may constitute a separate product market. However, the Notifying Parties do not find it appropriate to further segment the market for thrust reversers based on their type or based on the aircraft type.

(72) The vast majority of market participants expressing their view confirmed that nacelles and thrust reversers constitute separate product markets.[42]

(73) The Commission considers that, for the purpose of this decision, it can follow its previous decisional practice retaining nacelles and thrust reversers as separate product markets.

4.1.2.5. Turboshaft engines

(74) Among the Consortium members, only Safran designs, develops and manufactures a wide range of engines, alone or through partnerships, through its subsidiaries SAE, Safran Helicopter Engines, and Safran Power Units. Safran develops, manufactures, and supplies, *inter alia*, a wide range of turboshaft engines for civil and military helicopters.

(75) Engines are deployed to power and propel aircraft and helicopters. All aircraft and helicopter engines are differentiated products, which are designed and manufactured for a specific aircraft platform. Engines must meet specific requirements imposed by the aircraft or helicopter manufacturer (or as the case may be, by the national government), in particular in terms of thrust, mass, range, altitude, etc. depending on the type of missions of the aircraft or helicopter.

(76) The basic principle of a jet engine is identical to any and all engines that extract energy from chemical fuel. The four main steps for any internal combustion engine are: (i) intake of air; (ii) compression of the air; (iii) combustion, where fuel is injected and burned to convert the stored energy; and (iv) expansion and exhaust, where the converted energy is put to use.

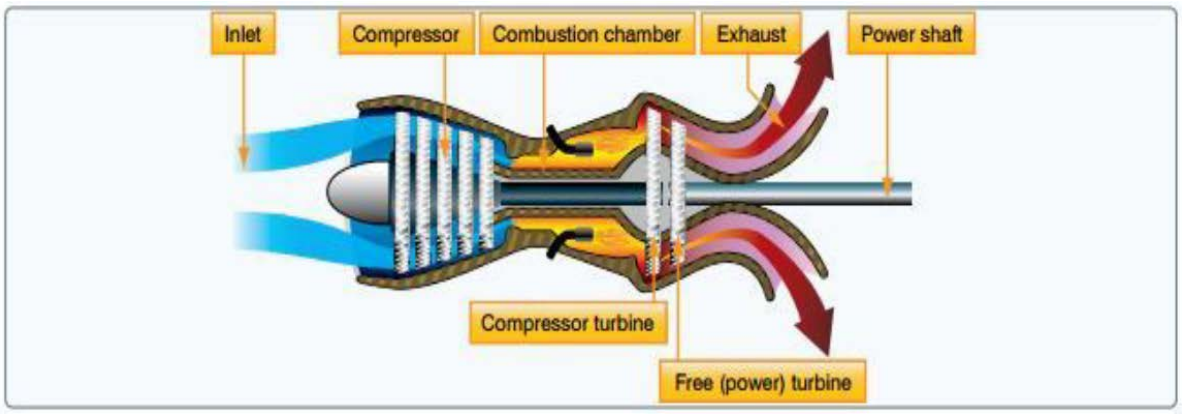
(77) There are three types of engines: turboprop, turbofan and turboshaft engines, which have different architectures but are all equipped with turbomachinery (which can take many forms, such as fans, compressors, turbines, and propellers).

41 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraphs 109-111.

42 Response to the eRFI to market participants, question B.A.H.1.

(78) In turboshaft engines, most of the energy produced by the expanding gases is used to drive a power turbine rather than produce thrust. The principle is similar to a turboprop engine but a large shaft is attached to the back of the turbine. The shaft powers the rotor blade transmission and the latter consequently transfers rotation from the shaft to the rotor blade. Turboshaft engines are deployed on helicopters and on vertical take-off and landing ('VTOL') aircraft.

Figure 3 - Turboshaft Engine



Source: Form CO, page 100

(79) In its most recent decision in this respect, the Commission considered that each individual type of engine (i.e., turbofan, turboprop, and turboshaft) may likely constitute a separate product market.[43]

(80) The Notifying Parties agree with the Commission's decisional practice and submit that turboshaft engines constitute a separate product market.

(81) The vast majority of market participants expressing their view confirmed that turboshaft engines constitute a specific product market.[44]

(82) The Commission considers that, for the purpose of this decision, the exact product market definition can in any event be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market under any alternative product market definition.

4.1.2.6. Space infrastructure

(83) Among the Consortium members, only Airbus Defence and Space ('Airbus DS') develops and manufactures space infrastructure. Among various activities in this sector, it is leading the European contribution to the International Space Station ('ISS'). It is also part of ESA's industrial operator team for the operation and utilisation of the European elements of the ISS, in particular the Columbus laboratory. Airbus DS also developed the European Service Module that will power Orion, NASA's next-generation spaceship designed for crewed space exploration missions.

(84) In its decisional practice,[45] the Commission considered that the space industry could be split into (i) satellites; (ii) space infrastructure (mainly space stations); (iii)

43 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraph 128.
44 Response to the eRFI to market participants, question B.A.I.1.

launch services; (iv) launchers; and (v) ground systems. In all these segments, a further distinction was made between the prime contracting level and the equipment level.

(85) The Notifying Parties generally agree with the Commission's decisional practice and submit that there is a separate product market for space infrastructure. The Notifying Parties do not find it necessary to further segment the market, as all market players are able to act as prime contractors in all of those segments.

(86) The market investigation suggested that larger space infrastructure systems (typically manned) and small infrastructure systems (typically unmanned) could constitute separate product markets.[46]

(87) The Commission considers that, for the purpose of this decision, the exact product market definition can in any event be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market under any alternative product market definition.

4.2. Geographic market

4.2.1. Upstream markets

4.2.1.1. Bars

(88) In its previous decisions, the Commission has considered that the geographic markets for the production and supply of stainless steel products is at least EEA-wide in scope.[47] In relation to titanium products, the Commission found that the markets for melted and milled products are worldwide in scope.[48]

(89) The Notifying Parties submit that general engineering steel bars, stainless steel bars, titanium bars and super-alloy bars are worldwide in scope. From a demand perspective, these different types of bars are sourced globally while transport costs and trade barriers are minimal. From a supply-side perspective, the same competitors are active globally and the conditions of supply are homogeneous worldwide.

(90) The vast majority of respondents expressing their view in the market investigation confirmed that the geographic market for all types of bars is worldwide.[49]

(91) For the purposes of this decision, the geographic market definition would be at least EEA or worldwide, but can in any event be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market under any alternative geographic market definition.

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45 Case COMP/M.7353 – *Airbus/Safran/JV*, paragraph 68, Case COMP/M.2437 – *NEC/Toshiba*, paragraph 12.

46 Responses to the eRFI to market participants, question B.A.K.1. and B.A.K.2.

47 Case COMP/M.7839 – *Outokumpu/Hernandez Edelstahl*, paragraphs 30-33, Case COMP/M.6471 – *Outokumpu/Inoxum*, paragraphs 238-243 and 260, and Case COMP/M.6962 – *Renova Industries/Schmolz & Bickenbach*, paragraphs 25-26.

48 Case COMP/M.7593 – *Alcoa/RTI International Metals*, paragraph 21.

49 Responses to the eRFI to market participants, question B.B.1. and B.B.2.

4.2.1.2. Closed-die forged parts

(92) In its decisional practice, the Commission found that the geographic market for titanium components is likely to be at least EEA-wide or more likely worldwide in scope.[50] With regard to aerostructures or aircraft systems and components, the Commission concluded that the relevant geographic market is worldwide in scope.[51] The Commission came to the same conclusion with regard to the supply of components to aircraft engine manufacturers.[52]

(93) As concerns the relevant geographic market, the Notifying Parties agree with the Commission's decisional practice and submit that the above-mentioned markets are worldwide in scope.

(94) The vast majority of respondents expressing their view in the market investigation confirmed that the geographic market for all types of closed-die forged parts is worldwide.[53]

(95) For the purposes of this decision, the geographic market definition would be at least EEA or worldwide, but it can in any event be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market under any alternative geographic market definition.

4.2.2. Downstream markets

4.2.2.1. Aircraft manufacturing

(96) In its decisional practice, the Commission has consistently found that all markets for aircraft manufacturing, with the exception of military aircraft, are worldwide in scope.[54]

(97) The Notifying Parties agree that all markets for aircraft manufacturing are worldwide in scope.

(98) The vast majority of respondents expressing their view in the market investigation confirmed that the geographic market for aircraft manufacturing is worldwide.[55]

(99) For the purposes of this decision, the geographic market definition for aircraft manufacturing can be considered as worldwide in scope, as the Transaction does not raise serious doubts as to its compatibility with the internal market under any alternative geographic market definition.

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50 Case COMP/M.7593 – *Alcoa/RTI International Metals*, paragraph 29, Case COMP/M.7342 – *Alcoa/Firth Rixson*, paragraph 28, and Case COMP/M.6765 – *Precision Castparts/Titanium Metals*, paragraphs 45-47.

51 Case COMP/M.8948 – *Spirit/Asco*, paragraphs 37-38, Case COMP/M.6410 – *UTC/Goodrich*, paragraph 119.

52 Case COMP/M.6844 – *GE/Avio*, paragraphs 61-64.

53 Responses to the eRFI to market participants, question B.B.1. and B.B.2.

54 For commercial aircraft, Case COMP/M.8985 – *Boeing/KLX*, paragraph 33, Case COMP/M.8858 – *Boeing/Safran/JV (Auxiliary Power Units)*, paragraph 15, Case COMP/M.2220 – *General Electric/Honeywell*, paragraph 36, Case COMP/M.1601 – *Allied Signal/Honeywell*, paragraph 13, and Case IV/M.877 – *Boeing/McDonnell Douglas*, paragraph 20. For civil helicopters, Case COMP/M.6410 – *UTC/Goodrich*, paragraph 149, Case COMP/M.1745 – *EADS*, paragraph 58, and Case COMP/M.1501 – *GKN Westland/Agusta/JV*, paragraphs 13-16.

55 Responses to the eRFI to market participants, question B.B.2.

4.2.2.2. Landing gears

(100) In its decisional practice, the Commission found that the market(s) for landing gears is worldwide in scope.[56]

(101) The Notifying Parties agree with the Commission's decisional practice and submit that the market for landing gears is worldwide in scope.

(102) The vast majority of respondents expressing their view in the market investigation confirmed that the geographic market(s) for landing gears is worldwide.[57]

(103) For the purposes of this decision, in line with the previous decisional practice of the Commission confirmed by the results of the market investigation, the geographic market definition for landing gears can be considered as worldwide in scope.

4.2.2.3. Brakes and wheels

(104) In its decisional practice, the Commission found that the market(s) for brakes and wheels is worldwide in scope.[58]

(105) The Notifying Parties agree with the Commission's decisional practice that the market for brakes and wheels is worldwide in scope.

(106) The vast majority of respondents expressing their view in the market investigation confirmed that the geographic market(s) for brakes and wheels is worldwide.[59]

(107) For the purposes of this decision, in line with the previous decisional practice of the Commission confirmed by the results of the market investigation, the geographic market definition for brakes and wheels can be considered as worldwide in scope.

4.2.2.4. Nacelles/Thrust reversers

(108) In its decisional practice, the Commission found that the market for nacelles and the markets for each main component (i.e., including thrust reversers) should be considered as worldwide in scope.[60]

(109) The Notifying Parties agree with the Commission's decisional practice that the market for nacelles and the market for thrust reversers are worldwide in scope.

(110) The vast majority of respondents expressing their view in the market investigation confirmed that the geographic market(s) for nacelles and the geographic market(s) for thrust reversers are worldwide.[61]

(111) For the purposes of this decision, in line with the previous decisional practice of the Commission confirmed by the results of the market investigation, the geographic

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56 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraphs 297-298; Case COMP/M.368 – *Snecma/IT*, paragraphs 21-22.

57 Responses to the eRFI to market participants, question B.B.2.

58 Case COMP/M.10506 – *Parker/Meggitt*, paragraphs 72-79, Case COMP/M.8425 – *Safran/Zodiac* Aerospace, paragraphs 297-298.

59 Responses to the eRFI to market participants, question B.B.2.

60 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraphs 297-298, Case COMP/M.6410 – *Goodrich/UTC*, paragraphs 118-119, Case COMP/M.2168 – *Snecma/Hurel-Dubois*, paragraph 11.

61 Responses to the eRFI to market participants, question B.B.2.

market definition for market for nacelles and the market for thrust reversers can be considered as worldwide in scope.

4.2.2.5. Turboshaft engines

(112) In its decisional practice, the Commission has consistently considered that the relevant geographic markets for the supply of aircraft and helicopter engines are worldwide.[62]

(113) The Notifying Parties agree with the Commission's decisional practice that the market for engines, including turboshaft engines, is worldwide in scope.

(114) The vast majority of respondents expressing their view in the market investigation confirmed that the geographic market(s) for engines, including turboshaft engines, are worldwide.[63]

(115) For the purposes of this decision, in line with the previous decisional practice of the Commission confirmed by the results of the market investigation, the geographic market definition for engines, including turboshaft engines, can be considered as worldwide in scope.

4.2.2.6. Space infrastructure

(116) In its decisional practice,[64] the Commission considered that the market for space infrastructure is European (ESA Member States[65]) in scope, as (i) the customers for space infrastructure are space agencies, especially ESA; (ii) the procurement of space infrastructure systems and equipment is subject to the *'juste retour'* principle; and (iii) competition between suppliers of space infrastructure systems is organised on the basis of European-wide programmes.

(117) The Notifying Parties agree that the market for space infrastructure is European in scope.

(118) The results of the market investigation indicate that the geographic market(s) for space parts is(are) worldwide.[66]

(119) For the purposes of this decision, based on the abovementioned explanations of the Notifying Parties, the geographic market definition for space infrastructure can be considered as Europe wide in scope.

4.3. Affected markets

(120) Based on the Notifying Parties' submissions, the Transaction does not give rise to **any horizontal overlaps**.

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62 Case COMP/M.8425 – *Safran/Zodiac Aerospace*, paragraphs 297-298, Case COMP/M.6410 – *UTC/Goodrich*, Case COMP/M.6844 – *GE/Avio*, Case COMP/M.2220 – *General Electric/Honeywell*.

63 Responses to the eRFI to market participants, question B.B.2.

64 Case COMP/M.1636 – *MMS/DASA/Astrium*, paragraphs 99-100, Case IV/M.1745 – *EADS*, paragraph 78.

65 Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland, and the United Kingdom.

66 Responses to the eRFI to market participants, question B.B.2.

(121) A number of **vertical links** arise from the Transaction. Table 1 below shows only those vertical links where the markets are affected according to the Form CO.

(122) In view of the Commission's findings as set out in sections 4.1-4.2 above and based on its investigation, Table 1 below sets out the market that are (vertically) affected by the Transaction. In its assessment in section 5 of this decision, the Commission focuses on the vertical links between the markets marked in bold and underlined.[67]

Table 1: List of affected markets

Relevant upstream Market	Target's 2021 Market Share	Relevant downstream market(s)	Acquirer's 2021 Market Share WW
Bars			
General engineering steel bars	WW: [5-10]% EEA: [10-20]%	Landing gears	Safran: [50-60]%
		Turboshaft engines	Safran: [30-40]%
		Commercial aircraft	Airbus: [30-40]%
		Large commercial aircraft	Airbus: [40-50]%
		Narrow-body/single-aisle large commercial aircraft	Airbus: [40-50]%
		Wide-body/twin-aisle large commercial aircraft	Airbus: [20-30]%[68]
		Civil helicopters	Airbus: [30-40]%
		Regional aircraft	Airbus: [30-40]%
Stainless steel bars	WW: [5-10]% EEA: [5-10]%	Landing gears	Safran: [50-60]%
		Turboshaft engines	Safran: [30-40]%
		Commercial aircraft	Airbus: [30-40]%
		Large commercial aircraft	Airbus: [40-50]%
		Narrow-body/single-aisle large commercial aircraft	Airbus: [40-50]%
		Wide-body/twin-aisle large commercial aircraft	Airbus: [20-30]%[69]
		Civil helicopters	Airbus: [30-40]%
		Regional aircraft	Airbus: [30-40]%

67 As explained in paragraph (132) below, due to modest market shares in the upstream markets, the Commission assessed only those affected markets where both upstream and downstream market shares are close or above 30%.

68 Between 2019 and 2021, Airbus' market shares of wide-body / twin-aisle large commercial aircraft varied from [20-30] to [50-60]% in volume and from [20-30] to [50-60]% in value. Due to the COVID-19 crisis and the resulting financial difficulties, airlines cancelled a significant number of orders of large commercial aircraft from Airbus and Boeing. As in some instances there were more cancellations than orders (i.e., resulting in negative figures), the Notifying Parties provided market share estimates based on volumes of gross orders. The downstream market of Wide-body/twin-aisle large commercial aircraft is considered as affected market due to [40-50]% average market share for past three years.

69 *Ibid.*

Relevant upstream Market	Target's 2021 Market Share	Relevant downstream market(s)	Acquirer's 2021 Market Share WW
Super-alloy bars	WW: [0-5]% EEA: [0-5]%	Turboshaft engines	Safran: [30-40]%
		Commercial aircraft	Airbus: [30-40]%
		Large commercial aircraft	Airbus: [40-50]%
		Narrow-body/single-aisle large commercial aircraft	Airbus: [40-50]%
		Wide-body/twin-aisle large commercial aircraft	Airbus: [20-30]%[70]
		Civil helicopters	Airbus: [30-40]%
Titanium bars	WW: [0-5]% EEA: [0-5]%	Landing gears	Safran: [50-60]%
		Commercial aircraft	Airbus: [30-40]%
		Large commercial aircraft	Airbus: [40-50]%
		Narrow-body/single-aisle large commercial aircraft	Airbus: [40-50]%
		Wide-body/twin-aisle large commercial aircraft	Airbus: [20-30]%[71]
		Civil helicopters	Airbus: [30-40]%
		Regional aircraft	Airbus: [30-40]%
Closed-die forged structure parts			
Forged fuselage and wing parts	WW: [5-10]% EEA: [10-20]%	Commercial aircraft	Airbus: [30-40]%
		Large commercial aircraft	**Airbus: [40-50]%**
		Narrow-body/single-aisle large commercial aircraft	**Airbus: [40-50]%**
		Wide-body/twin-aisle large commercial aircraft	**Airbus: [20-30]%[72]**
		Regional aircraft	Airbus: [30-40]%
Forged landing gear parts	WW: [10-20]% EEA: [10-20]%	**Landing gears**	**Safran: [50-60]%**
		Brakes and wheels for large commercial aircraft	**Safran: [40-50]%**
		Brakes and wheels for narrow- body/single-aisle large commercial aircraft	**Safran: [40-50]%**
Nacelle parts	WW: [40-50]% EEA: [50-60]%	**Nacelles**	**Safran: [30-40]%**
		Thrust reversers	**Safran: [20-30]%**

70 *Ibid.*
71 *Ibid.*
72 *Ibid.*

Relevant upstream Market	Target's 2021 Market Share	Relevant downstream market(s)	Acquirer's 2021 Market Share WW
Forged helicopter structure parts	WW: [30-40]% EEA: [60-70]%	**Civil helicopters**	**Airbus: [30-40]%**
Closed-die forged engine parts			
Forged helicopter engine parts	WW: [20-30]% EEA: [30-40]%	**Turboshaft engines**	**Safran: [30-40]%**
Space parts			
Space parts (large space parts)	WW/EEA: [< 30]% ([90-100]% for large space parts in the EEA)	**Space infrastructure**	**Airbus: [50-60]% (ESA Member States)**

5. COMPETITIVE ASSESSMENT

5.1. Legal Framework

(124) Under Article 2(2) and (3) of the Merger Regulation, the Commission must assess whether a proposed concentration would significantly impede effective competition in the internal market or in a substantial part of it, in particular through the creation or strengthening of a dominant position. Depending on the position of the Parties in the supply chain, a concentration may entail horizontal and/or non-horizontal effects.

(125) Non-horizontal effects arise when the parties to a concentration operate in different levels of the supply chain in certain relevant markets (vertical effects) or when the Parties operate in closely related markets (conglomerate effects). The Commission appraises non-horizontal effects in accordance with the guidance set out in the Non-Horizontal Merger Guidelines.[73]

(126) Both the Horizontal and Non-Horizontal Guidelines distinguish between two main ways in which mergers between actual or potential competitors on the same relevant market may significantly impede effective competition, namely non-coordinated and coordinated effects.

(127) In non-horizontal mergers, non-coordinated effects may arise when the concentration gives rise to foreclosure. In non-horizontal mergers, foreclosure can take the form of input foreclosure, where the merger is likely to raise costs of downstream rivals by restricting their access to an important input; and/or of customer foreclosure, where the merger is likely to foreclose upstream rivals by restricting their access to a sufficient customer base.[74]

(128) In assessing the likelihood of such foreclosure scenarios, the Commission assesses whether post-Transaction, the Parties would have the (i) ability and (ii) the

[73] Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings ('Non-Horizontal Merger Guidelines') (2008/C 265/07).

[74] Non-Horizontal Merger Guidelines, paragraph 30.

economic incentive to foreclose its rivals, as well as (iii) whether such foreclosure strategy would have a detrimental effect on competition, causing harm to consumers. These three conditions are cumulative, i.e. the absence of one of the conditions excludes likely foreclosure. [75]

5.2. Competitive assessment

5.2.1. Input foreclosure

5.2.1.1. The Notifying Parties' view

(129) The Notifying Parties argue that the Parties would lack the ability to foreclose any input post-Transaction. First, the Target had an estimated market share of well below 30% in all upstream affected markets (i.e., worldwide and EEA) in the past three years, except for the market for nacelle parts, the market for forged helicopter engine parts and the market for forged helicopter structure parts. However, even in these markets, the Target's estimated worldwide market share remains below 50% in the past three years. Second, there are numerous strong alternative suppliers actively competing with the Target across all affected upstream products. Third, the Target has long-term supply contracts with most of its customers, which the Target contractually cannot cancel. Fourth, even if the Target's estimated market share is relatively high on the markets for nacelle parts, forged helicopter structure parts and forged helicopter engine parts, suppliers in the closed-die forgings space that are already qualified / certified by OEMs can relatively easily and swiftly (i.e., around one year) increase production capacity or enter the production of a new product line, which would undermine any attempts to increase prices or to decrease product quality. Fifth, for a number of affected upstream markets, the Target's production is already largely, or almost entirely, supplied to the Consortium members, so that the Transaction does not impact the structure of the market for the supply of these products.[76]

(130) The Notifying Parties argue that the Parties lack incentive to engage in input foreclosure. They indicate that, first, any hypothetical strategy to increase downstream sales to compensate for any losses of upstream sales to the Consortium members' competitors makes no economic sense, given that Airbus' and Safran's production strategy is driven by customer demand and is entirely unrelated to the acquisition of the Target. Second, according to the Notifying Parties, the Consortium members' interests are in no way aligned, because (i) customers of the Target who could be deemed competitors of either Safran or Airbus are also important suppliers and/or customers of Airbus and Safran, respectively; and (ii) TAC is a private equity investor and, as such, under a regulatory obligation to manage all its investments (including the Target's business) to the best interest of its investors. Third, the Notifying Parties submit that the Target's upstream affected products represent only a negligible cost factor in the total price / total cost of Airbus' and Safran's downstream affected products.[77]

(131) During the market investigation, a few customers raised concerns and primarily with regard to the production of space parts.

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75 Non-Horizontal Merger Guidelines, paragraphs 32 and 94.

76 Form CO, paragraph 421.

77 Form CO, paragraph 413.

5.2.1.2. The Commission's assessment

(132) The Commission finds that the Target has an estimated market share well below 30% in all upstream affected markets in the past three years both globally and in the EEA, with the exception of four potential product markets, namely: nacelle parts, the market for forged helicopter structure parts, the market for forged helicopter engine parts and a potential market for large forged space parts.

(133) For the vertical relationships in which the Target's share is below 30%, the Target's market share alone – and in the absence of any evidence on the contrary suggesting possible concerns – evidences that the Parties lack the ability to foreclose input. This applies to the following upstream markets of the vertically affected relationships in Table 1:

(a) General engineering steel bars: the Target's market share in 2021 is [5-10]% worldwide and [10-20]% EEA-wide;

(b) Stainless steel bars: the Target's market share in 2021 is [5-10]% worldwide and [5-10]% EEA-wide;

(c) Super-alloy bars: the Target's market share in 2021 is [0-5]% worldwide and [0-5]% EEA-wide;

(d) Titanium bars: the Target's market share in 2021 is [0-5]% worldwide and [0-5]% EEA-wide;

(e) Forged fuselage and wing parts: the Target's market share in 2021 is [5-10]% worldwide and [10-20]% EEA-wide; and

(f) Forged landing gear parts: the Target's market share in 2021 is [10-20]% worldwide and [10-20]% EEA-wide.

(134) Accordingly, the Commission investigated in accordance with the Non-Horizontal Merger Guidelines whether the Parties would have post-Transaction the ability and incentive to foreclose input with regard to (i) nacelle parts (Section 5.2.1.2.1), (ii) forged helicopter structure parts (Section 5.2.1.2.2), (iii) forged helicopter engine parts (Section 5.2.1.2.3) as well as (iv) large forged space parts.

5.2.1.2.1. Upstream: Nacelle parts

(135) The Commission investigated whether the Parties would have post-Transaction the ability and incentive to foreclose the input of nacelle parts to customers active downstream in the manufacture of nacelles and/or thrust reversers.

(136) The Target's global and EEA-wide market shares for nacelle parts ranged between [30-40]% and [50-60]% throughout the past three years (2021: [40-50]% globally, [50-60]% EEA-wide; 2020: [30-40]% globally, [30-40]% EEA-wide; 2019: [40-50]% globally, [30-40]% EEA-wide).

(137) The Target has only [Number of customer(s)] customers of nacelle parts globally, one of which is a party to the Transaction (Safran) and [Number of customer(s)] third party customer ([Name of customer]).[78]

(138) Contrary to the Parties' submission, the Commission's market investigation confirmed that switching to alternative suppliers of nacelle parts would take at least

[78] Notifying Parties' response to RFI 11, Annex 1.

two years. Respondents to the market investigation said that certification and qualification processes for a new supplier in the aerospace industries would take two to three years. A competitor stated: '*As for all aerospace forgings the typical process to design, qualify and certify is 12 month to 2 years before serial deliveries'*[79]. The only third party customer of nacelle parts of the target noted in relation to nacelle parts specifically: '*Switching would require testing, certification and investment.'*[80]

(139) However, the Commission finds that that the Parties would neither have the ability nor the incentive to foreclose the input of nacelle parts post-Transaction. This is for the following reasons.

Ability to foreclose input

(140) **First**, the Target sold more than [40-50]% of its worldwide production and more than [90-100]% of its EEA-wide production in 2021 (respectively [30-40]% worldwide and [90-100]% EEA-wide in 2020) to Safran, i.e. one of the Acquirers. Therefore, Safran is already pre-Transaction an important customer of the Target and the Transaction is unlikely to significantly impact the structure of the market for the supply of all nacelle parts.

(141) **Second,** while switching suppliers requires a lead time of at least two years (see paragraph (138) above), the Commission finds that the supply contracts between the Target's [Number of customer(s)] third party customer ([Name of customer]) and the Target with regard to nacelle parts are long-term contracts.[81] The contracts cover [Information on the contracts with the customer, including duration]. This would make it impossible to terminate the supply of nacelle parts to this customer in the short to medium-term or to increase prices without infringing contractual obligations. In the long-term, the duration of the contracts would allow [Name of customer] sufficient time to switch to an alternative supplier.

(142) **Third,** the Commission finds that there are several strong alternative suppliers competing with the Target in the supply of nacelle parts that could supply customers of the Target with nacelle parts in the long-term. According to the Parties, competitors for Nacelle parts are Otto Fuchs / Weber Metals (15-30% global market share) and Figeac Aero and Spirit Aerosystems (35-50% market share worldwide and EEA-wide respectively).[82] In addition, the Commission's market investigation confirmed that Crowell & Moring, PCC, Howmet, and Ellwood are additional alternative suppliers to the Target.[83]

Incentive to foreclose input

(143) **Fourth,** the Commission finds that the [Number of customer(s)] third party customer of the Target for nacelle parts is also a supplier to Airbus for nacelles for its [Program(s)].[84] Therefore, this relationship would additionally limit the Parties' incentive to foreclose input to this customer.

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79 Response to the eRFI to market participants, question C.B.C.3.

80 Response to the eRFI to market participants, question C.A.C.11

81 Notifying Parties' response to RFI 11 questions 1 and 2, including Annex 3.

82 See Form CO, Tables 26 and 27.

83 Responses to the eRFI to market participants, questions C.B.C.1 and C.A.C.8.

84 Notifying Parties' response to RFI 11 questions 2.

(144) **In conclusion,** the Commission finds that the Parties would neither have the ability nor the incentive to foreclose the input of nacelle parts to its only third party customer post-Transaction.

5.2.1.2.2. Upstream: Forged helicopter structure parts

(145) The Commission investigated whether the Parties would have the ability and incentive to foreclose post-Transaction the input of forged helicopter structure parts to customers active downstream in the manufacture of civil helicopters.

(146) The Commission finds that that the Parties would neither have the ability nor the incentive to foreclose the input of forged helicopter structure parts post-Transaction. This is for the following reasons.

Ability to foreclose input

(147) **First**, while the Target has substantially grown its market share in forged helicopter structure parts throughout the past three years, growing from [5-10]% in 2019 to [30-40]% in 2021 at global level and from [10-20]% in 2019 to [60-70]% in 2021 at EEA-level, the Commission finds in this regard that the increase in the Target's market share from 2019 to 2021 is due to a significant increase in sales to Airbus Helicopters (which represents more than [90-100]% of the Target's global sales of forged helicopter structure parts).[85] This increase in sales is largely due [Explanation for the increase in sales of forged helicopter structure parts to Airbus Helicopters].[86] However, under normal circumstances, the Target's estimated market share on the EEA market for forged helicopter structure parts would be much lower and, in any event, below 30% (i.e., as in 2020 and 2019).

(148) **Second,** the Commission finds that the Target sold more than [90-100]% of its worldwide and EEA-wide production to one of the Parties to the Transaction (Airbus) in 2021 and 2020, and more than [80-90]% of its production in 2019, so that the Transaction is unlikely to significantly impact the structure of the market for the supply of forged helicopter structure parts.

(149) **Third,** the Commission finds that there are several strong alternative suppliers competing with the Target in the supply of forged helicopter structure parts that could supply customers of the Target, including established suppliers on this market such as Precision Castparts Corp (15-30% market share globally in 2021), Voestalpine Böhler Aerospace (15-30% market share EEA-wide and 10-20% globally in 2021), Howmet Aerospace (15-30% market share globally in 2021) and ATI Metals (10-20% market share globally in 2021), and other, such as Otto Fuchs who could supply OEMs in the EEA.[87]

(150) **Fourth,** the Commission finds that the Target currently has [Number of customer(s)] supply contract with a third-party customer for forged helicopter structure parts. [Information on the duration of the contract(s) with the customer] Therefore, the Parties would have no ability to foreclose input of forged helicopter structure parts to this third party customer.

85 Form CO, footnote 111.
86 Form CO, footnote 111.
87 See response to eRFI to market participants, questions C.A.B.8. and C.B.B.2.

Incentive to foreclose input

(151) **Fifth,** the Commission finds that the Target had in 2021 only [Number of customer(s)] customers of forged helicopter structure parts globally, one of which is one of the Parties to the Transaction (Airbus).[88] [Number of customer(s)] of the third party customers source forged helicopter structure parts from the Target in the context of their supply relationship with either Airbus or Safran and the [Number of customer(s)] other third party customers have other relevant supply relationships with Airbus and Safran. Therefore, any foreclosure strategy in relation to these customers is unlikely.

(152) **In conclusion,** the Commission finds that while the market was affected in light of recent market shares, this seems to be an exception and not representative of the market position of the Target in this upstream market, so that the Parties is unlikely to have the ability to foreclose the input of forged helicopter structure parts to its third party customers post-Transaction. In any case, in light of existing supply relationships with the Parties, the Parties would not have the incentive to foreclose inputs to those customers post-Transaction.

5.2.1.2.3. Upstream: Forged helicopter engine parts

(153) The Commission investigated whether the Parties would have the ability and incentive to foreclose post-Transaction the input of forged helicopter engine parts to customers active downstream in the manufacture of turboshaft engines.

(154) The Commission finds that that the Parties would not have the ability to foreclose the input of forged helicopter engine parts post-Transaction. This is for the following reasons.

Ability to foreclose input

(155) **First,** the Target's estimated market share has consistently remained below 50% in the EEA ([30-40]% in 2021, [40-50]% in 2020 and [30-40]% in 2019) and well below 30% at global level ([20-30]% in 2021, [20-30]% in 2020, [10-20]% in 2019). Therefore, only in case of an EEA-wide market definition is this market affected.

(156) **Second**, the Target has been selling [90-100]% of its worldwide and EEA-wide production to the Consortium members (Safran) since at least 2015.[89] Thus, the Transaction is unlikely to impact the structure of the market for the supply of forged helicopter engine parts. The Target currently has [Number of customer(s)] third party customers.[90] This also means that the Parties would have no ability to foreclose any third party customer post-Transaction.

(157) **Third,** the Commission finds that there are several strong alternative suppliers competing with the Target in the supply of forged helicopter engine parts. Notably, Lisi Aerospace ([50-60]% EEA-wide and [30-40]% global market share in 2021), Carmel Forge ([10-20]% market share globally in 2021), Leistritz ([5-10]% market share globally in 2021), ATI Metals ([5-10]% market share globally in 2021) and Howmet Aerospace ([0-5]% market share globally in 2021).

88 Notifying Parties' response to RFI 11, Annex 1.
89 Form CO, Annex 24.
90 Notifying Parties' response to RFI 11, Annex 1.

(158) **In conclusion,** the Commission finds that the Parties lack any ability to foreclose the input of forged helicopter engine parts to any third party customer post-Transaction.

5.2.1.2.4. Upstream: Space parts

(159) In pre-notification calls as well as in response to the market investigation, a few customers emphasized that for certain specific to space parts the Target is their only potential supplier, as the parts require production on the Target's Large Press.[91]

(160) This Large Press is a hydraulic press with a maximum compressive force of 65 000 MT and a minimum compressive force of […].[92] The Large Press is used to manufacture a variety of products, including for example space parts, forged fuselage and wing parts, forged landing gear part and nacelle parts.[93]

(161) The Commission finds that manufacturing of certain large space parts requires the use of a Large Press and that there exists only a limited number of Large Presses globally. In Europe, the Target is currently the only operator of a Large Press for space parts. There are three Large Presses in the USA, up to 54 000 MT. Furthermore, there is one press in Japan (50 000 MT), two presses in China (80 000 MT and 50 000 MT), and two presses in Russia (75 000 MT and 72 000 MT). However, notably for certain space applications, customers do not consider large presses outside Europe to be viable alternatives.[94]

(162) While the Target's market shares in space parts overall are below 30% both at European-wide and global level, the Target would have a [90-100]% market share in a potential EEA-wide market for large forged space parts.

(163) The only vertically related downstream activities in which the Parties are active are space launchers[95] and the market for space infrastructure (especially large space infrastructure).

(164) The Commission finds that that the Parties would likely not have the ability and incentive to foreclose the input of space parts post-Transaction, and that the Transaction is not likely to lead to increased prices in the downstream market, causing harm to consumers. This is for the following reasons.

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91 Non-confidential minutes of a call with a market participant, 3 October 2022, paragraph 4; Non-confidential minutes of a call with a market participant, 7 December 2022, paragraph 3; responses to eRFI to market participants, question E.2.

92 Notifying Parties' response to RFI 5, question I.1.

93 Form CO, para. 772; for the input foreclosure analysis in relation to (i) forged fuselage and wing parts and forged landing gear parts, see paragraph (133), (ii) nacelle parts see Section 5.2.1.2.1.

94 Non-confidential minutes of a call with a market participant, 3 October 2022, paragraph 5; Non-confidential minutes of a call with a market participant, 7 December 2022, paragraph 3.

95 Safran and Airbus each hold a 50% controlling shareholding in ArianeGroup, which develops and supplies solutions for civil and military space launch systems. Space parts are also an input product for space launchers. However, in relation to space launchers, ArianeGroup is the European Space Agency's ('ESA') sole prime contractor on all Ariane programmes. Therefore, there is no open market for the prime contraction of ESA's space launchers in Europe. This means that the production of space launchers is not a market facing activity that serves a merchant market.

Ability to foreclose input

(165) **First**, in an upstream market comprising all space parts, the Target lacks market power to foreclose input, as its market share is below 30% both globally and in Europe. Other suppliers of space parts include Constellium Ussel, Forgital Dembiermont, Loire Industrie, VSMPO Tirus GmbH, Schmelzmetall AG, ATI Specialty Alloys and Components, GF Casting Solutions Novazzano S.A. and GF Precicst S.A..[96]

(166) **Second**, in line with the Notifying Parties' submission, the market feedback confirms that only for a very small number of space parts the only (potential) supply alternatives on the market are manufacturers that have a Large Press.[97] Indeed, the market test feedback confirms that this is the case only for [Number of space parts] space parts; (i) [Description of the relevant space part(s)] (ii) [Description of the relevant space part(s)].

(167) While there are alternative Large Presses available outside Europe, the customers indicate that for these [Number of space parts] specific large space parts they can use only European-based producers.[98] However, even if the Target were to have the ability to foreclose certain limited input in a potential European-wide market for large forged space parts as the only provider in Europe, the Target would not have the incentive to foreclose the input of large space parts post-Transaction, and that the Transaction would not lead to increased prices in the downstream market, causing harm to consumers.

Incentive to foreclose input

(168) **Third**, the Commission finds that the Large Press has [Detailed description of the Large Press' production capacity]. The Large Press' maximum capacity in a 'five eight-hour shifts per week' working regime is approximately […] hours.[99] In contrast, the Large Presses' activity over the last three year was […] hours in 2019, […] hours in 2020, and […] hours in 2021.[100] [Strategic considerations and work load projections][101].[102] Therefore, the […] production capacity at the Large Press goes against an incentive to foreclose input.

(169) **Fourth**, apart from Safran Aircraft Engines[103], there are no contractual arrangements guaranteeing a specific share of capacity of the Large Press to any customer.[104] Safran Aircraft Engines' contractually guaranteed capacity is only [0-5]% of the total capacity.[105] Therefore, the capacity of the Target's Large Press

96 Form CO, Annex 28.

97 Non-confidential minutes of a call with a market participant, 3 October 2022, paragraph 4; Non-confidential minutes of a call with a market participant, 7 December 2022, paragraph 3; Form CO paragraph 824.

98 Non-confidential minutes of a call with a market participant, 3 October 2022, paragraph 5; Non-confidential minutes of a call with a market participant, 7 December 2022, paragraph 3.

99 Form CO, paragraph 787.

100 Form CO, Table 65.

101 Form CO, paragraph 787.

102 Form CO, paragraph 799 and Annex 39.

103 Safran Aircraft Engines has a [0-5]% shareholding in Interforge (which is solely controlled by the Target). The Large Press is owned by Interforge.

104 Form CO, paragraph 791.

105 Form CO, paragraph 774.

is not structurally occupied by the Consortium members and available to potential new customers.

(170) **Fifth**, in relation to a specific mechanical part of large size for [Description of the use of the space part], the Consortium members are not directly competing with the Target's customer. Airbus only purchases space parts for smaller space infrastructures. Therefore, the Parties would likely not have any incentive post-Transaction to foreclose access to a mechanical part of large size [Description of the use of the space part].

(171) **Sixth**, in relation to specific equipment for Ariane 5 and Ariane 6 programs, ArianeGroup (i.e. the JV between Airbus and Safran) is either the direct customer or the indirect customer (sourcing the products produced by the Target from an intermediate supplier), as it integrates the parts into components used on an Airbus or ArianeGroup platform.[106] Therefore, the Parties would likely not have any incentive post-Transaction to foreclose these customers or to increase prices.

(172) **Seventh,** the Notifying Parties submit that there is a recent entrant in Italy, Forgiatura A. Vienna, which operates a 100 000 MT press. According to the Notifying Parties, while this press is currently used as an open-die forging press, it is in the process of being converted into a closed-die forging press. The Commission understands that while Forgiatura A. Vienna is currently not active in aerospace applications and the respective qualification processes would require approximately seven years, this company is a potential future entrant, limiting the Target's ability and mainly its incentive to foreclose access to its Large Press for the production of large space parts in the long-term.[107]

Impact on effective competition leading to price increases

(173) **Eighth**, the Commission finds that even if the Parties had the ability and incentive to foreclose the suppliers of specific equipment for Ariane 5 and Ariane 6 programs, any (partial) foreclosure would in all likelihood not lead to increased prices in the downstream market. Considering that the products of the Target are used on Airbus or ArianeGroup platforms, a potential foreclosure would lead the Consortium members to becoming the direct customers of the Target, which would eliminate the margins achieved by the current intermediate suppliers and would therefore likely not lead to increased prices in the downstream market, where prices are framed by long-term agreements regarding the relevant space programmes.

(174) **In conclusion,** the Commission finds that the Transaction would not lead to input foreclosure post-Transaction in relation to access to space parts.

5.2.1.3. Conclusion on input foreclosure

(175) In light of the above, the Commission considers that it is unlikely that the Transaction would lead to input foreclosure.

106 Form CO, paragraph 848.

107 Non-confidential minutes of a call with a market participant, 23 November 2022, paragraph 13.

5.2.2. Customer foreclosure

5.2.2.1. The Notifying Parties' view

(176) The Notifying Parties argue that the Parties will have neither the ability nor an incentive to foreclose the customer base of the Target's rivals.[108]

(177) First, according to the Notifying Parties, the Target is unable to serve the Consortium members' total demand for the relevant upstream products (forged landing gear parts,[109] forged fuselage and wing parts,[110] space parts[111]).

(178) Second, the Notifying Parties argue that even if the Target were to sell 100% of its production to the Consortium members, other suppliers of the relevant upstream products would still have access to a sufficient customer base downstream.[112]

(179) Third, the Notifying Parties submit that the Consortium members have no incentive to foreclose the Target's competing suppliers from accessing customers and, in any event, any hypothetical foreclosure strategy would not have a detrimental impact on competing suppliers of the relevant products.[113]

5.2.2.2. The Commission's assessment

(180) The Commission investigated whether the Transaction leads to customer foreclosure concerns in accordance with the Non-Horizontal Merger Guidelines.

(181) During the market investigation customer foreclosure concerns were raised by only one market participant.[114]

5.2.2.2.1. No ability to foreclose access to downstream customers by reducing purchases from the Target's competitors

(182) For most affected downstream markets, the Acquirers' market shares alone evidences that there are sufficient economic alternatives in the downstream markets for the upstream rivals to sell their output, which is the case for all markets in which the Acquirers' market shares are below 30% and turboshaft engines (Acquirers' market share is [30-40]%), regional aircraft (Acquirers' market share is [30-40]%), and civil helicopters (Acquirers' market share is [30-40]%). Post-Transaction, the Target's competitors will in any event continue to be able to sell their output to the Acquirers' large competitor base. All other affected markets are assessed in Sections 5.2.2.2.1.1 to 5.2.2.2.1.3.

(183) In addition to the more dedicated input products discussed in sections 5.2.2.2.1.1 - 5.2.2.2.1.3 below, further upstream products are vertically related to landing gears,

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108 Form CO, see notably paragraphs 575-584 (forged landing gear parts); paragraphs 550-559 (forged fuselage and wing parts), paragraphs 669-674 (space parts).

109 Form CO, paragraphs 575-583.

110 Form CO, paragraphs 550-559.

111 Form CO, paragraphs 669-673.

112 Form CO, paragraphs 575-583 (forged landing gear parts), paragraphs 555-558 (forged fuselage and wing parts), paragraph 673 (space parts).

113 Form CO, paragraphs, 559 (forged fuselage and wing parts), 584 (forged landing gear parts), 674 (space parts).

114 Response to the eRFI to market participants, question E.2.

brakes and wheels and large commercial aircrafts. Those upstream products are listed below:

(a) general engineering steel bars (e.g. upstream to landing gears, large commercial aircrafts, narrow-body/single-aisle large commercial aircraft, wide-body/twin-aisle large commercial aircraft);

(b) stainless steel bars (e.g. upstream to landing gears, large commercial aircrafts, narrow-body/single-aisle large commercial aircraft, wide-body/twin-aisle large commercial aircraft);

(c) titanium bars (e.g. upstream to landing gears, large commercial aircrafts, narrow-body/single-aisle large commercial aircraft, wide-body/twin-aisle large commercial aircraft); and

(d) super-alloy bars (e.g. upstream to large commercial aircrafts, narrow-body/single-aisle large commercial aircraft, wide-body/twin-aisle large commercial aircraft).

(184) These upstream products are used in many other downstream products aside from those in which the Acquirers are active. Downstream applications of general engineering steel bars excluding aerospace applications are automotive (light vehicles, trucks, buses, heavy plant machineries, ships, locomotives, motorbikes), power generation (land-based turbines, nuclear, renewable energies), defence (artillery, naval, missiles, ammunitions, firearms), medical instruments (surgical scissors, needle), mechanical engineering / industries (gears, cutlery, bearings, tubes, valves, pistons, shafts, safety parts, springs, vessels, pumps, bolts), sports (motorsport, ships, golf, foil fencing, mountain-climbing, bicycles), and consumer goods (watches, domestic appliances).[115] Similarly, stainless steel bars, titanium bars, and super-alloy bars have also many applications in addition to the aerospace industry. The Parties would therefore not have sufficient market power downstream to be able to foreclose the Target's competitors.

5.2.2.2.1.1. Downstream markets: landing gears (overall, civil and military), brakes and wheels (for large commercial aircraft, for narrow-body/single-aisle large commercial aircraft); upstream market: forged landing gear parts

(185) The Commission investigated whether the Parties would have post-Transaction the ability to foreclose access of the Target's competitors to downstream customers of forged landing gear parts.

(186) The Target's forged landing gear parts are (or can be) used downstream for incorporation in the following products, for which the vertical link gives rise to an affected market: Safran's landing gears, Safran's brakes and wheels for large commercial aircraft, and Safran's brakes and wheels for narrow-body / single-aisle large commercial aircraft.

(187) Safran has a significant market presence in a number of downstream markets that are vertically related to forged landing gear parts. Notably, Safran's worldwide share in landing gears is [50-60]% (civil landing gears: [50-60]%, military landing gears: approx. [10-20]%)[116], its worldwide share in brakes and wheels for narrow-

115 Reply to RFI 12, Q.1.
116 Reply to RFI 10, Annex 1.

body/single-aisle large commercial aircraft is [40-50]%, and its worldwide share in brakes and wheels for large commercial aircraft is [40-50]% in 2021.

(188) In addition, the majority of market participants indicated in the market investigation that it is relatively difficult to increase sales of forged landing gear parts to other existing or new customers.[117] Therefore, suppliers cannot easily shift their current supply to the Parties to other customers, in case of foreclosure.

(189) Furthermore, while sales of forged landing gear parts to Safran account for only a small portion of the majority of suppliers' total sales of this product, Safran is a relatively important customer for forged landing gear parts to at least some suppliers.[118]

(190) However, the Commission finds that the Transaction would not enable the Parties to engage in customer foreclose in relation to forged landing gear parts. This is for the following reasons.

(191) **First**, Safran's total purchase volume of forged landing gear parts exceeds by far the Target's overall capacity for this product. In the first place, Safran's total purchases in volume of forged landing gear parts in 2021 were [Number of parts] parts.[119] While the Target has a significant spare capacity of [50-60]%, its overall total worldwide production capacity for forged landing gear parts overall is only [Number of parts] parts.[120] Hence, even if the Target were to use all of its production capacity for forged landing gear parts for Safran, it could only cover less than [5-10]% of Safran's total requirement.

(192) **Second,** the Commission finds that the Target is already pre-Transaction one of Safran's top two suppliers of forged landing gear parts. Therefore, a significant part of Safran's demand is already pre-Transaction supplied by the Target. In 2021, Safran sourced [10-20]% by value (EUR […]) of its forged landing gear parts demand from the Target and the same amount from the Target's competitor [Name of supplier]. All other suppliers accounted for less than [10-20]% of Safran's purchases.[121]

(193) **Third**, the suppliers of forged landing gear parts typically offer a wide range of other products, similar to the Target. Therefore, the sales of forged landing gear parts represent only a limited part of their total sales. Consequently, any partial foreclosure in relation to forged landing gear parts would have a very limited impact on the suppliers' total sales.

(194) **In conclusion**, the Transaction would not enable the Parties to engage in customer foreclose in relation to forged landing gear parts.

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117 Response to the eRFI to market participants, questions D.A.2 and D.A.3.
118 Response to the eRFI to market participants, question D.A.1.
119 Reply to RFI 10, Annex 3.
120 Reply to RFI 10, Annex 2.
121 Form CO, Annex 26, tab 'Landing gear parts'.

5.2.2.2.1.2. Downstream markets: (i) large commercial aircraft (narrow-body / single-aisle large commercial aircrafts, wide-body / twin-aisle large commercial aircraft), (ii) regional aircrafts; upstream market: forged fuselage and wing parts

(195) The Commission investigated whether the Parties would have post-Transaction the ability to foreclose access of the Target's competitors to downstream customers of forged fuselage and wing parts.

(196) The Target's forged fuselage and wing parts are (or can be) used downstream for incorporation in the following products, for which the vertical link gives rise to an affected market: Airbus' large commercial aircrafts, narrow-body / single-aisle large commercial aircrafts, wide-body / twin-aisle large commercial aircrafts, and regional aircrafts.

(197) Airbus has a significant market presence in a number of downstream markets that are vertically related to forged fuselage and wing parts. Notably, Airbus' worldwide market share in large commercial aircraft is [40-50]% in 2021, [60-70]% in 2020 and [80-90]% in 2019 in volume[122] and [40-50]% in 2021, [60-70]% in 2020 and [70-80]% in 2019 in value. Airbus' worldwide market shares in the last three years in narrow-body / single-aisle large commercial aircraft in volume[123] is [40-50]% in 2021, [70-80]% in 2020 and [90-100]% in 2019.[124] Airbus' market share in wide-body / twin-aisle large commercial aircraft is [20-30]% in 2021, [30-40]% in 2020 and [50-60]% in 2019 in volume[125]. Its market share in regional aircraft is [30-40]% in 2021, [10-20]% in 2020 and [30-40]% in volume[126] in 2019.[127] Airbus' market shares in the large commercial aircraft segments have been declining in the last three years. In narrow-body / single-aisle large commercial aircraft, Airbus' market share decreased from [90-100]% (volume) in 2019 to [40-50]% (volume) in 2021. At the same time, Boeings market share increased from [5-10]% to [50-60]% in volume. In wide-body / twin-aisle large commercial aircraft Airbus market share decreased over the last three years from [50-60]% to [20-30]% in volume. Boeing's market share increased from [40-50]% to [70-80]% in volume. Considering the impact of the COVID 19 pandemic on the aircraft industry, the Commission takes the last three years of market shares into account for determining the vertically affected markets.

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122 Due to the COVID-19 crisis and the resulting financial difficulties, airlines cancelled a significant number of orders of large commercial aircraft from Airbus and Boeing. As in some instances there were more cancellations than orders (i.e., resulting in negative figures), the Notifying Parties provided market share estimates based on volumes of gross orders.

123 Due to the COVID-19 crisis and the resulting financial difficulties, airlines cancelled a significant number of orders of large commercial aircraft from Airbus and Boeing. As in some instances there were more cancellations than orders (i.e., resulting in negative figures), the Notifying Parties provided market share estimates based on volumes of gross orders.

124 The estimated value market shares are similar: [50-60]% in 2021, [70-80]% in 2020 and [90-100]% in 2021.

125 The estimated value market shares are similar: [20-30]% in 2021, [30-40]% in 2020 and [50-60]% in 2021.

126 Due to the COVID-19 crisis and the resulting financial difficulties, airlines cancelled a significant number of orders of large commercial aircraft from Airbus and Boeing. As in some instances there were more cancellations than orders (i.e., resulting in negative figures), the Notifying Parties provided market share estimates based on volumes of gross orders.

127 The estimated value market shares are: [20-30]% in 2021, [5-10]% in 2020 and [20-30]% in 2021.

(198) In addition, the majority of market participants indicated in the market investigation that it is relatively difficult to increase sales of forged fuselage and wing parts to other existing or new customers.[128] Therefore, suppliers cannot easily shift their current supply to the Parties to other customers, in case of foreclosure.

(199) Furthermore, while sales of forged fuselage and wing parts to Airbus account for only a small portion of the majority of suppliers' total sales of this product, Airbus is an important customer for forged fuselage and wing parts to at least some suppliers.[129]

(200) However, the Commission finds that the Transaction would not enable the Parties to engage in customer foreclose in relation to forged fuselage and wing parts. This is for the following reasons.

(201) **First**, Airbus' total purchase volume of forged fuselage and wing parts exceeds by far the Target's overall production capacity for this product. In the first place, Airbus' total purchases in volume of forged landing gear parts in 2021 were [Number of parts] parts.[130] While the Target has a significant spare capacity of [50-60]%, its overall total worldwide production capacity for forged fuselage and wing parts overall is only [Number of parts] parts.[131] Hence, even if the Target were to use all of its production capacity for forged fuselage and wing parts for Airbus, it could only cover less than [10-20]% of Airbus' total demand.

(202) **Second,** the Commission finds that the Target is already pre-Transaction by far the largest supplier of forged fuselage and wing parts to Airbus by value, accounting for [40-50]% of Airbus' total purchases in value in 2021.[132] Therefore, a significant part of Airbus' demand is already pre-Transaction supplied by the Target. All other suppliers accounted for [10-20]% or less.[133] [Information on Airbus' sourcing policy for forged fuselage and wing parts][134] Therefore, the Transaction will unlikely lead to a decrease of Airbus' supplier base.

(203) **Third**, the suppliers of forged fuselage and wing parts typically offer a wide range of other products, similar to the Target. Therefore, the sales of forged landing gear parts represent only a limited part of their total sales. Consequently, any foreclosure in relation to forged fuselage and wing parts would have a very limited impact on the suppliers' total sales.

(204) **In conclusion**, the Transaction would not enable the Parties to engage in customer foreclose in relation to forged fuselage and wing parts.

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128 Response to the eRFI to market participants, questions D.B.2 and D.B.3.
129 Response to the eRFI to market participants, question D.A.1.
130 Reply to RFI 10, Annex 4.
131 Reply to RFI 10, Annex 2.
132 Form CO, Annex 25, tab 'Fuselage and wing parts'.
133 Form CO, Annex 25, tab 'Fuselage and wing parts'.
134 Reply to RFI 13, paragraph 20.

5.2.2.2.1.3. Downstream market: space infrastructure (larger space infrastructure and smaller space infrastructure); upstream market: space parts (forged and non-forged)[135]

(205) The Commission investigated whether the Parties would have post-Transaction the ability to foreclose access of the Target's competitors to downstream customers of space parts.

(206) While the Target is active upstream in space parts, Airbus is active in space infrastructure parts, which leads to a potential vertically affected relationship.

(207) Airbus has a significant market presence in downstream markets that are vertically related to space parts. Notably, Airbus' European-wide market share in in space infrastructure is [50-60]% in 2021, [30-40]% in 2020, and [30-40]% in 2019.[136]

(208) The majority of market participants indicated in the market investigation that it is relatively difficult to increase sales of space parts to other existing or new customers.[137] Therefore, suppliers cannot easily shift their current supply to the Parties to other customers, in case of foreclosure.

(209) However, the Commission finds that the Transaction would not enable the Parties to engage in customer foreclose in relation to space parts. This is for the following reasons.

(210) **First,** Airbus is pre-Transaction sourcing space parts from a wide range of suppliers, of which none accounted for more than [5-10]% of Airbus' demand for space parts in the last three years.[138] The Target [Number, name and location of customer(s), and space parts supplied to the customer(s)][139] In addition, none of the market participants indicated in response to the market investigation that they achieved more than 10% of their total sales of space parts with the Parties.[140] Therefore, the Parties are not important customers of any space parts suppliers and would consequently not likely have any ability to foreclose any of their customers post-Transaction.

(211) **Second,** the Target does not manufacture small space parts. The Target manufactures only one type of large space parts ([Description of the space part]), a type of parts which is not produced on a recurring basis.[141] Airbus, however, only purchases space parts for smaller space infrastructures.[142] Therefore, the

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135 Safran and Airbus each hold a 50% controlling shareholding in ArianeGroup, which develops and supplies solutions for civil and military space launch systems. Space parts are also an input product for space launchers. However, in relation to space launchers, ArianeGroup is the European Space Agency's ('ESA') sole prime contractor on all Ariane programmes. Therefore, there is no open market for the prime contraction of ESA's space launchers in Europe. This means that the production of space launchers is not a market facing activity that serves a merchant market.

136 According to Airbus' best estimates, its 2021 European market shares for the potential narrower product markets are (i) [50-60]-[60-70]% market share in larger space infrastructure systems (manned or man-tended laboratories or habitats) and (ii) [70-80]-[80-90]% market share in smaller space infrastructure systems (unmanned reusable/retrievable platforms and payload facilities).

137 Response to the eRFI to market participants, questions D.C.2 and D.C.3.

138 Form CO, Annex 25.

139 Form CO, paragraph 659.

140 Response to the eRFI to market participants, question D.C.1.

141 Reply to RFI 10, paragraph 8.

142 Reply to RFI 10, paragraph 11.

Transaction is not likely to reduce the customer base for the Target's competitors in relation to space parts (notably for larger space infrastructures).

(212) **In conclusion**, the Transaction would not enable the Parties to engage in customer foreclose in relation to space parts, regardless of the size of the space infrastructure.

5.2.2.3. Conclusion on customer foreclosure

(213) The Commission finds that the Transaction does not to bring about customer foreclose concerns. As assessed above (5.2.2.2), (i) for most affected downstream markets the Target is already pre-merger the main supplier, (ii) the Target's production capacity could cover only a small portion of the Acquirers' demand, and (iii) sufficient opportunities will remain for the Target's competitors to market their products.

5.2.3. Conclusion on the competitive assessment

(214) In light of the above, the Transaction would not enable the Parties to either (i) foreclose downstream rivals' access to important inputs (as assessed in Section 5.2.1) or (ii) foreclose upstream rivals' access to a sufficient customer base and thereby reduce their ability to compete (as assessed in Section 5.2.2).

6. CONCLUSION

(215) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Margrethe VESTAGER
Executive Vice-President