

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

UNITED TECHNOLOGIES CORPORATION

and

GOODRICH CORPORATION

Defendants.

CASE NO. 1:12-CV-01230-RC

JOINT STATUS REPORT

Pursuant to the Court's Minute Entry Order of November 26, 2012, Plaintiff United States of America and Defendants United Technologies Corporation ("UTC") and Goodrich Corporation ("Goodrich") respectfully submit this Joint Status Report.¹

Background

1. The United States filed a civil antitrust Complaint in this matter on July 26, 2012, seeking to enjoin UTC's proposed acquisition of Goodrich. In the Complaint, the United States alleged that the proposed acquisition likely would substantially lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, in the worldwide markets for the development, manufacture, and sale of large main engine generators, aircraft turbine engines, and engine control systems for large aircraft turbine engines. That loss of competition likely would result in increased prices, less favorable contractual terms, and decreased innovation in the markets for

¹ All capitalized terms not defined in this Joint Status Report have the meanings given to them in the Proposed Final Judgment.

these products. Simultaneously with the filing of the Complaint, the United States filed a Proposed Final Judgment, which is designed to remedy the expected anticompetitive effects of the acquisition, and a Hold Separate Stipulation and Order signed by the plaintiff and the defendants, consenting to the entry of the Proposed Final Judgment after compliance with the requirements of the Tunney Act, 15 U.S.C. § 16.

Tunney Act Proceeding

2. As required under the Proposed Final Judgment, UTC arranged for publication of a newspaper notice summarizing the terms of the Proposed Final Judgment and the Competitive Impact Statement ("CIS") in the *Washington Post* each day from July 31, 2012 through August 6, 2012. The Proposed Final Judgment and CIS were published in the Federal Register on August 2, 2012. UTC filed a description of communications by UTC or Goodrich with the United States with this Court on August 3, 2012. The sixty-day period for public comment ended on October 5, 2012; two comments were received.

Compliance with the Hold Separate Stipulation and Order

3. As required under the Hold Separate Stipulation and Order, UTC proposed hold separate managers for the Electrical Power Divestiture Assets and the Engine Control Divestiture Assets (the Goodrich employees who were then responsible for those businesses), and those appointments were approved by the United States.

Divestiture of the Electrical Power Divestiture Assets and the Aerolec Shares

4. The availability of the Electrical Power Divestiture Assets and the Aerolec Shares was disseminated through the press release and other publicity surrounding the filing of the Proposed Final Judgment and through direct contact by UTC and its investment banker,

Citigroup, with potential buyers. UTC conducted a three-phase auction process to identify a buyer for the Electrical Power Divestiture Assets and the Aerolec Shares.

- a. [REDACTED] potential acquirers signed non-disclosure agreements to participate in Phase I of the sale process. Phase I participants received a Confidential Information Memorandum providing a detailed overview of the Electrical Power Divestiture Assets and the Aerolec Shares. UTC requested initial bids on August 15, 2012, and [REDACTED] potential acquirers submitted bids.
- b. Upon receipt of initial bids, UTC selected [REDACTED] potential acquirers to continue to Phase II of the sale process. Phase II participants received access to electronic data rooms containing detailed information relating to the Electrical Power Divestiture Assets and the Aerolec Shares and attended management presentations. UTC requested revised indications of interest on September 17, 2012, and [REDACTED] potential acquirers submitted such indications of interest.
- c. Upon receipt of these bids, UTC selected [REDACTED] potential acquirers to continue to Phase III of the sale process. Phase III participants were provided the opportunity to make physical inspections of the facilities to be divested, received access to more detailed information in the electronic data room, and were provided the opportunity to pose questions and engage in further discussions with management. UTC requested best and final offers from bidders on October 8, 2012.

d. Upon receipt of these best and final offers, UTC selected Safran SA ("Safran") as the Acquirer of the Electrical Power Divestiture Assets and the Aerolec Shares.

5. On October 15, 2012, UTC entered into an agreement to sell the Electrical Power Divestiture Assets and the Aerolec Shares to Safran. Pursuant to Section VIII.A of the Proposed Final Judgment, UTC provided notice of the proposed divestiture to the United States and the Monitoring Trustee on October 17, 2012. On November 6, 2012, the United States issued requests for information to UTC and Safran relating to the proposed transaction. UTC and Safran have completed their responses to these information requests. The United States is currently evaluating Safran as the proposed Acquirer of the Electrical Power Divestiture Assets and the Aerolec Shares.

6. The proposed divestiture is subject to approval by [REDACTED] other governmental authorities. The divestiture period in the Proposed Final Judgment is designed to accommodate seeking and obtaining such approvals. [REDACTED]

[REDACTED] Applications for approval are currently pending before [REDACTED]

[REDACTED] the European Commission ("EC"), and China's Ministry of Commerce ("MOFCOM").⁴

Divestiture of the Engine Control Divestiture Assets

7. As with the Electrical Power Divestiture Assets, the availability of the Engine Control Divestiture Assets was disseminated through the press release and other publicity surrounding the filing of the Proposed Final Judgment and through direct contact by UTC and its investment banker, Citigroup, with potential buyers. UTC conducted a three-phase auction process to identify a buyer for the Engine Control Divestiture Assets, similar to the process used for the Electrical Power Divestiture Assets.

- a. [REDACTED] potential acquirers signed non-disclosure agreements to participate in Phase I of the sale process. Phase I participants received a Confidential Information Memorandum providing a detailed overview of the Engine Control Divestiture Assets. UTC requested initial bids on August 15, 2012, and [REDACTED] potential acquirers submitted such bids.
- b. Upon receipt of initial bids, UTC selected [REDACTED] potential acquirers to continue to Phase II of the sale process. Phase II participants received access to electronic data rooms containing detailed information relating to the Engine Control Divestiture Assets and attended management

3 [REDACTED]

⁴ Like the United States, the EC and MOFCOM found that UTC's then-proposed acquisition of Goodrich raised competitive concerns as to aircraft electric power generation systems, and UTC agreed to EC and MOFCOM undertakings to resolve those concerns.

presentations. UTC requested revised indications of interest on September 17, 2012, and [REDACTED] potential acquirers submitted such indications of interest.


- c. Upon receipt of these bids, UTC selected [REDACTED] potential acquirers to continue to Phase III of the sale process. Phase III participants were provided the opportunity to make physical inspections of the facilities to be divested, received access to more detailed information in the electronic data room, and were provided the opportunity to pose questions and engage in further discussions with management. UTC requested best and final offers from bidders on October 12, 2012.
- d. Upon receipt of these best and final offers, UTC selected TransDigm Inc. ("TransDigm") as the Acquirer of the Engine Control Divestiture Assets.

8. On October 25, 2012, UTC entered into an agreement to sell the Engine Control Divestiture Assets to TransDigm. Pursuant to Section VIII.A of the Proposed Final Judgment, UTC provided notice of the proposed divestiture to the United States on October 29, 2012. On November 6, 2012, the United States submitted requests for information to UTC and TransDigm relating to the proposed transaction. UTC and TransDigm have completed their responses to these information requests. The United States is currently evaluating TransDigm as the proposed Acquirer of the Engine Control Divestiture Assets.

9. The proposed divestiture is subject to approval by one other governmental authority, the EC.⁵ The divestiture period in the Proposed Final Judgment is designed to accommodate seeking and obtaining such approval.

Divestiture of the AEC Shares

10. On October 25, 2012, UTC entered into an agreement to sell the AEC Shares to Roll-Royce. Rolls-Royce is the party to whom Section VI.A of the Proposed Final Judgment directed and ordered that the AEC Shares be sold. On October 26, 2012, UTC provided notice of the proposed sale to the United States and the Monitoring Trustee as a proposed divestiture pursuant to Section VIII.A of the Proposed Final Judgment. The United States has informed UTC that approval of the United States is not required for transfer of the AEC Shares to Rolls-Royce, as the transfer to Rolls-Royce is already directed by the Proposed Final Judgment.



Cooperation with the Monitoring Trustee

12. Paragraph XI.A of the Proposed Final Judgment provides that the United States may appoint a Monitoring Trustee for the Electrical Power Divestiture Assets, subject to approval by the Court. On August 17, the United States filed a motion with the Court in response to UTC's proposal to appoint ING Financial Markets LLC ("ING") as Monitoring

⁵ Like the United States, the EC found that UTC's then-proposed acquisition of Goodrich raised competitive concerns as to engine controls, and UTC agreed to a set of EC undertakings to resolve those concerns.

Trustee for the Electrical Power Divestiture Assets, the Aerolec Shares, and the AEC Shares.⁶

On August 20, the Court issued an order approving ING as Monitoring Trustee. UTC and ING are in frequent contact, including regularly scheduled update calls and UTC responses to requests for information from the Monitoring Trustee. The Monitoring Trustee has also had direct access (without UTC involvement) to the hold separate manager for the Electrical Power Divestiture Assets.⁷

Ongoing Reporting

13. Pursuant to Section XII of the Proposed Final Judgment and Section V.C of the Hold Separate Stipulation and Order, UTC submitted Affidavits of Compliance and other information to the United States and the Monitoring Trustee on August 15, 2012, September 14, 2012, October 15, 2012, and November 14, 2012, providing descriptions of its efforts to sell the

⁶ The Proposed Final Judgment does not provide for a Monitoring Trustee for the Engine Control Divestiture Assets. ING serves in that capacity under the EC undertakings discussed in n.5.

⁷ For purposes of compliance with the EC undertakings, ING has also had direct access to the hold separate manager for the Engine Control Divestiture Assets.

Divestiture Assets and its compliance with other requirements under the Proposed Final Judgment and the Hold Separate Stipulation and Order.

Dated: December 3, 2012

Respectfully submitted,

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