

Final Report of the Hearing Officer ⁽¹⁾**COMP/39.736 — Siemens/Areva**

(2012/C 280/04)

1. Further to a complaint filed by Siemens AG ('Siemens'), which was later withdrawn, the Commission decided to open proceedings on 21 May 2010 in relation to a number of contractual restrictions as regards a range of products within the field of civil nuclear technology, agreed between Siemens and Areva SA ('Areva') in the framework of their former joint venture Areva NP (the 'JV').
2. On 16 December 2011, the Commission adopted a preliminary assessment pursuant to Article 9(1) of Regulation (EC) No 1/2003 ⁽²⁾. In its preliminary assessment, the Commission expressed the concern that the post-JV non-compete and confidentiality clauses, agreed between Areva and Siemens in their shareholders agreement, may constitute an infringement of the competition rules due to their excessive product scope and duration.
3. On 16 February 2012, Areva and Siemens submitted commitments to meet the concerns expressed to them by the Commission in its preliminary assessment. On 14 March 2012, a notice was published in the *Official Journal of the European Union* summarising the case and the commitments and inviting interested third parties to submit their observations on the commitments ⁽³⁾. On 17 April 2012 and 18 April 2012 respectively, the Commission informed Areva and Siemens of the outcome of the market test following the publication of the notice.
4. In its decision pursuant to Article 9(1) of Regulation (EC) No 1/2003, the Commission makes the commitments offered by Areva and Siemens binding upon them and concludes that there are no longer grounds for action on its part.
5. I did not receive any request or complaint from any party to the proceedings in the present case ⁽⁴⁾. In view thereof, I consider that the effective exercise of the procedural rights of all participants to the proceedings in this case has been respected.

Brussels, 8 June 2012.

Michael ALBERS

⁽¹⁾ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, OJ L 275, 20.10.2011, p. 29 (the 'Terms of Reference').

⁽²⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, 4.1.2003, p. 1.

⁽³⁾ Notice published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case COMP/39.736 — Siemens/Areva, OJ C 75, 14.3.2012, p. 10.

⁽⁴⁾ In accordance to Article 15(1) of the Terms of Reference, parties to the proceedings offering commitments pursuant to Article 9 of Regulation (EC) No 1/2003 may call upon the hearing officer at any stage of the procedure in order to ensure the effective exercise of their procedural rights.