

Final Report of the Hearing Officer ⁽¹⁾**Steel Abrasives****(AT.39792)**

(2014/C 362/06)

On 16 January 2013, the European Commission initiated proceedings pursuant to Article 11(6) of Regulation (EC) No 1/2003 ⁽²⁾ against Ervin ⁽³⁾, MTS ⁽⁴⁾, [another undertaking] ⁽⁵⁾, Winoa ⁽⁶⁾, and Würth ⁽⁷⁾.

Following settlement discussions and settlement submissions in accordance with Article 10a(2) of Regulation (EC) No 773/2004 ⁽⁸⁾, on 13 February 2014 the European Commission adopted a Statement of Objections ('SO') addressed to Ervin, MTS, Winoa and Würth (the 'settling parties') ⁽⁹⁾ stating that they had participated in a single and continuous infringement of Article 101 of the Treaty on the Functioning of the European Union and of Article 53 of the EEA Agreement. The SO alleged that, through bilateral and multilateral contacts, the settling parties had coordinated their conduct with respect to prices of steel abrasives in the EEA by setting up a uniform calculation model for a common scrap surcharge, introducing an energy surcharge and restricting competition regarding individual customers.

In their replies to the SO, the settling parties confirmed that the SO addressed to them reflected the content of their settlement submissions.

Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the parties have been afforded the opportunity of making known their views, and I have come to a positive conclusion.

In view of the above, and taking into account that the settling parties have not addressed any requests or complaints to me ⁽¹⁰⁾, I consider that the effective exercise of their procedural rights in this case has been respected.

Brussels, 31 March 2014.

Wouter WILS

⁽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).

⁽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⁾ Ervin Industries Inc. and Ervin Amasteel.

⁽⁴⁾ Metalltechnik Schmidt GmbH & Co. KG.

⁽⁵⁾ [...].

⁽⁶⁾ WHA Holding SAS and Winoa SA.

⁽⁷⁾ Eisenwerk Würth GmbH.

⁽⁸⁾ Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

⁽⁹⁾ [The other undertaking] did not submit a formal request to settle pursuant to Article 10a(2) of Regulation (EC) No 773/2004. The administrative proceedings under Article 7 of Regulation (EC) No 1/2003 against [that other undertaking] are pending.

⁽¹⁰⁾ Under Article 15(2) of Decision 2011/695/EU, parties to the proceedings in cartel cases which engage in settlement discussions pursuant to Article 10a of Regulation (EC) No 773/2004 may call upon the hearing officer at any stage during the settlement procedure in order to ensure the effective exercise of their procedural rights. See also paragraph 18 of Commission Notice on the conduct of settlement procedures in view of the adoption of Decisions pursuant to Article 7 and Article 23 of Council Regulation (EC) No 1/2003 in cartel cases (OJ C 167, 2.7.2008, p. 1).