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EN

Price:
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⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Non-opposition to a notified concentration**(Case COMP/M.6643 — Uniqa/Dekra/Dekra-Expert)****(Text with EEA relevance)**

(2013/C 89/01)

On 20 March 2013, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in German and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32013M6643. EUR-Lex is the on-line access to the European law.

Non-opposition to a notified concentration**(Case COMP/M.6829 — Investindustrial/Aston Martin)****(Text with EEA relevance)**

(2013/C 89/02)

On 20 March 2013, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32013M6829. EUR-Lex is the on-line access to the European law.
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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

26 March 2013

(2013/C 89/03)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,2861	AUD	Australian dollar	1,2263
JPY	Japanese yen	121,25	CAD	Canadian dollar	1,3103
DKK	Danish krone	7,4527	HKD	Hong Kong dollar	9,9800
GBP	Pound sterling	0,84900	NZD	New Zealand dollar	1,5385
SEK	Swedish krona	8,3561	SGD	Singapore dollar	1,5968
CHF	Swiss franc	1,2209	KRW	South Korean won	1 424,66
ISK	Iceland króna		ZAR	South African rand	11,9128
NOK	Norwegian krone	7,4975	CNY	Chinese yuan renminbi	7,9899
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,5945
CZK	Czech koruna	25,806	IDR	Indonesian rupiah	12 521,64
HUF	Hungarian forint	304,50	MYR	Malaysian ringgit	3,9820
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	52,788
LVL	Latvian lats	0,7016	RUB	Russian rouble	39,7355
PLN	Polish zloty	4,1775	THB	Thai baht	37,684
RON	Romanian leu	4,4170	BRL	Brazilian real	2,5894
TRY	Turkish lira	2,3386	MXN	Mexican peso	15,8408
			INR	Indian rupee	70,0060

⁽¹⁾ Source: reference exchange rate published by the ECB.

Opinion of the Advisory Committee on restrictive agreements and dominant position given at its meeting of 28 November 2012 regarding a draft decision relating to Case COMP/39.230 — Rio Tinto Alcan

Rapporteur: The Netherlands

(2013/C 89/04)

1. The Advisory Committee shares the competition concerns raised by the Commission in its draft decision.
 2. The Advisory Committee agrees with the Commission that the behaviour may have effects on trade between Member States.
 3. The Advisory Committee agrees that the revised commitment proposal submitted by Rio Tinto Alcan addresses the competition concerns raised by the Commission.
 4. The Advisory Committee agrees that the commitments are adequate.
 5. The Advisory Committee agrees with the duration of the commitments.
 6. The Advisory Committee agrees that the commitments should be made binding in full.
 7. The Advisory Committee agrees that in light of the commitments and without prejudice to Article 9(2) of Regulation (EC) No 1/2003 there are no longer grounds for action by the Commission against Rio Tinto Alcan as regards the competition concerns identified in the draft decision.
 8. The Advisory Committee asks the Commission to take into account any other points raised during the discussion.
 9. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union*.
-

Final Report of the Hearing Officer ⁽¹⁾**COMP/39.230 — Réel/Alcan**

(2013/C 89/05)

- (1) This proceeding concerns a contractual tying of aluminium smelting technology with handling equipment for aluminium smelters.
- (2) The case originates from a complaint lodged in 2005 by the Group Réel, a Franco-German manufacturer of specialty cranes for aluminium reduction plants. Following an investigation, the Commission adopted a statement of objections in which it took the view that Alcan ⁽²⁾ had infringed Article 82 of the Treaty ⁽³⁾ and Article 54 of the EEA Agreement since 1 January 1990. An oral hearing was held in 2008. Subsequently, the Commission undertook a further investigation and prepared a supplementary statement of objections.
- (3) On 11 July 2012, the Commission adopted a preliminary assessment pursuant to Article 9(1) of Regulation (EC) No 1/2003 ⁽⁴⁾ concerning alleged infringements of the international aluminium producer Rio Tinto Alcan ('Alcan').
- (4) According to the preliminary assessment, Alcan's practice of contractually tying the licences of its aluminium smelting (reduction) technology to the purchase of certain speciality cranes for aluminium reduction plants, so-called pot tending assemblies (PTAs), supplied by Alcan's subsidiary ECL, may result in an infringement of Articles 101 and 102 of the TFEU and Articles 53 and 54 of the EEA Agreement. According to the preliminary assessment, Alcan has a dominant position on the relevant market for the licensing of aluminium smelting technology. The preliminary assessment expressed the concern that Alcan's contractual practice may produce negative effects on innovation and prices and result in anti-competitive foreclosure on the relevant PTA market.
- (5) In order to meet the concerns expressed by the Commission, Alcan has offered commitments ⁽⁵⁾. On 10 August 2012, the Commission published a notice in the *Official Journal of the European Union* in accordance with Article 27(4) of Regulation (EC) No 1/2003, summarising the case, the commitments and inviting third parties to submit comments on the proposal ⁽⁶⁾. The market test indicated that the draft commitments would be suitable to address the Commission's competition concerns, but a number of issues were raised. On November 2012, Alcan offered a revised version of the commitments, addressing these issues.
- (6) In its decision pursuant to Article 9(1) of Regulation (EC) No 1/2003, the Commission makes the commitments offered by the undertakings binding upon them and concludes that in light of the commitments offered, there are no longer grounds for action on its part, and thus the proceedings in this case should be brought to an end.
- (7) I did not receive any request or complaint from any party to the proceedings in the present case ⁽⁷⁾. In view thereof, I consider that the effective exercise of the procedural rights of all parties in this case has been respected.

Brussels, 29 November 2012.

Michael ALBERS

⁽¹⁾ Pursuant to Articles 16 and 17 of Decision of the President of the European Commission 2011/695/EU 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⁾ Alcan Inc., Alcan France SAS, Aluminium Pechiney SAS and Electrification Charpente Levage SASU (ECL).

⁽³⁾ Now Article 102 of the TFEU.

⁽⁴⁾ 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).

⁽⁵⁾ The commitments offered by Alcan are available at: http://ec.europa.eu/competition/antitrust/cases/dec_docs/39230/39230_1873_5.pdf

⁽⁶⁾ Notice published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case COMP/39.230 — Réel/Alcan (notified under document C(2012) 5758) (OJ C 240, 10.8.2012, p. 23).

⁽⁷⁾ In accordance to Article 15(1) of Decision 2011/695/EU, 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.

Summary of Commission Decision**of 20 December 2012****relating to a proceeding under Articles 101 and 102 of the Treaty on the Functioning of The European Union and Articles 53 and 54 of the EEA Agreement****(Case COMP/39.230 — Rio Tinto Alcan)***(notified under document C(2012) 9439)***(Only the English text is authentic)****(Text with EEA relevance)**

(2013/C 89/06)

On 20 December 2012, the Commission adopted a decision relating to a proceeding under Articles 101 and 102 of the Treaty on the Functioning of the European Union and Articles 53 and 54 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003⁽¹⁾, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets. A non-confidential version of the decision is available on the Directorate-General for Competition's website at the following address:

http://ec.europa.eu/competition/elojade/iseff/case_details.cfm?proc_code=1_39230

1. INTRODUCTION

- (1) The decision pursuant to Article 9 of Council Regulation (EC) No 1/2003 is addressed to Rio Tinto plc ('Rio Tinto'), Rio Tinto International Holdings Limited, Rio Tinto Alcan Inc, Rio Tinto France SAS, Aluminium Pechiney SAS ('AP') and Electrification Charpente Levage SASU ('ECL') (collectively, 'Rio Tinto Alcan'). It renders the commitments offered by Rio Tinto Alcan binding in order to address the competition concerns arising from an investigation by the Commission in the markets for aluminium smelting technology and pot tending assemblies.

2. CASE DESCRIPTION**2.1. Preliminary competition concerns**

- (2) Pot tending assemblies ('PTAs') are specialty cranes used in aluminium reduction plants (smelters), where primary aluminium is produced. AP, a subsidiary of Rio Tinto Alcan, contractually ties the licensing of its leading aluminium smelting technology to the purchase of pot handling equipment (notably PTAs) from ECL, its subsidiary. The Commission was concerned that by doing so the company may have infringed EU antitrust rules that prohibit restrictive business practices and the abuse of a dominant market position.
- (3) On 20 February 2008, the Commission opened proceedings with a view to taking a decision under Chapter III of Regulation (EC) No 1/2003 and notified a statement of objections to Alcan Inc, Alcan France SAS, AP and ECL.
- (4) After carrying out an additional investigation, the Commission adopted, on 11 July 2012, a preliminary

assessment as referred to in Article 9(1) of Regulation (EC) No 1/2003, which set out the Commission's competition concerns. These concerns related to the compatibility with Articles 101 and 102 of the Treaty on the Functioning of the European Union ('TFEU') and Articles 53 and 54 of the EEA Agreement of the contractual tying of the licensing of aluminium smelting technology to the acquisition of PTAs.

- (5) The Commission preliminarily concluded that Rio Tinto Alcan was dominant in the market for the tying product (namely the licensing of aluminium technology), that the latter and the tied product (i.e. the PTAs) were distinct products and that Rio Tinto Alcan's practice may likely led to the marginalisation and, potentially, the exit from the market of Réel, the complainant, which is so far Rio Tinto Alcan's only credible competitor in the market for PTAs. In addition, the Commission preliminarily concluded that the customers' choice of PTA suppliers had been directly and substantially limited by Rio Tinto Alcan's tying practice, with likely negative implications on innovation and, potentially, prices, in the PTA and smelting technology markets. This would amount to anti-competitive foreclosure of the PTA market by Rio Tinto Alcan in contravention of Articles 101 and 102 of the TFEU and Articles 53 and 54 of the EEA Agreement.

2.2. The commitments

- (6) On 3 August 2012, in response to the Commission's concerns expressed in the preliminary assessment, Rio Tinto Alcan submitted commitments to the Commission. On 10 August 2012, a notice pursuant to Article 27(4) of Regulation (EC) No 1/2003 was published in the *Official Journal of the European Union*, summarising the case and the

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

commitments and inviting interested third parties to submit their observations on the commitments within one month following its publication.

- (7) The Commission informed Rio Tinto Alcan of the comments received from interested third parties. On 9 November 2012, Rio Tinto Alcan submitted a revised commitments proposal which addressed several issues raised by third parties.
- (8) On 28 November 2012, the Advisory Committee on restrictive practices and dominant positions issued a favourable opinion. On 29 November 2012, the Hearing Officer issued his final report.
- (9) On 20 December 2012, the Commission made Rio Tinto Alcan's revised commitments binding by decision pursuant to Article 9 of Regulation (EC) No 1/2003. Rio Tinto Alcan commits, for a period of five years, to remove the tying clauses from its future technology transfer agreements ⁽¹⁾ and to introduce an objective and non-discrimi-

natory process for selecting qualified suppliers of PTAs. Rio Tinto Alcan's licensees will then be able to choose among the recommended PTA suppliers, which will be provided by Rio Tinto Alcan with the necessary technical specifications to ensure that their PTAs are capable of operating in smelters using AP technologies. Compliance with these commitments will be monitored by an independent expert.

- (10) The Commission takes the view that the commitments are sufficient and necessary to address the competition concerns identified in the preliminary assessment without being disproportionate.

3. CONCLUSIONS

- (11) In light of the revised commitments offered, the Commission considers that there are no longer grounds for action on its part and, without prejudice to Article 9(2) of Regulation (EC) No 1/2003, the proceedings in this case should therefore be brought to an end. The commitments shall be binding until 20 January 2018.

⁽¹⁾ The same applies for future expansions of existing smelters, in particular, tenders for PTAs associated with the retrofitting or upgrading of an existing smelter or pot line.

NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

View of the representatives of the EFTA States and the EFTA Surveillance Authority presented at the meeting of the EC Advisory Committee on restrictive agreements and dominant position of 28 November 2012 regarding a preliminary draft Commission Decision Case COMP/39.230 — Rio Tinto Alcan

Rapporteur: The Netherlands

(2013/C 89/07)

1. The representatives of the EFTA States and the EFTA Surveillance Authority share the competition concerns raised by the Commission in its draft decision.
2. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the Commission that the behaviour may have effects on trade between Member States.
3. The representatives of the EFTA States and the EFTA Surveillance Authority agree that the Revised Commitment Proposal submitted by Rio Tinto Alcan address the competition concerns raised by the Commission.
4. The representatives of the EFTA States and the EFTA Surveillance Authority agree that the commitments are adequate.
5. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the duration of the commitments.
6. The representatives of the EFTA States and the EFTA Surveillance Authority agrees that the commitments should be made binding in full.
7. The representatives of the EFTA States and the EFTA Surveillance Authority agree that in light of the commitments and without prejudice to Article 9(2) of Regulation (EC) No 1/2003 there are no longer grounds for action by the Commission against Rio Tinto Alcan as regards the competition concerns identified in the draft decision.
8. The representatives of the EFTA States and the EFTA Surveillance Authority ask the Commission to take into account any other points raised during the discussion.
9. The representatives of the EFTA States and the EFTA Surveillance Authority recommend the publication of its opinion in the *Official Journal of the European Union*.

EFTA Surveillance Authority
Sigrid SURLIEN

NORGE
Birgitte BREVIK

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.6893 — Carl Zeiss/Carl Zeiss Vision)

Candidate case for simplified procedure

(Text with EEA relevance)

(2013/C 89/08)

1. On 19 March 2013, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking Carl Zeiss AG (Germany), a wholly-owned subsidiary of Carl-Zeiss-Stiftung, acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of the undertaking Carl Zeiss Vision Holding GmbH (Germany) by way of purchase of shares. Prior to the proposed concentration, Carl Zeiss AG already held joint control over Carl Zeiss Vision together with EQT III Fund.

2. The business activities of the undertakings concerned are:
 - Carl-Zeiss-Stiftung owns controlling shareholdings in Carl Zeiss AG and Schott AG. Carl Zeiss AG is active in the optical and opto-electronic industries, offering products and services for medical technologies, for the semiconductor, automotive and engineering industries as well as for optical consumer goods. Schott AG develops and manufactures specialty materials, components and systems for the household appliances, pharmaceutical, solar energy, electronics, optics and automotive industries,

 - Carl Zeiss Vision Holding GmbH's group companies design, manufacture and distribute a broad range of ophthalmic lenses, production systems for eyeglass lens production, ophthalmic diagnostic systems and viewing aids.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6893 — Carl Zeiss/Carl Zeiss Vision, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

OTHER ACTS

EUROPEAN COMMISSION

Notice for the attention of Ansar Eddine which was added to the list referred to in Articles 2, 3 and 7 of Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network, by virtue of Commission Regulation (EU) No 290/2013

(2013/C 89/09)

1. Common Position 2002/402/CFSP⁽¹⁾ calls upon the Union to freeze the funds and economic resources of the members of the Al-Qaida organisation and other individuals, groups, undertakings and entities associated with them, as referred to in the list drawn up pursuant to UNSCR 1267(1999) and 1333(2000) to be updated regularly by the UN Committee established pursuant to UNSCR 1267(1999).

The list drawn up by this UN Committee comprises:

- Al Qaida,
- natural or legal persons, entities, bodies and groups associated with Al Qaida; and
- legal persons, entities and bodies owned or controlled by, or otherwise supporting, any of these associated persons, entities, bodies and groups.

Acts or activities indicating that an individual, group, undertaking, or entity is 'associated with' Al-Qaida include:

- (a) participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of Al Qaida, or any cell, affiliate, splinter group or derivative thereof;
- (b) supplying, selling or transferring arms and related materiel to any of them;
- (c) recruiting for any of them; or
- (d) otherwise supporting acts or activities of any of them.

2. The UN Committee decided on 19 March 2013 to add Ansar Eddine to the relevant list. Ansar Eddine may submit at any time a request to the UN Ombudsperson, together with any supporting documentation, for the decision to include them in the UN list referred to above, to be reconsidered. Such request should be sent to the following address:

United Nations — Office of the Ombudsperson
Room TB-08041D
New York, NY 10017
UNITED STATES OF AMERICA

Tel. +1 2129632671
Fax +1 2129631300/3778
E-mail: ombudsperson@un.org

⁽¹⁾ OJ L 139, 29.5.2002, p. 4.

See for more information at <http://www.un.org/sc/committees/1267/delisting.shtml>

3. Further to the UN decision referred to in paragraph 2, the Commission has adopted Regulation (EU) No 290/2013 ⁽¹⁾, which amends Annex I to Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network ⁽²⁾. The amendment, made pursuant to Articles 7(1)(a) and 7a(1) of Regulation (EC) No 881/2002, adds Ansar Eddine to the list in Annex I of that Regulation ('Annex I').

The following measures of Regulation (EC) No 881/2002 apply to the individuals and entities included in Annex I:

1. the freezing of all funds and economic resources belonging to the individuals and entities concerned, or owned or held by them, and the prohibition (on everyone) on making funds and economic resources available to any of the individuals and entities concerned or for their benefit, whether directly or indirectly (Articles 2 and 2a ⁽³⁾); and
2. the prohibition on granting, selling, supplying or transferring technical advice, assistance or training related to military activities to any of the individuals and entities concerned, whether directly or indirectly (Article 3).

4. Article 7a of Regulation (EC) No 881/2002 ⁽⁴⁾ provides for a review process where observations on the grounds for listing are submitted by those listed. Individuals and entities added to Annex I by Regulation (EU) No 290/2013 may make a request for the grounds for their listing to the Commission. This request should be sent to:

European Commission
'Restrictive measures'
Rue de la Loi/Wetstraat 200
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

5. The attention of the individuals and entities concerned is also drawn to the possibility of challenging Regulation (EU) No 290/2013 before the General Court of the European Union, in accordance with the conditions laid down in the fourth and sixth paragraphs of Article 263 of the Treaty on the Functioning of the European Union.

6. For good order, the attention of the individuals and entities included in Annex I is drawn to the possibility of making an application to the competent authorities in the relevant Member State(s), as listed in Annex II to Regulation (EC) No 881/2002, in order to obtain an authorisation to use frozen funds and economic resources for essential needs or specific payments in accordance with Article 2a of that Regulation.

⁽¹⁾ OJ L 87, 27.3.2013, p. 2.

⁽²⁾ OJ L 139, 29.5.2002, p. 9.

⁽³⁾ Article 2a was inserted by Council Regulation (EC) No 561/2003 (OJ L 82, 29.3.2003, p. 1).

⁽⁴⁾ Article 7a was inserted by Council Regulation (EU) No 1286/2009 (OJ L 346, 23.12.2009, p. 42).

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