

Official Journal of the European Union

C 351



English edition

Information and Notices

Volume 61

1 October 2018

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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 M.9052 — Kirin/Mitsui/Thorne)****(Text with EEA relevance)**

(2018/C 351/01)

On 24 September 2018, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. 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/homepage.html?locale=en>) under document number 32018M9052. EUR-Lex is the online access to European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

IV

*(Notices)*NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND
AGENCIES

COUNCIL

Notice for the attention of certain persons subject to the restrictive measures provided for in Council Decision (CFSP) 2015/1333, as amended by Council Decision (CFSP) 2018/1465⁽¹⁾ concerning restrictive measures in view of the situation in Libya

(2018/C 351/02)

The following information is brought to the attention of the persons referred to in Article 17(3) and (4) of Council Decision (CFSP) 2015/1333⁽²⁾ and designated in Annexes II and IV to Decision (CFSP) 2015/1333 and in Annex III to Council Regulation (EU) 2016/44⁽³⁾ concerning restrictive measures in view of the situation in Libya.

The Council of the European Union, after having reviewed the designation of those persons, has determined that the restrictive measures provided for in Council Decision 2011/137/CFSP⁽⁴⁾ and in Council Regulation (EU) No 204/2011⁽⁵⁾ should continue to apply to those persons.

The attention of the persons concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as indicated on the websites in Annex IV to Regulation (EU) 2016/44, in order to obtain an authorisation to use frozen funds for basic needs or specific payments (cf. Article 8 of the Regulation).

The persons concerned may submit a request to the Council before 15 January 2019, together with supporting documentation, that the decision to include them on the above-mentioned list should be reconsidered. Any such request should be sent to the following address:

Council of the European Union
General Secretariat
DG RELEX 1C
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

Email: sanctions@consilium.europa.eu

Any observations received will be taken into account for the purpose of the Council's periodic review, in accordance with Article 17 of Decision (CFSP) 2015/1333.

The attention of the persons concerned is also drawn to the possibility of challenging the Council's decision before the General Court of the European Union, in accordance with the conditions laid down in Article 275, 2nd paragraph, and Article 263, 4th and 6th paragraphs, of the Treaty on the Functioning of the European Union.

⁽¹⁾ OJ L 245, 1.10.2018, p. 16.

⁽²⁾ OJ L 206, 1.8.2015, p. 34.

⁽³⁾ OJ L 12, 19.1.2016, p. 1.

⁽⁴⁾ OJ L 58, 3.3.2011, p. 53.

⁽⁵⁾ OJ L 58, 3.3.2011, p. 1.

Notice for the attention of the data subjects to whom the restrictive measures provided for in Council Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya apply

(2018/C 351/03)

The attention of data subjects is drawn to the following information in accordance with Article 12 of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁾:

The legal basis for this processing operation is Council Regulation (EU) 2016/44 ⁽²⁾.

The controller of this processing operation is the Council of the European Union represented by the Director-General of DG RELEX (Foreign Affairs, Enlargement, Civil Protection) of the General Secretariat of the Council and the department entrusted with the processing operation is the Unit 1C of DG RELEX that can be contacted at:

Council of the European Union
General Secretariat
DG RELEX 1C
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

Email: sanctions@consilium.europa.eu

The purpose of the processing operation is the establishment and updating of the list of persons subject to restrictive measures in accordance with Regulation (EU) 2016/44.

The data subjects are the natural persons who fulfil the listing criteria as laid down in that Regulation.

The personal data collected includes data necessary for the correct identification of the person concerned, the statement of reasons and any other data related thereto.

The personal data collected may be shared as necessary with the European External Action Service and the Commission.

Without prejudice to restrictions provided for in Article 20(1)(a) and (d) of Regulation (EC) No 45/2001, requests for access, as well as requests for rectification or objection will be answered in accordance with Section 5 of Council Decision 2004/644/EC ⁽³⁾.

Personal data will be retained for 5 years from the moment the data subject has been removed from the list of persons subject to the asset freeze or the validity of the measure has expired, or for the duration of court proceedings in the event they had been started.

Data subjects may have recourse to the European Data Protection Supervisor in accordance with Regulation (EC) No 45/2001.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

⁽²⁾ OJ L 12, 19.1.2016, p. 1.

⁽³⁾ OJ L 296, 21.9.2004, p. 16.

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

28 September 2018

(2018/C 351/04)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,1576	CAD	Canadian dollar	1,5064
JPY	Japanese yen	131,23	HKD	Hong Kong dollar	9,0579
DKK	Danish krone	7,4564	NZD	New Zealand dollar	1,7505
GBP	Pound sterling	0,88730	SGD	Singapore dollar	1,5839
SEK	Swedish krona	10,3090	KRW	South Korean won	1 285,75
CHF	Swiss franc	1,1316	ZAR	South African rand	16,4447
ISK	Iceland króna	128,70	CNY	Chinese yuan renminbi	7,9662
NOK	Norwegian krone	9,4665	HRK	Croatian kuna	7,4346
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	17 249,98
CZK	Czech koruna	25,731	MYR	Malaysian ringgit	4,7890
HUF	Hungarian forint	324,37	PHP	Philippine peso	62,648
PLN	Polish zloty	4,2774	RUB	Russian rouble	76,1422
RON	Romanian leu	4,6638	THB	Thai baht	37,448
TRY	Turkish lira	6,9650	BRL	Brazilian real	4,6535
AUD	Australian dollar	1,6048	MXN	Mexican peso	21,7800
			INR	Indian rupee	83,9160

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

Opinion of the Advisory Committee on Mergers given at its meeting of 2 May 2018 regarding a draft decision relating to Case M.8444 — ArcelorMittal/Ilva

Rapporteur: Bulgaria

(2018/C 351/05)

Operation

1. The Advisory Committee (10 Member States) agrees with the Commission that the Transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

Union Dimension

2. The Advisory Committee (10 Member States) agrees with the Commission that the Transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

Product Markets

3. The Advisory Committee (10 Member States) agrees with the Commission that the relevant product market for the production and supply of semi-finished flat carbon steel products (slabs) can be left open.
4. The Advisory Committee (10 Member States) agrees with the Commission's definitions of the relevant product markets for the production and supply of finished flat carbon steel products and in particular:
 - 4.1. Hot rolled (excluding quarto plates) and cold rolled flat carbon steel products constitute distinct product markets; and
 - 4.2. The exact product market definition regarding galvanised steel, metallic coated steel for packaging and organic coated steel products can be left open.
5. The Advisory Committee (10 Member States) agrees with the Commission that, in the context of the present case, commodity and high-end products should not constitute distinct markets but that the markets for the production and supply of finished flat carbon steel products are differentiated between commodity and high-end products.
6. The Advisory Committee (10 Member States) agrees with the Commission that the exact product market definitions for products downstream of the production and supply of finished flat carbon steel products (e.g. steel distribution and welded tubes) can be left open.

Geographic markets

7. The Advisory Committee (10 Member States) agrees with the Commission that the relevant geographic market for the production and supply of semi-finished flat carbon steel products (slabs) can be left open.
8. The Advisory Committee (10 Member States) agrees with the Commission's definitions of the relevant geographic markets for the production and supply of finished flat carbon steel products and in particular:
 - 8.1. The markets for hot rolled, cold rolled and galvanised (regardless of exact product market definition) steel are EEA-wide but that they are geographically differentiated between different regions of the EEA;
 - 8.2. It can be left open whether the Nordics are part of the same relevant geographic markets with the rest of the EEA; and
 - 8.3. The exact geographic market definitions for metallic coated steel for packaging and organic coated steel can be left open.
9. The Advisory Committee (10 Member States) agrees with the Commission's definitions of the relevant geographic markets for products downstream of the production and supply of finished flat carbon steel products and in particular:
 - 9.1. The markets for the distribution of flat carbon steel products are national in the context of the present case; and
 - 9.2. The exact geographic market definition for other downstream markets can be left open.

Competitive Assessment

10. The Advisory Committee (10 Member States) agrees with the Commission's assessment that the Transaction would significantly impede effective competition due to horizontal non-coordinated effects with regard to the production and supply of:
 - 10.1. Hot rolled flat carbon steel (excluding quarto plates);
 - 10.2. Cold rolled flat carbon steel; and
 - 10.3. Galvanised flat carbon steel, regardless of the exact product market definition.
11. The Advisory Committee (10 Member States) agrees with the Commission's assessment that the Transaction would not significantly impede effective competition due to horizontal non-coordinated effects, regardless of the exact product market definitions, with regard to:
 - 11.1. Production and supply of metallic coated steel for packaging;
 - 11.2. Production and supply of welded carbon steel tubes; and
 - 11.3. Distribution of flat carbon steel products.
12. The Advisory Committee (10 Member States) agrees with the Commission's assessment that the Transaction may lead to horizontal coordinated effects in the markets for the production and supply of hot rolled, cold rolled and galvanised flat carbon steel products in the EEA but that it is not necessary to conclude on the issue in view of the Final Commitments.
13. The Advisory Committee (10 Member States) agrees with the Commission's assessment with regard to vertical links/non-horizontal effects.

Commitments

14. The Advisory Committee (10 Member States) agrees with the Commission that the Final Commitments address the competition concerns in relation to the production and supply of:
 - 14.1. Hot rolled flat carbon steel;
 - 14.2. Cold rolled flat carbon steel; and
 - 14.3. Galvanised flat carbon steel, regardless of the exact product market definition.
15. The Advisory Committee (10 Member States) agrees with the Commission that the Final Commitments sufficiently ensure the viability of the Divestment Businesses.
16. The Advisory Committee (10 Member States) agrees with the Commission that, subject to full compliance with the Final Commitments, the Transaction would not significantly impede effective competition in the internal market or a substantial part of it.

Compatibility with the Internal Market

17. The Advisory Committee (10 Member States) agrees with the Commission that the Transaction should therefore be declared compatible with the internal market and the EEA Agreement in accordance with Articles 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.
-

Final Report of the Hearing Officer ⁽¹⁾**(Case M.8444 — ArcelorMittal/Ilva)**

(2018/C 351/06)

Introduction

1. On 21 September 2017, the Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation ⁽²⁾ pursuant to which ArcelorMittal S.A. ('ArcelorMittal' or 'the Notifying Party') would acquire sole control of certain assets of the Ilva Group ('Ilva'), which entered into insolvency proceedings (Amministrazione Straordinaria) (the 'Transaction').

Procedure

2. The Commission's first phase investigation raised serious doubts as to the compatibility of the Transaction with the internal market and with the functioning of the EEA market. On 8 November 2017, the Commission adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation, to which ArcelorMittal responded on 18 November 2017 ⁽³⁾.
3. On 15 December 2017, 22 February 2018 and 12 March 2018 the time period set out in Article 10(3), first subparagraph, of the Merger Regulation was extended by a total of 20 working days pursuant to Article 10(3), second subparagraph, third sentence, of the Merger Regulation.

Statement of Objections

4. On 18 January 2018, the Commission adopted a Statement of Objections ('SO') pursuant to Article 18 of the Merger Regulation which was notified to the Notifying Party on the same day. On 25 January 2018, Ilva received a non-confidential version of the SO pursuant to Article 13(2) of Commission Regulation (EC) No 802/2004 ⁽⁴⁾. In the SO the Commission took the preliminary view that the Transaction would significantly impede effective competition in a substantial part of the internal market within the meaning of Article 2 of the Merger Regulation due to (i) horizontal non-coordinated effects in the markets for hot rolled flat carbon steel products, cold rolled steel, hot dip galvanised steel and electro galvanised steel in the EEA; and (ii) horizontal coordinated effects in the markets for flat carbon steel in the EEA.
5. ArcelorMittal was given until 2 February 2018 to reply to the SO and eventually submitted its reply on the morning of 3 February 2018. Ilva submitted its observations to the SO on 1 February 2018. Both ArcelorMittal and Ilva requested to be heard orally.

Access to the file

6. The Notifying Party was granted, upon its request, pursuant to Article 17, first paragraph of the Merger Implementing Regulation, access to the file on 19 January 2018 via CD-ROM. A data room was organised from 19 January to 29 January 2018 allowing the economic advisors of ArcelorMittal to verify confidential information of a quantitative nature, which formed part of the Commission's file. Further documents were sent on 24 January, 1 February, 2 March, 26 March, 28 March 2018 and 26 April 2018. A second data room was organised from 1 March to 2 March 2018.
7. I did not receive any requests for access to file on the basis of Article 7 of the Terms of Reference.

Interested third persons

8. Upon their request, I admitted three undertakings (ThyssenKrupp AG, Tata Steel Limited and Marcegaglia) as interested third persons in the present proceedings. These undertakings are competitors and/or customers of ArcelorMittal and Ilva and have contributed to the Commission's investigation.

⁽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 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1) (the 'Merger Regulation').

⁽³⁾ ArcelorMittal sent a revised version of its written comments on 19 November 2017.

⁽⁴⁾ Commission Regulation (EC) No 802/2004 of 21 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ L 133, 30.4.2004, p. 1) (the 'Merger Implementing Regulation').

9. All interested third persons were provided with a non-confidential version of the SO and given a time-limit within which to submit their responses. Given the urgency of the proceedings, the interested third persons were allowed to make known their views at the oral hearing prior to the submission by them of their written comments pursuant to Article 16(2) of the Merger Implementing Regulation.

Oral Hearing

10. The formal oral hearing was held on 8 February 2018 and was attended by ArcelorMittal and Ilva, as well their external legal and economic advisers, the three interested third persons, relevant Commission services and representatives of the competition authorities of seven Member States (Belgium, Finland, France, Germany, Italy, Luxembourg and Spain) and the EFTA Surveillance Authority.

Letter of Facts

11. On 28 February 2018 the Commission sent a Letter of Facts to the Notifying Party, setting out additional factual elements which the Commission, on further analysis of the file and of the reply to the SO, considered to be relevant for the final assessment of the Transaction. ArcelorMittal submitted written comments to this Letter of Facts on 9 March 2018.

Commitments

12. On 15 March 2018, the Notifying Party submitted a first set of formal commitments. Consequently, the review period was further extended pursuant to Article 10(3), first subparagraph of the Merger Regulation. On the basis of feedback obtained from the market testing of these commitments, the Notifying Party submitted a final set of commitments on 11 April 2018 ('Final Commitments').
13. In the draft Decision, the Commission finds that the Final Commitments are suitable and sufficient to eliminate the significant impediment to effective competition to which the Transaction would give rise. The Final Commitments therefore render the Transaction compatible with the internal market and the EEA Agreement.

Draft Decision

14. I have reviewed the draft Decision pursuant to Article 16(1) of Decision 2011/695/EU and I conclude that it deals only with objections in respect of which the parties have been afforded the opportunity of making known their views.

Conclusion

15. I conclude that the parties have been able to effectively exercise their procedural rights in the present proceedings.

Brussels, 3 May 2018.

Joos STRAGIER

Summary of Commission Decision**of 7 May 2018****declaring a concentration compatible with the internal market and the functioning of the EEA Agreement****(Case M.8444 — ArcelorMittal/Ilva)***(notified under document number C(2018) 2858)***(only the English version is authentic)****(Text with EEA relevance)***(2018/C 351/07)*

On 7 May 2018 the Commission adopted a Decision in a merger case under Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)⁽¹⁾, and in particular Article 8(2) of that Regulation. A non-confidential version of the full Decision, as the case may be in the form of a provisional version, can be found in English on the website of the Directorate-General for Competition, at the following address: http://ec.europa.eu/comm/competition/index_en.html.

1. THE OPERATION AND THE PROCEDURE

- (1) On 21 September 2017 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 (the 'Merger Regulation') by which ArcelorMittal S.A. ('ArcelorMittal', 'AM' or 'the Notifying Party') acquires sole control of certain assets of Ilva S.p.A. consolidated ('Ilva Group') in Amministrazione Straordinaria ('Ilva') (jointly the 'Parties') (the 'Transaction').
- (2) The Transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.
- (3) The Transaction has a Union dimension as the turnover thresholds set out in Article 1(2) of the Merger Regulation are met.
- (4) On 18 January 2018 the Commission adopted a Statement of Objections where it raised preliminary concerns for both unilateral and coordinated effects on the production and supply of hot-rolled ('HR'), cold-rolled ('CR') and galvanised ('GS') flat carbon steel products. ArcelorMittal submitted its Reply to the Statement of Objections on 3 February 2018. An Oral Hearing took place on 8 February 2018.
- (5) On 15 March 2018, ArcelorMittal formally submitted a remedy package to address the Commission's concerns. Following the market test, the Notifying Party submitted a final set of commitments on 11 April 2018 (the 'Final Commitments').

2. THE PARTIES

- (6) ArcelorMittal is the largest steel producer in the world. It is a multinational steel manufacturing and mining company based in Luxembourg, whose principal business is the production, distribution, marketing, and sale of steel products. It produces a range of steel semi-finished and finished products, including flat carbon steel products. It supplies steel for various applications including automotive, construction, household appliances, and packaging.
- (7) Ilva, based in Italy, is one of Europe's largest steelmakers active in the production, processing and distribution of carbon steel. Ilva operates steel plants in Italy (including plants in Taranto, Genoa, and Novi Ligure) and various steel service centres ('SSCs') for product distribution.

3. SUMMARY

- (8) The market investigation in Phase II revealed that the Transaction would significantly impede effective competition in the internal market with regard to the markets for the production and supply of HR, CR and GS.
- (9) In order to address the Commission's competition concerns in the HR, CR and GS flat carbon steel product markets, the Notifying Party submitted commitments. The Final Commitments address the Commission's concerns.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

- (10) Subject to full compliance with the conditions and obligations set out in the Final Commitments, the Transaction is declared compatible with the internal market and with the EEA Agreement and therefore, a clearance decision pursuant to Article 8(2) of the Merger Regulation and Article 57 of the EEA Agreement was adopted on 7 May 2018.

4. EXPLANATORY MEMORANDUM

4.1. The relevant product markets

- (11) The Transaction concerns the production and supply of flat carbon steel products, which are produced in rolling mills from semi-finished steel products (slabs) and may be further processed. HR products are produced through hot rolling and can be delivered in various forms – coils (oiled or not oiled, pickled or not pickled), sheets or narrow strips. HR coils can be further rolled into thinner gauges by cold-rolling into CR products. Finally, the coils can be coated with thin layers of metals or paint, resulting in GS, organic-coated ('OC') steel, or in metallic coated steel for packaging (tinplate 'TP'/chromium steel 'ECCS').
- (12) Following its market investigation, the Commission finds that the established market definitions for the production and supply of HR (excluding quarto plates) and CR are still valid for the present Transaction. Evidence shows that due to limited demand and supply substitutability, the market for GS may be further sub-segmented into hot-dip galvanised ('HDG') and electro-galvanised ('EG'). However, as the outcome of the competitive assessment remains the same and the Final Commitments entered into by the Notifying Party address the Commission's concerns under all alternative market definitions, the exact product market definition as regards the production and supply of GS can be left open. Likewise, the exact definition of the relevant product market for metallic coated steel for packaging is left open as the Transaction would not raise competitive concerns under any market definition.
- (13) With regard to the downstream carbon steel products (welded tubes) and steel distribution, the Commission's market investigation shows that the exact definition as regards tubes and steel distribution can be left open, as it does not have an impact on the competitive assessment of the Transaction.

4.2. The Relevant Geographic Markets

- (14) The Commission finds that the relevant markets for the production and supply of those finished flat carbon steel products where the Transaction raises competitive concerns (HR, CR, HDG and EG) are EEA-wide, however, with strong indications of geographic differentiation. The geographic differentiation is particularly pronounced for lower value added products, such as HR, whereas it is less pronounced for high value added products such as HDG. The differentiation exemplified by the following factors, among others.
- (a) Suppliers and their market shares differ across different regions of Europe, and in particular between the North (ThyssenKrupp, Salzgitter, Tata Steel), and the South (Ilva, Arvedi, Marcegaglia). ArcelorMittal is the only company operating steelworks throughout Europe;
 - (b) European suppliers sell the large majority of their output in the country where their facilities are located and in neighbouring countries;
 - (c) The structure of demand and customer basis differs between Northern and Southern Europe, with Northern markets characterised by steelmakers having a more pronounced presence in distribution and increased sales of specialty grades, including contract sales; and Southern markets characterised by a prevalence of spot sales, commodity grades, and more fragmented independent distribution;
 - (d) The sales share of imports is more important in Southern Europe;
 - (e) The base index prices for the main products (HR, CR and HDG) differ between the North and the South, with the Southern European prices being lower and the spreads across the two varying over time;
 - (f) ArcelorMittal [company strategy];
 - (g) Market participants confirm different conditions of competition between north and south, which they most often attribute to a different demand and supply balance, and different levels of import penetration.

- (15) The geographic market definition for the production and supply of metallic coated steel for packaging (TP and ECCS) and welded carbon steel tubes is left open, as it would not have an impact on the competitive assessment of the Transaction. For the purposes of the current Transaction, the markets for the distribution of flat carbon steels through SSCs are considered national in scope.

4.3. Competitive Assessment

4.3.1. Unilateral effects

- (16) The Transaction creates overlaps in the production and supply of HR, CR, HDG, EG, metallic coated steel for packaging, welded carbon steel tubes and distribution, whereby the Commission found competition concerns in HR, CR, HDG and EG. These concerns are particularly pronounced in Southern Europe.
- (17) The Commission's concerns in relation to HR, CR, HDG and EG are based on a number of considerations and findings, including the following.

4.3.1.1. Capacity and market shares

- (18) The Commission considers that, already prior to the Transaction, ArcelorMittal is the largest EEA producer and supplier for HR, CR, HDG and EG. The Transaction would further add to the ArcelorMittal's market position.
- (19) In terms of production capacity, the Parties combined have 40–50 % of the EEA production capacity for HR, CR and HDG, and 50–60 % for EG if taking into account the Parties' and their competitors' readily available capacity (2016). If considering capacity that is not currently available but that can be brought to the market with limited investments and time, the combined share would be 40-50 % for all of the products (2016). The Commission considers that such a share of the capacity would give the merged entity market power.
- (20) In addition to a significant capacity shares, the Parties have significant sales market shares. The Parties' combined EEA market shares for HR would be 20-30 %, and 30–40 % for each of CR, HDG and EG (2016). The Parties mostly interact in Southern Europe, in particular in Italy, where their combined market shares would be even higher. Overall, the Parties combined market shares are approximately three times as large as the next competitor in HR, CR and HDG, and the merged entity would be by far the largest supplier of EG as well in the EEA.
- (21) In addition to capacity and sales market shares, the Commission assessed consumption shares of the Parties and their competitors for HR and CR. Consumption shares approximate the share of the overall demand fulfilled by a given entity, including both merchant market demand and captive demand. This metric provides an indicator that reflects the importance of different producers in terms of production capabilities while also accounting for imports, and it is useful when assessing the market position for products that are significantly used in further downstream production such as HR and CR.
- (22) Even under the consumption share metric, the Parties combined are by far the largest operator in the EEA with a consumption share of 30–40 % for HR and 40–50 % for CR. The shares would further increase if looking at Southern Europe where the Parties mostly interact.

4.3.1.2. Competitive interaction — closeness of competition

- (23) The Commission considers that ArcelorMittal and Ilva are close competitors in the production and supply of HR, CR, HDG and EG. This is based on the following elements:
- (a) Ilva's product offering directly competes with ArcelorMittal's product offering;
 - (b) The Parties' geographic footprints in the EEA significantly overlap;
 - (c) The Parties are integrated steel producers, which makes them better positioned than a non-integrated producer to respond to competitive challenges, and both use a basic oxygen furnace (BOF) technology;
 - (d) The Parties' customers overlap is in the areas where the Parties compete against each other;

- (e) ArcelorMittal's internal documents [discussion of ArcelorMittal internal documents];
- (f) The Commission's quantitative analysis finds significant gains for ArcelorMittal following the imposition of the capacity cap on Ilva;
- (g) Feedback from market participants confirms that the Parties are close competitors.

4.3.1.3. Ilva — an important competitive force

- (24) For the following reasons, the Commission considers that Ilva is an important competitive force in the EEA, and particularly in Southern Europe:
- (a) Ilva has significant capacity which can impact EEA markets (as regards HDG, Ilva has even increased its capacity over the last years);
 - (b) Ilva has historically followed an aggressive pricing policy;
 - (c) Ilva is capable of impacting rivals' commercial policy;
 - (d) Ilva's impact on prices goes beyond the commodity market.

4.3.1.4. EEA suppliers would not be able to or have incentives to constrain the merged entity

- (25) The Commission considers that EEA competitors would be unlikely to offset anti-competitive effects stemming from the Transaction due to the following:
- (a) The main EEA flat carbon steel producers are primarily active in Northern Europe and have limited presence in Southern Europe;
 - (b) EEA competitors appear to have limited spare capacity readily available, and hence have limited ability to expand their sales, and it is unlikely that they would increase their capacity with further investments;
 - (c) There is no reason to believe that exports by EEA competitors would be likely redirected into the EEA;
 - (d) EEA competitors located in Northern Europe can already obtain relatively higher margins in their area where they are mostly active. In the event of a price increase by the merged entity particularly affecting customers in Southern Europe, those competitors will be unlikely to shift sufficient volumes to Southern Europe to defeat such price increase.

4.3.1.5. Imports are not a sufficient constraint to offset the non-coordinated effects of the Transaction

- (26) The Commission considers that imports would not be a sufficient constraint to offset any anti-competitive effects of Transaction stemming from the loss of the competitive pressure exerted by Ilva. This is due to the main following reasons:
- (a) Significant import volumes are not necessarily an indicator of sufficient price pressure from imports;
 - (b) Non-EEA producers are individually small and act opportunistically – they are not strategically present in the EEA; individually have limited influence on prices in the EEA; and do not represent a stable, lasting and dependable source of supply for EEA customers;
 - (c) Empirical evidence shows that non-EEA producers do not have the ability and incentive to discipline price increases in the EEA;
 - (d) While significant import volumes at low prices have affected EEA markets in recent years, this was due to dumping practices which perturbed the market, and have now been addressed by anti-dumping measures. The trade measures against major steel exporting countries appear to remove the market perturbation and thus reduce undue pressure exerted by imports in the recent years of market distortion resulting from dumping prices;
 - (e) Imports can only substitute a certain amount of EEA supply for flat carbon steels (even for commodity grades);

- (f) While imports may account for a more significant share on the merchant market, their aggregate share in the overall consumption of HR is much more limited;
- (g) EEA suppliers are, to a certain extent, also gatekeepers for imports.

4.3.2. Vertical effects

- (27) The Commission did not conclude on whether the Transaction raises input foreclosure concerns related to the upstream production and supply of various finished flat carbon steel products (HR, CR, HDG and EG) as the final commitments would in any event address such potential concerns caused by the Transaction.
- (28) The Transaction does not raise any other concerns due to vertical effects.

4.3.3. Coordinated effects

- (29) Following its market investigation, the Commission considers that the Transaction may lead to coordinated effects, including in light of the following findings: (i) there is sufficient transparency to enable coordinating firms to monitor deviations from the possibly coordinated price level; (ii) ArcelorMittal is a recognised price leader by market participants; (iii) base prices can act as a focal point for coordination; (iv) there is evidence suggesting the existence of deterrent mechanisms against deviations; (v) outsiders are unlikely to disrupt coordination; and (vi) a number of merger-specific effects would make price coordination easier, more stable or effective.
- (30) The Commission however considers it not necessary to conclude on this issue in view of the final commitments, which would in any event address such potential horizontal coordinated effects caused by the Transaction.

4.3.4. Evidence on the effects of the transaction

- (31) The Commission's assessment that the Transaction would lead to anti-competitive non-coordinated effects in the markets for the production and supply of HR, CR, HDG and EG (or the combined GS market) in the EEA are supported by the views of customers and other third parties, and seem to be in line with [evidence from ArcelorMittal on the Commission's file.]

4.4. Commitments

- (32) ArcelorMittal offered to divest a package of production assets in Belgium (Liège), in the Czech Republic (Ostrava), in Luxembourg (Dudelange), in Italy (Piombino), in Romania (Galati) and in the Former Yugoslav Republic of Macedonia (Skopje). Furthermore, ArcelorMittal offered to divest a number of distribution assets in France and Italy. ArcelorMittal also committed to remove Marcegaglia from the AM Invest consortium and sever any other structural links with Marcegaglia created by the Transaction. ArcelorMittal further undertook a number of other obligations, for instance concerning other tangible and intangible assets and personnel.
- (33) Based on its own analysis of the evidence on the file, as well as on the feedback from market participants, the Commission found that the commitments submitted by the Notifying party, as described below, fully address the Commission's concerns on the production and supply of HR, CR, HDG and EG. This is for the following main reasons:
 - (a) the Commitments adequately address the capacity overlap brought about by the transaction across all the products concerned;
 - (b) the Commitments consist of assets which are suitable to address the competitive concerns in the areas where the concerns are most prominent;
 - (c) the divested assets have the capability to produce similar products as Ilva produces today;
 - (d) the Commitments can offset the disappearance of Ilva as an independent competitor by allowing new entry or significant expansion in the EEA for each of the products for which concerns were raised;
 - (e) the Commitments remove envisaged structural links between ArcelorMittal and Marcegaglia;
 - (f) the Commitments ensure that downstream assets in the Package can be operated viably due to benefits from vertical integration;
 - (g) the Commitments cover the entire value chain and include distribution assets;
 - (h) the Commitments provide for an open and non-discriminatory sales process.

5. CONCLUSION

- (34) For the reasons mentioned above, the decision concludes that subject to full compliance with the conditions and obligations set out in the Final Commitments, the proposed concentration will not significantly impede effective competition in the internal market or in a substantial part of it.
- (35) Consequently the concentration should be declared compatible with the internal market and the functioning of the EEA Agreement, in accordance with Article 2(2) and Article 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.
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ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)



Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

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