

# Official Journal of the European Union

# C 196



English edition

## Information and Notices

Volume 62

12 June 2019

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<sup>(1)</sup> Text with EEA relevance.

## II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
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## EUROPEAN COMMISSION

**Non-opposition to a notified concentration****(Case M.9355 — VW Group/Intel/Allied Holdings/JV)****(Text with EEA relevance)**

(2019/C 196/01)

On 29 May 2019, 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 <sup>(1)</sup>. 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 32019M9355. EUR-Lex is the online access to European law.

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

**Non-opposition to a notified concentration****(Case M.9372 — EPH/AES Ballylumford/AES Kilroot Power)****(Text with EEA relevance)**

(2019/C 196/02)

On 4 June 2019, 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 <sup>(1)</sup>. 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 32019M9372. EUR-Lex is the online access to European law.

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

**Non-opposition to a notified concentration****(Case M.9380 — Bâloise/Fidea)****(Text with EEA relevance)**

(2019/C 196/03)

On 5 June 2019, 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 <sup>(1)</sup>. 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 32019M9380. EUR-Lex is the online access to European law.

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## EUROPEAN COMMISSION

Euro exchange rates <sup>(1)</sup>

11 June 2019

(2019/C 196/04)

## 1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,1320	CAD	Canadian dollar	1,5002
JPY	Japanese yen	123,09	HKD	Hong Kong dollar	8,8700
DKK	Danish krone	7,4687	NZD	New Zealand dollar	1,7206
GBP	Pound sterling	0,89085	SGD	Singapore dollar	1,5446
SEK	Swedish krona	10,6828	KRW	South Korean won	1 337,48
CHF	Swiss franc	1,1233	ZAR	South African rand	16,7140
ISK	Iceland króna	140,50	CNY	Chinese yuan renminbi	7,8243
NOK	Norwegian krone	9,7700	HRK	Croatian kuna	7,4140
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	16 116,85
CZK	Czech koruna	25,640	MYR	Malaysian ringgit	4,7123
HUF	Hungarian forint	320,50	PHP	Philippine peso	58,810
PLN	Polish zloty	4,2678	RUB	Russian rouble	73,0227
RON	Romanian leu	4,7252	THB	Thai baht	35,403
TRY	Turkish lira	6,5752	BRL	Brazilian real	4,3893
AUD	Australian dollar	1,6273	MXN	Mexican peso	21,6783
			INR	Indian rupee	78,6155

<sup>(1)</sup> Source: reference exchange rate published by the ECB.

**Opinion of the Advisory Committee on mergers given at its meeting of 6 August 2018 regarding a draft decision relating to Case M.8480 — Praxair/Linde**

**Rapporteur: Hungary**

(Text with EEA relevance)

(2019/C 196/05)

**Jurisdiction**

1. The Advisory Committee (8 Member States) agrees with the Commission that the notified transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings ('the Merger Regulation').<sup>(1)</sup>
2. The Advisory Committee (8 Member States) agrees with the Commission that the notified transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

**Market definition**

3. The Advisory Committee (8 Member States) agrees with the conclusions reached by the Commission in the draft Decision in relation to the definition of the relevant product and geographic markets for:
  - a. The supply of industrial gases;
  - b. The supply of medical gases;
  - c. The supply of specialty gases;
  - d. The supply of helium;
  - e. The supply of process plants and process plant components;
  - f. The supply of respiratory homecare services;
  - g. The supply of surface coating services.

**Competitive assessment**

4. The Advisory Committee (8 Member States) agrees with the Commission's assessment that the notified transaction would lead to a significant impediment of effective competition as a result of horizontal non-coordinated effects in:
  - a. Markets for the supply of industrial gases identified in Section 8.14 of the draft Decision;
  - b. Markets for the supply of medical gases identified in Section 8.14 of the draft Decision;
  - c. Markets for the supply of noble gases and noble gas mixtures identified in Section 8.14 of the draft Decision;
  - d. Markets for the supply of electronic specialty gases identified in Section 8.14 of the draft Decision;
  - e. Markets for the supply of chemical gases identified in Section 8.14 of the draft Decision;
  - f. Markets for the supply of calibration gases and other gas mixtures identified in Section 8.14 of the draft Decision;
  - g. The market for the wholesale supply of helium;
  - h. Markets for the retail supply of helium identified in Section 8.14 of the draft Decision;
  - i. The markets for the supply of respiratory homecare services in Portugal and in Spain.

<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

5. The Advisory Committee (8 Member States) agrees with the Commission's assessment that the notified transaction would lead to a significant impediment of effective competition as a result of vertical non-coordinated effects in relation to the vertical links between the upstream market for the wholesale supply of helium and the downstream markets for the retail supply of helium.
6. The Advisory Committee (8 Member States) agrees with the Commission's assessment that the notified transaction is unlikely to lead to a significant impediment of effective competition as a result of:
  - a. Horizontal non-coordinated effects in markets other than those indicated at question 4;
  - b. Horizontal coordinated effects;
  - c. Vertical non-coordinated effects other than those related to the vertical links between the upstream market for the wholesale supply of helium and the downstream markets for the retail supply of helium.

#### **Commitments**

7. The Advisory Committee (8 Member States) agrees with the Commission that the final commitments offered by the Notifying Parties on 10 July 2018 remove the significant impediment to effective competition identified in the draft Decision.
8. The Advisory Committee (8 Member States) agrees with the Commission that, subject to the full compliance with the final commitments offered by the Notifying Parties on 10 July 2018, the notified transaction is not likely to significantly impede effective competition in the internal market or in a substantial part of it.

#### **Compatibility with the internal market and the EEA Agreement**

9. The Advisory Committee (8 Member States) agrees with the Commission that the notified transaction must therefore be declared compatible with the internal market and the functioning of the EEA Agreement in accordance with Article 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.
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**Final Report of the Hearing Officer <sup>(1)</sup>****(M.8480 — Praxair/Linde)****(Text with EEA relevance)**

(2019/C 196/06)

1. On 12 January 2018, the Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation <sup>(2)</sup> pursuant to which Praxair, Inc. ('Praxair') and Linde AG ('Linde') enter into a full merger within the meaning of Article 3(1)(a) of the Merger Regulation ('the Transaction'). Linde and Praxair are hereafter collectively referred to as the 'Parties'. The core business of the Parties is the production and distribution of gases.
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 Agreement. On 16 February 2018, the Commission adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation (the 'Article 6(1)(c) Decision').
3. On 22 February 2018, the second phase investigation period was extended by ten working days at the request of the Parties pursuant to the second subparagraph, first sentence, of Article 10(3) of the Merger Regulation.
4. While the Parties chose not to respond to the 6(1)(c) Decision as such, on 9 and 15 March 2018, they submitted written observations on aspects for which they requested the Commission to reconsider its preliminary conclusions.
5. On 15 March 2018, the Commission adopted a decision pursuant to Article 11(3) of the Merger Regulation, following Linde's failure to provide complete information in response to an information request from the Commission. This decision suspended the time limits referred to in the first subparagraph of Article 10(3) of the Merger Regulation. The suspension of the time-limit expired on 19 March 2018 following the submission by Linde of the required information.
6. On 31 May 2018, the Commission adopted a Statement of Objections ('SO') setting out its preliminary view that the Transaction would significantly impede effective competition in a substantial part of the internal market within the meaning of Article 2(3) of the Merger Regulation and the territory within the meaning of Article 57 of the EEA Agreement for the supply of a wide range of gases (industrial gases, medical gases, speciality gases, noble gases and helium) and related services due to horizontal and vertical non-coordinated effects.
7. The Parties were granted access to the file on 1 June 2018 and thereafter on a rolling basis. Access to confidential data and information was granted to the Parties' economic advisors following a data room procedure. I did not receive any requests for access to file on the basis of Article 7 of the Terms of Reference.
8. The Parties submitted their response to the SO on 14 June 2018. They did not request the opportunity to develop their arguments in a formal oral hearing.
9. I have admitted Air Liquide, a competitor of the Parties, as interested third person in these proceedings. Air Liquide was provided with a non-confidential version of the SO and given a time-limit to submit its views.
10. On 20 June 2018, the Commission extended the procedure by a total of ten working days in accordance with Article 10(3) second subparagraph, third sentence, of the Merger Regulation. On the same day, the Parties submitted a set of formal commitments to address the concerns raised by the Commission. On the basis of feedback obtained from the market test of these commitments, the Parties submitted an amended set of commitments on 4 July 2018 and a further one on 10 July 2018 (the 'Final Commitments').
11. In the draft Decision, the Commission finds that the Final Commitments are sufficient in scope and suitable to remove entirely the significant impediment to effective competition which the Transaction as notified would otherwise give rise to and that, therefore, the Final Commitments render the Transaction compatible with the internal market and the EEA Agreement.

<sup>(1)</sup> 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').

<sup>(2)</sup> 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').



12. 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.
13. Overall, I consider that the effective exercise of procedural rights has been respected throughout the proceedings in this case.

Brussels, 7 August 2018.

Joos STRAGIER

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**Summary of Commission Decision**  
**of 20 August 2018**  
**declaring a concentration compatible with the internal market and the functioning of the EEA Agreement**  
**(Case M.8480 — Praxair/Linde)**  
*(notified under document number C(2018) 5534)*  
**(only the English version is authentic)**  
**(Text with EEA relevance)**  
*(2019/C 196/07)*

*On 20 August 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<sup>(1)</sup>, 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 the authentic language of the case on the website of the Directorate-General for Competition, at the following address: [http://ec.europa.eu/competition/elojade/isef/index.cfm?clear=1&policy\\_area\\_id=2](http://ec.europa.eu/competition/elojade/isef/index.cfm?clear=1&policy_area_id=2).*

### I. INTRODUCTION

- (1) On 12 January 2018, the European Commission ('the Commission') received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Praxair, Inc. ('Praxair') and Linde AG ('Linde') enter into a full merger within the meaning of Article 3(1)(a) of the Merger Regulation ('the Transaction'). The Transaction is accomplished by way of purchase of shares in a newly created company. Linde and Praxair are hereafter collectively referred to as the 'Notifying Parties' and each individually as 'Notifying Party'.

### II. THE PARTIES AND THE TRANSACTION

- (2) Praxair and Linde are both international groups of companies active in the supply of a wide range of gases (industrial gases, medical gases, specialty gases, and helium) and related services, notably, homecare services for patients with respiratory problems, as well as engineering and plant construction services. Moreover, Praxair is also active in the provision of surface coating technologies.
- (3) On 1 June 2017, Praxair and Linde entered into a business combination agreement whereby they intend to merge their businesses in a so called 'merger of equals'. The Transaction entails the creation of a new company incorporated in Ireland, named 'Linde plc' ('New HoldCo'), and is structured, for Linde's shareholders, as an exchange offer under German law, and, for Praxair, as a reverse triangular merger under Delaware law. As a result, the Notifying Parties will be wholly owned subsidiaries of New HoldCo, in which the shareholders of Praxair and of Linde will hold, respectively and on a fully diluted basis, approximately 50 % each of the shares.
- (4) It follows that the Transaction is a concentration within the meaning of Article 3(1)(a) of the Merger Regulation.

### III. UNION DIMENSION

- (5) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million. Each of them has a Union-wide turnover of more than EUR 250 million, but they do not achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State. The notified Transaction therefore has an Union dimension within the meaning of Article 1(2) of the Merger Regulation.

### IV. THE PROCEDURE

- (6) After a preliminary examination of the notification and based on the first phase market investigation, on 16 February 2018, the Commission decided to initiate proceedings under Article 6(1)(c) of the Merger Regulation ('the Article 6(1)(c) Decision'). In the Article 6(1)(c) Decision, the Commission concluded that the Transaction raised serious doubts as to its compatibility with the internal market and with the functioning of the EEA Agreement.

<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1-22.

- (7) On 22 February 2018, the second phase investigation period was extended by ten working days at the request of the Notifying Parties pursuant to the second subparagraph, first sentence, of Article 10(3) of the Merger Regulation.
- (8) On 9 and 15 March 2018, the Notifying Parties submitted papers on aspects for which they requested the Commission to reconsider its preliminary conclusions in the Article 6(1)(c) Decision (collectively referred to as 'the Thematic Papers').
- (9) On 15 March 2018, the Commission adopted a decision pursuant to Article 11(3) of the Merger Regulation, following Linde's failure to provide complete information in response to an information request from the Commission ('the Article 11(3) Decision of 15 March 2018'). The Article 11(3) Decision of 15 March 2018 suspended the time limits referred to in the first subparagraph of Article 10(3) of Regulation (EC) No 139/2004. Linde responded to the RFI at issue on 19 March 2018 and the suspension expired at the end of that day.
- (10) Based on the second phase investigation which supplemented the findings of the first phase investigation, on 31 May 2018, the Commission issued a statement of objections pursuant to Article 18 of the Merger Regulation and Protocol 21 of the EEA Agreement ('the Statement of Objections').
- (11) On 14 June 2018, the Notifying Parties submitted their written reply to the statement of objections ('the Reply to the Statement of Objections').
- (12) On 20 June 2018, the Commission adopted a decision to extend the procedure by a total of ten working days in accordance with Article 10(3) second subparagraph, third sentence, of the Merger Regulation.
- (13) In order to address competition concerns identified by the Commission, the Notifying Parties submitted a first set of commitments on 20 June 2018 (the 'Initial Commitments'). The Commission launched a market test of the Initial Commitment on 22 June 2018.
- (14) Based on the results of the market test, the Commission gave the Notifying Parties its feedback on the Initial Commitments. Overall, the Commission considered that the Initial Commitments were capable of eliminating the competition concerns entirely in all markets where concerns were identified.
- (15) Thus, on 10 July 2018, the Notifying Parties submitted a further set of commitments (the 'Final Commitments'), which are in all material respects identical to the Initial Commitments and only contain a few amendments to the latter.
- (16) The Advisory Committee discussed a draft of the final decision on 6 August 2018 and issued a favourable opinion.

## V. EXPLANATORY MEMORANDUM

### A. Relevant markets

#### 1. Industrial gases

- (17) In relation to industrial gases, the relevant product markets are:
  - Markets related to the tonnage supply of each of the following gases: oxygen, nitrogen, carbon monoxide, and carbon dioxide (for all of which, including both supplies via pipeline and through large on-site plants exceeding 100 tpd), as well as hydrogen (including both supplies via pipeline and through plants with name plate capacity above 0,3 tpd);
  - Markets related to the supply through small on-site plants of each of the following gases: oxygen, nitrogen (including plants with nameplate capacity below 100 tpd), as well as hydrogen (including plants with nameplate capacity below 0,3 tpd);
  - Markets related to the bulk supply of each of the following gases: oxygen, nitrogen, argon, acetylene, carbon monoxide, carbon dioxide and nitrous oxide (including supplies of volumes between 20 and 100 tpd by road or rail tankers, and excluding the supplies through small on-site plants for oxygen and nitrogen), as well as hydrogen (including supplies of volumes below 0,3 tpd by road or rail tankers, and excluding the supplies through small on-site plants);
  - Markets related to the cylinder supply of each of the following gases (including supplies of volumes between 1 and 1 000 metric tons per month through cylinders): oxygen, nitrogen, argon, hydrogen, and acetylene, as well as, for each gas, the possible segments for standard purity grades and high purity grades;

- Markets related to the cylinder supply of standard purity grades of each of carbon monoxide and nitrous oxide (high purity grades for these products being specialty gases constituting separate markets);
- A market related to the cylinder supply of carbon dioxide, excluding supplies in solid form, as well as the possible segments for carbon dioxide, excluding supplies in solid form, delivered in standard grades and high purity grades;
- A market related to the supply of carbon dioxide in solid form (known as dry ice).

(18) The geographic scope of the industrial gas markets is:

- EEA-wide for the markets related to the tonnage supply and the supply through small on-site plants, as well as, possibly, for the bulk supply of argon and nitrous oxide, and for the hypothetical segments or sub-segments for the cylinder supply of high purity grades of oxygen, nitrogen, argon, hydrogen, acetylene, and carbon dioxide;
- National, alongside country borders, for all other markets and segments identified above, with the exception of the region encompassing Belgium, Luxembourg and the Netherlands ('the Benelux'), which should be considered a single geographic dimension of the relevant product markets.

### 2. *Medical gases*

(19) In relation to medical gases, the relevant product markets are:

- Markets related to the bulk supply of each of the following medical gases: medical oxygen, medical nitrogen, medical nitrous oxide, medical carbon dioxide;
- Markets related to the cylinder supply of each of the following medical gases: medical oxygen, medical nitrogen, medical nitrous oxide, medical carbon dioxide, medical nitric oxide, and medical argon.

(20) The geographic scope of the medical gas markets is national.

### 3. *Specialty gases*

(21) In relation to specialty gases, the relevant product markets are:

- Markets related to the cylinder supply of the following noble gases and noble gas mixtures: krypton, xenon, neon, brominated compound gas mixtures, fluorine noble gas mixtures, hydrogen chloride noble gas mixtures, inert noble gas mixtures;
- Markets related to the cylinder and bulk supply of electronic specialty gases (ESGs), with each gas constituting a relevant product market;
- Markets related to the cylinder supply of chemical gases, with each gas constituting a relevant product market;
- Markets related to the cylinder supply of the following calibration and other gas mixtures: environmental mixtures, special application mixtures, and other calibration mixtures;
- Markets related to the cylinder supply of refrigerants, with each gas constituting a relevant product market.

(22) The geographic scope of the specialty gas markets is:

- EEA-wide for the markets related to the cylinder supply of noble gases and noble gas mixtures, and the cylinder and bulk supply of ESGs;
- National for the markets related to the cylinder supply of chemical gases, calibration and other gas mixtures, and refrigerants.

#### 4. Helium

(23) In relation to helium, the relevant product markets are:

- A market related to the wholesale supply of helium (including the sourcing of helium);
- Markets related to the retail supply of helium, as well as, the following potential sub-markets: retail supply in cryogenic portable tanks, retail supply in dewars, retail supply in tube trailers, retail supply of standard purity helium in cylinders, and retail supply of high purity helium in cylinders.

(24) The geographic scope of the markets for the supply of helium is:

- Global for the helium wholesale market, as well as for the potential market for the retail supply of helium in cryogenic portable tanks;
- National for the markets related to the retail supply of helium and its possible sub-markets (with the exception of the potential market for the retail supply of helium in cryogenic portable tanks).

#### 5. Supply of process plants and plant components

(25) In relation to the supply of process plants and plant components, the product and the geographic market definition can be left open as the Transaction is unlikely to lead to a significant impediment of effective competition under either alternative regardless of the definition of the market definition.

#### 6. Respiratory homecare services

(26) In relation to respiratory homecare services, the relevant product markets are:

- A possible market comprising all respiratory homecare therapies;
- A possible market comprising all oxygen-based therapies and a possible separate market for each oxygen-based therapy separately, that is to say LOX, GOX and COX;
- A possible market comprising all non-oxygen therapies and a possible separate market for each non-oxygen based therapy, that is to say sleep, ventilation and aerosol.

(27) The geographic scope of the relevant markets for the supply of respiratory homecare services is national.

#### 7. Surface coating services

(28) In relation to surface coating services, the product and geographic market definition can be left open as the Transaction is unlikely to lead to a significant impediment of effective competition under either alternative regardless of the definition of the market definition.

### B. Competitive assessment

#### 1. Unilateral effects

(29) The Decision concludes that the Transaction will lead to a significant impediment of effective competition as a result of horizontal non-coordinated effects in the following markets:

(30) In relation to industrial gases:

- (a) in the EEA tonnage markets for carbon monoxide, nitrogen, and oxygen, as well as in the EEA small on-site plant supply of oxygen and nitrogen, as a result of the elimination of the important competitive constraints exerted by the Notifying Parties, on each other, as well as on their remaining competitors. On the basis of the bidding analysis, the Commission also considers that the Notifying Parties are close competitors in these markets and that the Transaction is likely to eliminate an important competitive force in the EEA tonnage market for oxygen and in the EEA small on-site plant supply of oxygen and nitrogen. The Commission found that the reduction of the competitive pressure resulting from the Transaction in those markets is not likely to be counteracted by other competitive constraints which will remain on the markets. Therefore, the Commission considers that the Transaction is likely to lead to a significant impediment of effective competition in the form of price increases;

- (b) in the vast majority of affected national/Benelux markets for the bulk and cylinder supply of industrial gases and for the supply of dry ice, as a result of the creation or the strengthening of a dominant position or, at least, the removal of a significant competitive constraint. The Commission found that, in those markets, the Notifying Parties are close competitors and exert important competitive constraints on each other, as well as on the remaining competitors. The Commission also found that the reduction of the competitive pressure resulting from the Transaction is not likely to be counteracted by other competitive constraints which will remain on the markets. Therefore, the Commission considers that the Transaction is likely to lead to a significant impediment of effective competition in the form of price increases;
- (31) In relation to medical gases: in the large majority of affected markets for the bulk and cylinder supply of medical gases, as a result of the creation or the strengthening of a dominant position or, at least, the removal of a significant competitive constraint. The Commission found that, in those markets, the Notifying Parties are close competitors and exert important competitive constraints on each other, as well as on the remaining competitors. The Commission also found that the reduction of the competitive pressure resulting from the Transaction is not likely to be counteracted by other competitive constraints which will remain on the markets. Therefore, the Commission considers that the Transaction is likely to lead to a significant impediment of effective competition in the form of price increases;
- (32) In relation to specialty gases, in the EEA markets for the cylinder supply of noble gases and noble gas mixtures, the EEA markets for the cylinder and bulk supply of ESGs<sup>(?)</sup>, some national markets for the cylinder supply of chemical gases<sup>(?)</sup>, and some national markets for the cylinder supply of calibration and other gas mixtures<sup>(\*)</sup>. This occurs as a result of either the creation or strengthening of a dominant position or, at least, the removal of a significant competitive constraint. The Commission found that the Notifying Parties are close competitors and exert important competitive constraints on each other, as well as on their remaining competitors. The Commission also found that the reduction of the competitive pressure resulting from the Transaction in those markets is not likely to be counteracted by other competitive constraints which will remain on the markets concerned. Therefore, the Transaction is likely to lead to a significant impediment of effective competition in the form of price increases;
- (33) In relation to helium:
- (a) in the global wholesale market, as a result of the creation or strengthening of a dominant position, or, at least, the removal of an important competitive constraints. The Commission found that the wholesale market is oligopolistic and characterised by high barriers to entry, notably due to the scarcity of helium, which is extracted from a limited number of sources worldwide. The Commission also found that, in this market, the Notifying Parties are close competitors and exert important competitive constraints on each other, as well as

<sup>(?)</sup> In relation to the cylinder supply of ESGs: (i) ammonia, (ii) boron trichloride, (iii) chlorine, (iv) deuterium, (v) diborane and mixtures, (vi) dichlorosilane, (vii) germane and mixtures, (viii) halocarbon 116, (ix) halocarbon 23, (x) halocarbon 318, (xi) halocarbon 41, (xii) high purity nitrous oxide, (xiii) hydrogen bromide, (xiv) hydrogen chloride, (xv) hydrogen fluoride, (xvi) nitrogen trifluoride, (xvii) phosphine and mixtures, (xviii) silane and mixtures, (xix) silicon tetrachloride, (xx) silicon tetrafluoride, (xxi) sulphur hexafluoride, (xxii) tetrafluoromethane, (xxiii) trichlorosilane. In relation to the bulk supply of ESGs: (i) nitrogen trifluoride.

<sup>(?)</sup> (i) Austria, in relation to ethylene and sulphur dioxide; (ii) Czech Republic, in relation to chlorine, ethane, ethylene, hydrogen sulphide, nitric oxide, sulphur dioxide and sulphur hexafluoride; (iii) Denmark, in relation to ammonia, butene, methane and nitric oxide; (iv) Germany, in relation to ethylene, carbon monoxide, methane and nitric oxide; (v) Italy, in relation to ethylene oxide and isobutane; (vi) the Netherlands, in relation to butane, carbon monoxide, methane and propane; (vii) Norway, in relation to ammonia, butane, ethane and methane; (viii) Portugal, in relation to methane; (ix) Romania, in relation to ethylene, methane and propane; (x) Slovakia, in relation to methane; (xi) Slovenia, in relation to sulphur dioxide and sulphur hexafluoride; (xii) Spain, in relation to methane; (xiii) Sweden, in relation to methane; and (xiv) United Kingdom, in relation to methane and propane.

<sup>(\*)</sup> (i) Austria, in relation to environmental and special application mixtures; (ii) Bulgaria, in relation to environmental and special application mixtures; (iii) Czech Republic, in relation to environmental, other calibration and special application mixtures; (iv) Denmark, in relation to environmental and special application mixtures; (v) Germany, in relation to environmental, other calibration and special application mixtures; (vi) Hungary, in relation to environmental, other calibration and special application mixtures; (vii) Italy, in relation to environmental mixtures; (viii) the Netherlands, in relation to environmental, other calibration and special application mixtures; (ix) Norway in relation to environmental and special application mixtures; (x) Poland, in relation to special application mixtures; (xi) Portugal, in relation to environmental and special application mixtures; (xii) Romania, in relation to special application mixtures; (xiii) Slovakia, in relation to other calibration and special application mixtures; (xiv) Slovenia, in relation to environmental, other calibration and special application mixtures; (xv) Spain, in relation to environmental and other calibration mixtures; (xvi) Sweden, in relation to environmental and special application mixtures; and (xvii) the United Kingdom, in relation to special application mixtures.

on the remaining competitors. Post-Transaction, the merged entity would notably have a sourcing portfolio with no equivalent on the market (in terms of size and diversity). The Commission considers that the reduction of the competitive pressure resulting from the Transaction is not likely to be counteracted by other competitive constraints which will remain on the markets. Therefore, the Transaction is likely to lead to a significant impediment of effective competition in the form of price increases;

- (b) in a large number of affected markets for the retail supply of helium (and potential sub-markets) as a result of either the creation or strengthening of a dominant position or, at least, the removal of a significant competitive constraint. The Commission found that the Notifying Parties are close competitors and exert important competitive constraints on each other as well as on their remaining competitors. In particular, in several EEA countries, the merged entity would have very large market shares and a limited number of credible competitors. The Commission considers that the reduction of the competitive pressure resulting from the Transaction in those markets is not likely to be counteracted by other competitive constraints which will remain on the markets concerned. Therefore, the Transaction is likely to lead to a significant impediment of effective competition in the form of price increases;
- (34) In relation to respiratory homecare services<sup>(2)</sup>: in Spain and Portugal (under all possible market definitions), as the Transaction would reduce the number of significant players from three to two, leaving Air Liquide as the only credible alternative in the market(s). The Commission also found that, in both countries, the Notifying Parties are close competitors and exert important competitive constraints on each other and, more generally, on the market(s). The Commission also found that the reduction of the competitive pressure resulting from the Transaction is not likely to be counteracted by other competitive constraints which will remain on the market(s). Therefore, the Commission considers that the Transaction is likely to lead to a significant impediment of effective competition in the form of price increases.
- (35) With respect to the EEA tonnage market for hydrogen, the Decision acknowledges that the evidence with respect to the horizontal non-coordinated effects of the Transaction is not as compelling as for the other tonnage markets. In any event the Commission considers that there is no need to conclude on the horizontal non-coordinated effects of the Transaction in the EEA tonnage market for hydrogen, because the Final Commitments aiming at remedying the horizontal non-coordinated effects of the Transaction in the other markets for industrial gases also exclude the possibility that the Transaction will lead to horizontal non-coordinated effects in the EEA tonnage market for hydrogen. Indeed, the Final Commitments will fully remove the overlap between Linde's and Praxair's activities in the latter market.
- (36) The Decision concludes that, for all other horizontally affected markets, it is unlikely that the Transaction will lead to a significant impediment of effective competition as a result of horizontal non-coordinated effects. In any event, the Commission also notes that the Final Commitments aiming at remedying the non-coordinated horizontal effects of the Transaction which would result into a significant impediment of effective competition also exclude the possibility that the Transaction will lead to horizontal effects in the other markets. Indeed, the Final Commitments will fully remove the overlap between Linde's and Praxair's activities in all horizontally affected markets.

## 2. Vertical effects

- (37) The Decision concludes that the Transaction will lead to a significant impediment of effective competition as a result of vertical non-coordinated effects in relation to the vertical links between the upstream global helium wholesale market and the downstream helium retail markets. The Commission found that:
- (a) the Notifying Parties would have the ability and incentive to foreclose access to helium. In particular, the Commission notes that (i) the merged entity would have a dominant position upstream and the ability to reduce its helium supply; (ii) alternative suppliers are limited and face capacity constraints; and (iii) foreclosing access to helium would be profitable since the downstream sales diverted away from foreclosed rivals are characterised by high margins and likely to be captured by the new entity;
- (b) the implementation of an input foreclosure strategy by the new entity would likely (i) lead to price increases in the helium markets; (ii) raise barriers to entry to potential competitors; and (iii) impact other markets, helium being a 'must-have' product which enables to sell other gases.

<sup>(2)</sup> In the EEA, Praxair is active only in Spain, Portugal, and Italy. In relation to the respiratory homecare services market(s) in Italy, the Decision concludes that the Transaction is unlikely to lead to a significant impediment to effective competition.

(38) The Decision concludes that for all other vertically affected markets it is unlikely that the Transaction will lead to a significant impediment of effective competition as a result of vertical non-coordinated effects. In any event, the Commission also notes that the Final Commitments aiming at remedying the non-coordinated horizontal effects of the Transaction which would result into a significant impediment of effective competition also exclude the possibility that the Transaction will lead to vertical effects. Indeed, the Final Commitments will fully remove the overlap between Linde's and Praxair's activities in all upstream and downstream affected markets.

### 3. *Coordinated effects*

(39) The Commission did not find compelling evidence pointing to a material change of the incentives to coordinate of the merged entity and its remaining competitors post-Transaction in any of the horizontally affected markets.

(40) In any event, the Commission considers that there is no need to conclude on the horizontal coordinated effects of the Transaction, because the Final Commitments aiming at remedying the horizontal non-coordinated effects of the Transaction in those markets also exclude the possibility that the Transaction will lead to horizontal coordinated effects. Indeed, the Final Commitments will fully remove the overlap between Linde's and Praxair's activities in all horizontally affected markets.

## VI. COMMITMENTS

(41) The Final Commitments comprise three elements: the Revised EEA Commitments, the Revised SIAD Commitments, and the Revised Helium Sourcing Commitments.

(42) The Revised EEA Commitments, which consists of a commitment to divest within a set time frame to one single suitable purchaser Praxair's entire gas business in the EEA (the 'Revised EEA Divestment Business'), including Praxair's European engineering capabilities, and excluding SIAD (Società Italiana Acetilene e Derivati S.p.A.) ('SIAD'). The divestiture of the EEA Divestment Business will be implemented by way of (a) share and/or asset purchase agreement(s), which would cause the transfer to the purchaser of all relevant legal entities, assets and personnel related to the EEA Divestment Business.

(43) SIAD (including affiliated undertakings) and Rivoira (including affiliated undertakings) are currently jointly controlled by Praxair and Flow Fin of Italy. The Revised SIAD Commitments provide for a share swap, whereby Praxair will transfer to Flow Fin its direct and indirect shareholdings in SIAD and in SIAD's affiliated undertakings, while Flow Fin will transfer to Praxair its direct and indirect shareholdings in Rivoira and Rivoira's affiliated undertakings. As a result of this, SIAD (together with its affiliated undertakings) will be solely controlled by its current other shareholder and Rivoira (together with its affiliated undertakings) will be solely controlled by the Revised EEA Divestment Business.

(44) In addition, the SIAD Commitments include a number of transitional arrangements for the supply of products and services currently provided by Praxair (including from entities that are part of the Revised EEA Divestment Business) to SIAD, and by SIAD to Praxair (including to entities that are part of the Revised EEA Divestment Business).

(45) While helium sourcing contracts forming part of the Revised EEA Divestment Business are included in the Revised EEA Commitments (as described above), the Revised Helium Sourcing Commitments provide for the divestiture of helium sourcing contracts (either by way of transferring existing sourcing contracts or by way of entering into back to back supply arrangements) and other related assets (the 'Revised Helium Sourcing Divestment Business') to the buyer(s) of the divestiture package(s) to be agreed with other competition authorities than the European Commission, in particular the United States Federal Trade Commission.

(46) The Revised Helium Sourcing Divestment Business will comprise such an amount of helium sourcing contracts that, when combined with the helium sourcing contracts that form part of the Revised EEA Divestment Business, the overall helium sourcing volume divested globally will be equivalent to virtually all of Praxair's existing global helium sourcing volumes.

(47) The Commission concluded that the Final Commitments address the competition issues raised by the Transaction, as they will fully remove the overlaps between Linde's and Praxair's activities in all affected markets. The viability of the Revised EEA Divestment Business and of SIAD would not be impacted by the disentanglement of the two businesses as the investigation provided evidence that they already operate with a relative degree of independence already pre-Transaction.



**VII. CONCLUSION**

- (48) For the reasons mentioned above, and subject to compliance with the Final Commitments, the Decision concludes that the proposed concentration will not significantly impede effective competition in the Internal Market or in a substantial part of it.
- (49) Consequently the Commission declares the concentration 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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**COMMISSION DECISION**  
**of 11 June 2019**  
**setting up the Radio Spectrum Policy Group and repealing Decision 2002/622/EC**  
**(Text with EEA relevance)**  
(2019/C 196/08)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

- (1) Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community<sup>(1)</sup> establishes a legal framework for radio spectrum policy in the Union. This ensures that policy approaches are coordinated and, where appropriate, that there are harmonised conditions for the availability and efficient use of the radio spectrum necessary for the establishment and functioning of the internal market in Union policy areas such as electronic communications, transport and research and development.
- (2) Decision No 676/2002/EC provides that the Commission may organise consultations in order to take into account the views of Member States, Union institutions, and industry, as well as of all radio spectrum users involved (commercial and non-commercial), and other parties with an interest in technological, market and regulatory developments that may relate to the use of radio spectrum.
- (3) An advisory group called the Radio Spectrum Policy Group ('the Group') has been established by Commission Decision 2002/622/EC<sup>(2)</sup> in order to assist and advise the Commission on radio spectrum policy issues. Those include radio spectrum availability, harmonisation and allocation of radio spectrum, provision of information concerning allocation, availability and use of radio spectrum, methods for granting rights to use spectrum, refarming, relocation, valuation and efficient use of radio spectrum and the protection of human health.
- (4) In December 2018, the European Parliament and Council adopted Directive (EU) 2018/1972<sup>(3)</sup>, which recast and revised the Union's regulatory framework for electronic communications, including conferring new tasks on the Group.
- (5) The Group should further contribute to the development of a radio spectrum policy in the Union that takes into account not only technical parameters but also economic, political, cultural, strategic, health and social considerations, as well as the various potentially conflicting needs of radio spectrum users with a view to ensuring that a fair, non-discriminatory and proportionate balance is achieved.
- (6) The Group should include high-level governmental experts from the Member States. The Group might also include observers and invite other persons to attend meetings as appropriate, including regulators, competition authorities, market participants, and user or consumer groups.
- (7) As the focal point for addressing radio spectrum policy issues in the context of all relevant Union policies, close operational links should be maintained between the Group and specific groups or committees set up for the purpose of implementing sectoral Union policies including transport policy, internal market policy for radio equipment, audiovisual policy, space policy, and communications.

<sup>(1)</sup> Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (OJ L 108, 24.4.2002, p. 1).

<sup>(2)</sup> Commission Decision 2002/622/EC of 26 July 2002 establishing a Radio Spectrum Policy Group (OJ L 198, 27.7.2002, p. 49).

<sup>(3)</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

- (8) While different national government bodies have responsibility over different parts of the radio spectrum, in order to ensure that discussions are effective, each national delegation that attends a meeting of the Group should have a consolidated and coordinated national view of all policies which affect the use of radio spectrum in that Member State in relation not only to the internal market but also to public order, public security, civil protection and defence policies as the use of radio spectrum for such policies may influence the organisation of radio spectrum as a whole.
- (9) The Group should consult the relevant radio spectrum users, both for commercial use and non-commercial use, as well as any other interested parties on technological, market and regulatory developments relating to the use of radio spectrum. The Group should ensure that those consultations are extensive and carried out in a forward-looking manner.
- (10) As the use of radio spectrum does not stop at borders, the Group should be opened to participation of observers from acceding countries and from European Economic Area countries.
- (11) The European Conference of Postal and Telecommunications administrations (CEPT) should be invited as an observer of the Group's work considering that the activities of the Group have a significant impact on radio spectrum at pan-European level and that CEPT and its affiliate bodies have extensive technical expertise in radio spectrum management. Drawing on CEPT's expertise is also appropriate based on mandates granted thereto pursuant to the Radio Spectrum Decision in order to develop technical implementing measures in the areas of radio spectrum allocation and information availability. In view of the importance of European standardisation for the development of equipment using radio spectrum, it is likewise important to associate as observer the European Telecommunications Standardisation Institute (ETSI).
- (12) Following the entry into force of Directive (EU) 2018/1972 and of Regulation (EU) 2018/1971 of the European Parliament and of the Council<sup>(4)</sup>, the tasks of the Group should be adapted to that new regulatory framework and the role of the Group should be strengthened accordingly. This should facilitate the shaping of Union spectrum policy in various areas of the European electronic communications market, in particular wireless broadband, further improve the strategic orientation and transparency of spectrum policy and support the strategic planning and coordination of radio spectrum policy approaches at the Union level.
- (13) In line with the new tasks conferred on the Group by Directive (EU) 2018/1972, the Group should provide advice to the European Parliament and to the Council upon their request on matters of radio spectrum. Furthermore, this decision should provide the basis for the Group to become the forum for the coordination of implementation by Member States of their obligations related to radio spectrum under that Directive, including through a peer review process, and to play a central role in fields essential for the internal market such as cross-border radio spectrum coordination and standardisation.
- (14) Considering the number of amendments that are necessary as a result of the entry into force of Directive (EU) 2018/1972, for the sake of clarity, Decision 2002/622/EC should be repealed and replaced.
- (15) Rules on disclosure of information by members of the group should also be laid down in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council<sup>(5)</sup> and personal data should be processed in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>(6)</sup>.
- (16) This Decision should be in line with the horizontal rules defined by the Commission on the creation and operation of Commission expert groups<sup>(7)</sup> in particular regarding membership of the group, observers, participation of invited experts and meeting expenses,

<sup>(4)</sup> Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office) amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (OJ L 321, 17.12.2018, p. 1).

<sup>(5)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

<sup>(6)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>(7)</sup> Commission Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups, C(2016)3301 final.

HAS DECIDED AS FOLLOWS:

*Article 1*

**Subject matter**

An advisory group on radio spectrum policy, called the Radio Spectrum Policy Group ('the Group'), is established.

*Article 2*

**Tasks**

- (1) The Group shall assist and advise the Commission:
  - (a) on strategic radio spectrum policy issues in the Union;
  - (b) on the coordination of radio spectrum policy approaches in the Union;
  - (c) by issuing opinions concerning legislative proposals for multiannual radio spectrum policy programmes and for the purpose of releasing harmonised spectrum for shared use or for use not subject to individual rights;
  - (d) by issuing opinions in relation to Commission recommendations regarding the harmonised application of the provisions of the regulatory framework for electronic communications in the field of radio spectrum, without prejudice to the role of the Body of European Regulators for Electronic Communications ('BEREC');
  - (e) on coordination and cooperation between the Commission, Member States and relevant competent authorities in relation to the implementation of existing radio spectrum Union legislation, programmes and policies;
  - (f) where appropriate, on harmonised conditions with regard to the availability and efficient use of radio spectrum, necessary for the establishment and functioning of the internal market.
- (2) The Group shall assist Member States in cooperating with each other and with the Commission and, upon their request with the Council and the European Parliament, in support of the strategic planning and coordination of radio spectrum policy approaches in the Union, by:
  - (a) developing best practices on radio spectrum related matters, with a view to implementing Union law;
  - (b) facilitating coordination between Member States with a view to implementing Union law and to contributing to the development of the internal market;
  - (c) coordinating Member States' approaches to the assignment and authorisation of radio spectrum use and publishing reports and opinions on radio spectrum related matters.
- (3) The Group shall assist Member States in the cross-border coordination of radio spectrum use to ensure that the use of radio spectrum on their territory is organised in a way that ensures that no other Member State is prevented from allowing the use of radio spectrum on its territory, in particular harmonised radio spectrum, in accordance with Union law, especially due to cross-border harmful interference between Member States.

For this purpose, at the request of any affected Member State, the Group shall provide its good offices to resolve any problem or dispute between Member States, as well as with third countries, in relation to cross-border coordination or cross-border harmful interference which prevent Member States from using radio spectrum in their territory.

As regards harmonised radio spectrum, the Group may issue an opinion to propose a coordinated solution to such a problem or dispute between Member States.
- (4) The Group shall assist the Commission in its preparatory work on proposals to the Council for the adoption of decisions in accordance with Article 218(9) of the Treaty on the Functioning of the European Union establishing the positions to be adopted on the Union's behalf in international organisations competent in radio spectrum matters.

(5) The Group may organise meetings to allow national regulatory or other competent authorities, upon their request, to discuss and exchange views and experiences relating to the authorisation processes and conditions of the use of radio spectrum.

(6) Without prejudice to paragraph 5, from 21 December 2020, the Group shall convene, for the purposes of Article 35 of Directive (EU) 2018/1972, peer review forum meetings in relation to radio spectrum for which harmonised conditions have been set by technical implementing measures in accordance with Decision 676/2002/EC in order to enable the use of radio spectrum for wireless broadband networks and services, at the request of the national regulatory authority or other competent authority of the Member State concerned or, in exceptional cases as referred to in Article 35(2) of the Code at the initiative of the Group.

#### Article 3

### Membership

The members of the Group shall be Member States' authorities.

Each Member State shall appoint a high-level representative with overall responsibility for strategic radio spectrum policy.

The Commission shall participate in all meetings of the Group, at the appropriate level, and provide the secretariat to the Group.

#### Article 4

### Operation

(1) At the Commission's request or on its own initiative, the Group shall adopt opinions and reports addressed to the Commission. The opinions and reports shall be based on consensus or, if that is not possible, on a simple majority, with each member having one vote. Members who have voted against shall have the right to have a statement summarising the reasons for their position annexed to the opinions or reports.

(2) Following a European Parliament or Council request for an opinion or a report of the Group on radio spectrum policy issues relating to electronic communications, the Group shall adopt such an opinion or report in accordance with the rules set out in paragraph 1. The Group shall submit its opinion and report to the institution that requested it and to the Commission. Where appropriate, the opinion or report may be in the form of an oral presentation to the European Parliament or the Council by the chairperson of the Group or a member nominated by the Group.

(3) The Group shall elect a chairperson from among its members. The Commission may set up sub-groups for the purpose of examining specific questions based on terms of reference defined by the Commission. Sub-groups shall operate in compliance with the horizontal rules defined by the Commission on the creation and operation of Commission expert groups<sup>(8)</sup> and shall report to the Group. The sub-groups shall be dissolved as soon as their mandate is fulfilled.

(4) The Commission may convene the meetings of the Group on any matter within its competence through the secretariat in agreement with the chairperson. The Commission shall do so where necessary for the application of Article 2(2) of this Decision.

(5) The Group shall adopt its rules of procedure upon a proposal from the Commission, by consensus or, in the absence of consensus, by a simple majority vote, with one vote expressed per Member State. The rules of procedure shall be subject to the approval of the Commission.

(6) The Group may invite observers, including those from European Economic Area countries and those countries that are candidates for accession to the Union, from the CEPT and ETSI to attend its meetings; it may also hear experts and interested parties. The observers shall nominate their representatives. The observers and their representatives may be permitted by the chairperson to take part in discussions and share their expertise. However, the observers shall not have voting rights and shall not participate in the formulation of the Group's recommendations or advice. Where the Group considers it appropriate to collect evidence in preparing an opinion or a report, it may invite relevant representatives from the industry to present positions at its meetings.

(7) Where the Group considers it appropriate, it may invite experts from national regulatory or other competent authorities and from BEREC to participate in its meetings.

<sup>(8)</sup> Commission Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups, C(2016)3301 final.

For the purposes of Article 35 of Directive (EU) 2018/1972, the Group shall allow the participation of experts from national regulatory or other competent authorities referred to by Directive (EU) 2018/1972 and from BEREC.

Subject to detailed rules to be agreed with BEREC and with the Commission, the Group shall allow BEREC to participate in its activities on issues relating to market regulation and competition related to radio spectrum that fall within BEREC competence.

#### Article 5

### Relationship with the European Parliament

Without prejudice to Articles 2 and 4, as regards information to be transmitted to the European Parliament and participation of European Parliament experts in the meetings of the Group, point 15, Annex I and Annex II of the Framework Agreement on relations between the European Parliament and the European Commission<sup>(9)</sup> shall apply.

#### Article 6

### Consultation

The Group shall consult extensively and at an early stage with market participants, consumers and end-users in an open and transparent manner.

#### Article 7

### Confidentiality

Where the Commission states that the opinion requested or the question raised is of a confidential nature, members of the Group as well as observers and any other person attending a Group meeting shall be under an obligation not to disclose information which has come to their knowledge through the work of the Group, its subgroups or expert working groups. In such cases, the Commission may decide that members of the Group only may attend meetings.

#### Article 8

### Professional secrecy and handling of classified information

The members of the group and their representatives, as well as invited experts and observers, are subject to the obligation of professional secrecy, which by virtue of the Treaties and the rules implementing them applies to all members of the institutions and their staff, as well as to the Commission's rules on security regarding the protection of Union classified information, laid down in Commission Decisions (EU, Euratom) 2015/443<sup>(10)</sup> and (EU, Euratom) 2015/444<sup>(11)</sup>. Should they fail to respect these obligations, the Commission may take all appropriate measures.

#### Article 9

### Transparency

- (1) The group and sub-groups shall be registered in the Register of expert groups.
- (2) As concerns the group composition, the following data shall be published on the Register of expert groups:
  - (a) the name of observers;
  - (b) the name of Member States' authorities;
  - (c) the name of third countries' authorities.

<sup>(9)</sup> OJ L 304, 20.11.2010, p. 47.

<sup>(10)</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

<sup>(11)</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

(3) All relevant documents, including the agendas, the minutes and the participants' submissions, shall be made available either on the Register of expert groups or via a link from the Register to a dedicated website, where this information can be found. Access to dedicated websites shall not be submitted to user registration or any other restriction. In particular, the agenda and other relevant background documents shall be published in due time ahead of the meeting, followed by timely publication of minutes. Exceptions to publication shall only be foreseen where it is deemed that disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) No 1049/2001.

(4) In agreement with the Commission, the Group may, by simple majority of its members, decide that deliberations shall be public.

#### *Article 10*

##### **Meeting expenses**

(1) Participants in the activities of the Group and sub-groups shall not be remunerated for the services they offer.

(2) For the meetings of the Group, the reimbursement of travel expenses by the Commission is limited to one person per Member State delegation. Travel expenses of observers and experts or other interested parties covered by Article 4(6) shall not be reimbursed by the Commission, nor expenses involved where the Group, its Chairperson or his representatives meet interested parties.

(3) The costs involved in the organisation of meetings of the Group shall be covered by the Commission in so far as such meetings take place in Brussels. For meetings of the Group held outside Brussels in the European Union, only travel expenses shall be covered by the Commission.

(4) The Commission may order external studies to support the work of the Group. In this case, the Commission shall have the right to decide on the need for the study, shall cover the costs involved and shall be responsible for the management of such studies.

(5) The costs involved in the establishment and maintenance of the Group's website shall be covered by the Commission.

#### *Article 11*

##### **Repeal**

Decision 2002/622/EC is repealed.

Done at Brussels, 11 June 2019.

*For the Commission*

Mariya GABRIEL

*Member of the Commission*

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## V

*(Announcements)*

## ADMINISTRATIVE PROCEDURES

## EUROPEAN COMMISSION

## CALL FOR PROPOSALS 2018 — EAC/A01/2019

## European Solidarity Corps

## Volunteering Teams in high priority areas

(2019/C 196/09)

**1. Introduction/background**

This call for proposals is based on Regulation (EU) 2018/1475 of the European Parliament and of the Council of 2 October 2018 laying down the legal framework of the European Solidarity Corps and amending Regulation (EU) No 1288/2013, Regulation (EU) No 1293/2013 and Decision No 1313/2013/EU <sup>(1)</sup>, as well as on the 2018 Annual Work Programme of the European Solidarity Corps. The European Solidarity Corps covers the period 2018-2020. The general and specific objectives of the European Solidarity Corps are listed in Articles 3 and 4 of the Regulation.

**2. Description**

Volunteering Teams in high priority areas are large-scale projects supporting volunteering teams activities with the aim to carry out short-term high-impact interventions that address societal challenges in policy areas defined at EU level.

**3. Objectives and priorities**

The European Solidarity Corps aims to promote solidarity as a value, mainly through volunteering, to enhance the engagement of young people and organisations in accessible and high quality solidarity activities as a means to contribute to strengthening cohesion, solidarity, democracy and citizenship in Europe, while also responding to societal challenges and strengthening communities, with particular effort to promote social inclusion. It shall also contribute to European cooperation that is relevant to young people.

Volunteering Teams in high priority areas will particularly aim to:

- address clearly defined unmet societal needs;
- promote solidarity across Member States;
- enable the young volunteer(s) to gain skills and competences which are useful for their personal, educational, social and professional development;
- provide tangible benefits to the communities within which the activities are carried out;
- reach out to young people with fewer opportunities including refugees, asylum seekers and migrants;
- promote diversity, intercultural and inter-religious dialogue, common values of freedom, tolerance and respect of human rights as well as on projects enhancing media literacy, critical thinking and sense of initiative of young people;

<sup>(1)</sup> OJ L 250, 4.10.2018, p. 1.



- reinforce the capacities and international scope of the participating organisations;
- raise participants' awareness and understanding of other cultures and countries, offering them the opportunity to build networks of international contacts, to actively participate in society and develop a sense of European citizenship and identity.

In addition to pursuing the above objectives, proposals submitted under the present call must address one or more of the three priorities listed below:

- European cultural heritage;
- integration of third-country nationals (including asylum seekers and refugees);
- response to environmental challenges, including disaster prevention, preparedness and recovery (excluding immediate disaster response).

As part of the European cultural heritage priority, reconstruction projects could be supported, including for example Notre Dame de Paris.

#### 4. Eligible applicants

Eligible applicants are public and private organisations holding a valid Erasmus+ volunteering accreditation or Quality Label for volunteering at the application deadline.

Only applications from legal entities established in the 28 Member States of the European Union are eligible.

*For British applicants:* Please be aware that eligibility criteria must be complied with for the *entire* duration of the grant. If the United Kingdom withdraws from the EU during the grant period without concluding an agreement with the EU ensuring in particular that British applicants continue to be eligible, you will cease to receive EU funding (while continuing, where possible, to participate) or be required to leave the project on the basis of the relevant provisions of the grant agreement on termination.

#### 5. Eligible activities and project duration

The following type of activities are eligible:

- Volunteering Teams are solidarity activities that allow teams of participants coming from at least two different countries to volunteer together for a period between 2 weeks and 2 months. In volunteering teams, European Solidarity Corps' volunteers will carry out tasks for a project over a short period of time. Despite their shorter duration, these activities will be valuable both for the individuals and for the communities benefitting from this service.
- Advance planning visits are planning visits before the start of the volunteering activities to ensure high quality activities by facilitating and preparing administrative arrangements, building trust and understanding and setting-up a solid partnership between the organisations and people involved.
- Complementary activities are relevant side activities designed to add value and augment the results of the project as well as to strengthen its impact on the local, regional, and/or European level. These complementary activities also aim at raising awareness of the value of volunteering for young people and for communities as well as at strengthening the recognition of the skills and competences gained by the volunteers.

The project duration must be between 3 and 24 months.

#### 6. Budget

The total budget earmarked for the co-financing of projects under this call for proposals is EUR 1 018 325 and is based on the 2018 annual work programme for the European Solidarity Corps. Financial contribution from the EU cannot exceed 80 % of the total eligible project costs.

The Agency expects to fund nine proposals.

The Agency reserves the right not to distribute all the funds available.

## 7. **Submission of applications**

Applications must be submitted using an online grant application form (eForm). The eForm is available in English, French and German at the following internet address: [http://eacea.ec.europa.eu/documents/eforms\\_en](http://eacea.ec.europa.eu/documents/eforms_en) and must be duly completed in one of the official languages of the EU.

The application — duly completed — must be submitted online by 19 September 2019, 12.00 (midday, Brussels time).

## 8. **Full details**

The detailed conditions of this call for proposals are laid down in the Volunteering Teams in high priority areas Guide available at this address:

[https://eacea.ec.europa.eu/european-solidarity-corps/funding\\_en](https://eacea.ec.europa.eu/european-solidarity-corps/funding_en)

The Volunteering Teams in high priority areas Guide constitute an integral part of this call for proposals and the conditions for participation and funding expressed therein apply in full to this call.

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PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION  
POLICY

EUROPEAN COMMISSION

**Prior notification of a concentration**

**(Case M.9327 — YZJ Group/Mitsui E&S Group/Mitsui & CO Group/JV)**

**Candidate case for simplified procedure**

**(Text with EEA relevance)**

(2019/C 196/10)

1. On 3 June 2019, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(1)</sup>.

This notification concerns the following undertakings:

- Mitsui E&S Shipbuilding Co., Ltd (Japan) and Mitsui E&S Co., Ltd (China) belonging to Mitsui E&S Group ('the MES Group'),
- Mitsui & Co., Ltd (Japan) belonging to Mitsui & Co Group ('the Mitsui & Co Group'),
- Jiangsu Yangzijiang Shipbuilding Co., Ltd (China), belonging to YZJ Group ('the YZJ Group'),
- Jiangsu Yangzi-Mitsui Shipbuilding Co., Ltd (China) ('the JV').

The MES Group, the Mitsui & Co Group and the YZJ Group acquire within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control of the JV.

The concentration is accomplished by way of purchase of shares in a newly created company constituting a joint venture.

2. The business activities of the undertakings concerned are:

- for the MES Group: active in the manufacturing of ships, such as naval ships, bulk carriers, tankers and LNG carriers, as well as in the provision of engineering and consulting services. The MES Group is also engaged in the wholesale, import and export of ships and marine equipment;
- for the Mitsui & Co Group: worldwide provision of logistics and financing of major international infrastructure developments in fields, such as, iron, steel, mineral and metal resources, and transportation systems;
- for the YZJ Group: active in the manufacturing of commercial ships, including container ships, bulk vessels and special vessels, as well as in financial investment and metal trading;
- for the JV: to be active in the shipbuilding of merchant ships, in particular, bulk carriers, oil tankers and LNG carriers, for the Chinese and worldwide markets.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the 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 Council Regulation (EC) No 139/2004 <sup>(2)</sup> it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

<sup>(2)</sup> OJ C 366, 14.12.2013, p. 5.

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

Observations must reach the Commission not later than 10 days following the date of this publication. The following reference should always be specified:

M.9327 — YZJ Group/Mitsui E&S Group/Mitsui & CO Group/JV

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: [COMP-MERGER-REGISTRY@ec.europa.eu](mailto:COMP-MERGER-REGISTRY@ec.europa.eu)

Fax +32 22964301

Postal address:

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

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ISSN 1977-091X (electronic edition)  
ISSN 1725-2423 (paper edition)



**Publications Office of the European Union**  
2985 Luxembourg  
LUXEMBOURG

**EN**