



## **OPINION**

**of the ADVISORY COMMITTEE on MERGERS**

**given at its meeting of 21 May 2014**

**regarding a draft decision relating to**

**Case M. 7009 HOLCIM / CEMEX WEST**

**Rapporteur : UNITED KINGDOM**

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

### **Union Dimension**

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

### **Product and Geographic Market**

3. The Advisory Committee agrees with the Commission's conclusions that:
  - 3.1. Since it is unlikely that the Notified Transaction will significantly impede effective competition even under the narrowest feasible product market definition, bulk grey cement, the exact relevant product market for grey cement can be left open.
  - 3.2. The relevant geographic markets for grey cement should be defined as areas of radii of 150 and 250 km around the Parties' plants in Germany, Belgium and France. A minority disagrees.
  - 3.3. Since it is unlikely that the Notified Transaction will significantly impede effective competition even under the narrowest feasible product market definition, the exact relevant product market for cementitious materials can be left open.
  - 3.4. As it is unlikely that the Notified Transaction will significantly impede effective competition even under the narrowest feasible geographic market definition, the exact geographic market definition concerning granulated blast-furnace slag and ground granulated blast-furnace slag can be left open.

## **Competitive Assessment**

4. The Advisory Committee agrees with the Commission's conclusions that:
  - 4.1. The Notified Transaction is unlikely to significantly impede effective competition in the markets for grey cement defined by circles with radii of 150km or 250 km drawn around the Parties' cement production facilities in Germany, Belgium and France due to non-coordinated effects.  
A minority abstains.
  - 4.2. In the current case the Commission does not need to conclude whether there is current coordination in the markets under investigation due to the lack of merger-specific effects.  
A minority abstains.
  - 4.3. On balance, there is insufficient evidence to conclude that the Notified Transaction would appreciably increase Holcim's retaliation potential against suppliers in North Rhine-Westphalia.  
A minority abstains.
  - 4.4. On balance, it is unlikely that the Notified Transaction would make coordination easier, more stable or more effective to a degree that could be considered to give rise to a significant impediment to effective competition on the various geographic markets for grey cement defined by radii of 150km or 250 km drawn around the Parties' cement production facilities in Germany, Belgium and France.  
A minority abstains.
  - 4.5. The Notified Transaction is unlikely to significantly impede competition in the various geographic markets for grey cement defined by circles with radii of 150km or 250 km drawn around the Parties' cement production facilities in Germany, Belgium and France due to coordinated effects.  
A minority abstains.
  - 4.6. The Notified Transaction is unlikely to significantly impede effective competition in the market for grey cement within a 150/250 km cluster around the Obourg plant due to non-coordinated and coordinated effects through a capacity reduction in Obourg.  
A minority abstains.
  - 4.7. The Notified Transaction is unlikely to significantly impede effective competition on the relevant markets for (i) granulated blast-furnace slag and (ii) ground granulated blast-furnace slag.  
A minority abstains.

## **Compatibility with Internal Market**

5. The Advisory Committee agrees with the Commission that the Notified Transaction must therefore be declared compatible with the internal market and the functioning of the EEA Agreement.  
A minority abstains.

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