

***Case No COMP/M.2180 -
OUTOKUMPU / AVESTA
SHEFFIELD (see also
ECSC.1342)***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 04/12/2000

*Also available in the CELEX database
Document No 300M2180*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 4.12.2000
SG(2000)D/108993 - 108994

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sir/Madam,

Subject: Case No COMP/M. 2180 - Outokumpu/Avesta

Notification of 31.10.2000 pursuant to Article 4 of Council Regulation No 4064/89

1. On 31 October 2000 the Commission received a notification pursuant to Article 4 of Council Regulation 4064/89 ("the Merger Regulation")¹, by which the Finnish undertaking Outokumpu Steel Oy (Outokumpu Steel) enters into a full merger with the UK undertaking Avesta Sheffield AB (Avesta), a subsidiary of the Corus Group. The operation was also notified to the Commission pursuant to Article 66 of the Treaty of Paris (the ECSC Treaty), however, the present decision is only concerned with those products which fall within the jurisdiction of the EEC Treaty.
2. After examining the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and does not raise any serious doubts as to its compatibility with the common market and with the EEA agreement.

I. THE PARTIES

3. Outokumpu Oyj is a metals group focussing on metals production and fabrication. It is engaged in mining metallurgy, global marketing of metals, fabricated products and related technologies. Its main interests are stainless steel, copper products and base metals production. Outokumpu Oyj is quoted on the Helsinki Stock Exchange. The Finnish State

¹ Council Regulation (EEC) No 4064/89 - OJ L 395/1, 30.12.1989; corrected version OJ L 257/13 of 21.9.1990, as last amended by Regulation (EC) No 1310/97, OJ L 180/1, 9.7.1997, corrigendum in OJ L 40/17, 13.2.1998.

owns 40% and the Finnish Social Security Institution own 12.3% of the shares of Outokumpu Oyj.

4. Corus Group plc is a European based steel and aluminium producer. It is quoted on the London, New York and Amsterdam stock exchanges. It is active in stainless steel through its 51.2% owned subsidiary, Avesta Sheffield AB.
5. Outokumpu Steel is a 100% subsidiary of Outokumpu Oyj. All of Outokumpu Oyj's stainless steel and chrome operations will be transferred to this company before the operation is completed.
6. Avesta Sheffield is a producer and supplier of stainless steel. Its main production facilities are located in Sweden, the United Kingdom and the United States of America. The company is listed on the OM Stockholm Stock Exchange. Since 1995 Corus (previously British Steel) has held 51.2% of Avesta's shares.

II. THE OPERATION

7. The operation will be effected by a public offer to the shareholders of Avesta Sheffield to exchange their shares for shares in Outokumpu Steel. On completion, the merged entity will be jointly by Outokumpu Oyj and the Corus Group plc. Outokumpu Oyj will hold 55%, and Corus 23%, of the shares of Outokumpu Steel. The new entity will be called Avesta Polarit.

III. CONCENTRATION

8. The transaction, involving the merger between Avesta Sheffield and Outokumpu Steel and the subsequent joint control of the merged entity by Outokumpu Oyj and Corus Group plc is a concentration within the meaning of article 3 of the Merger Regulation. Outokumpu Oyj and Corus Group plc have entered into a shareholders' agreement whereby certain decisions must be agreed unanimously by the Outokumpu and Corus appointed directors.
9. Avesta Polarit will combine all of its parents' activities in stainless steel with the exception of a very small amount of steel distribution carried by Corus. It will be quoted on the Stockholm Stock Exchange and will be endowed with all the necessary assets and resources for the manufacture and sale of stainless steel products.

IV. COMMUNITY DIMENSION

10. The combined aggregate world wide turnover of the undertakings concerned exceeds €5 000 million (Outokumpu € 2 909 million, Corus € 7 406 million). The aggregate Community wide turnover of each party exceeds € 250 million (Outokumpu € 1 638, Corus €5 632 million). They do not achieve more than two-thirds of their turnover in one and the same Member State. The operation has therefore a Community dimension.

V. COMPETITIVE ASSESSMENT

11. The parties' activities overlap in the production of a range of stainless steel products, hot rolled strip and sheet, cold rolled strip and sheet, tubes and tube fittings. Avesta, Outokumpu Steel and Corus (to a very minor extent) are involved in the distribution of stainless steel products. In addition Outokumpu is engaged in the production of ferrochrome, an important raw material for the production of stainless steel.

A RELEVANT PRODUCT MARKETS

12. The bulk of the sales of Avesta Polarit will be of products covered by the ECSC Treaty. This decision deals only with those products covered by the Merger Regulation, essentially stainless steel tubes and tube fittings and ferrochrome.
13. Cold rolled strip of width below 500 mm falls under the EC Treaty while cold rolled strip above 500 mm falls under the ECSC Treaty. This distinction is no longer meaningful as modern cold rolling mills are capable of producing a wide range of widths both above and below 500 mm. Furthermore narrower widths can be obtained by slitting wider material. In a previous decision² the Commission considered that the distinction is artificial and that all cold rolled strip belongs to a single market. As the large majority of cold rolled stainless steel strip is above 500 mm in width and therefore falls under the ECSC Treaty the market situation is dealt with in detail in the ECSC decision (Case N° ECSC.1342) adopted in parallel to this decision under the Merger Regulation.
14. Stainless steel can be distinguished from other types of steel by its physical and chemical characteristics, particularly by its resistance to corrosion and high temperatures. This makes it uniquely suitable for certain applications in process engineering, automobile engineering, hygiene products and cutlery among others.
15. In previous decisions³ the Commission has identified a separate relevant product market welded stainless tubes. The market for tube fittings and ferrochrome have not yet been discussed in a Commission decision.

i) Welded stainless tubes

16. Welded stainless steel tubes fall exclusively under the EC Treaty. They are produced in a range of diameters and thicknesses for use in different applications (e.g. pulp and paper, food processing, chemical industries etc.). There is supply side substitutability between the different sizes and types of stainless steel tubes and the suppliers can by different welding technologies easily shift the production to meet changes in demand. For these reasons the Commission has previously concluded that the relevant product market comprises all stainless steel tubes⁴. This conclusion has been confirmed by the results of the Commission's enquiries in the present case where the overwhelming majority of respondents agreed that welded stainless steel tubes constituted a separate relevant product market.

ii) Stainless steel tube fittings

17. Avesta and Outokumpu Steel also make stainless steel tube fittings. These products are used to join lengths of stainless steel tube together and to enable bends and turns to be added. They may take many forms elbow, t-pieces, reducers collars etc.

² Case N° IV/M.484 – Krupp/Thyssen/Riva/Falck/Tadfin/AST

³ M.239 Avesta I, M.484 Krupp/Thyssen/Riva/Falck/Tadfin/AST

⁴ M. 239 – Avesta (I) of 4/9/1992.

18. Three main types of stainless steel fittings can be distinguished from each other, 1) butt welding, 2) thread and 3) flanges. Avesta and Outokumpu Steel produce only butt welding fittings. Fittings perform a particular purpose and may therefore be distinguished from tubes and other stainless products.
19. It has been suggested by some third parties that stainless steel tubes and fittings could be considered as a single market, however, it makes no difference to the competition analysis which definition is chosen. Consequently, it is not necessary to define the relevant product markets for fittings, as the concentration, even on the narrowest possible market definition, does not raise any competition concerns.

iii) Ferrochrome

20. Only *Outokumpu* produces ferrochrome which is an important raw material for the production of stainless steel. There are no substitutes for chromium in the production of stainless steels. This element is available either from stainless steel scrap or in the form of new ferrochrome. Given that stainless steel products have long lives and that the market for stainless steel is expanding the requirements for chromium in the production process cannot be met entirely from scrap. However it is not necessary to consider whether stainless steel scrap and ferrochrome are part of the same product market as even on the narrow definition of ferrochrome the operation does give rise to competition problems.

iv) Conclusion on product markets

21. In conclusion, the following relevant product markets can be distinguished for the present analysis: i) stainless steel welded tubes, ii) stainless steel tube fittings and iii) ferrochrome.

B. RELEVANT GEOGRAPHIC MARKETS

22. The Commission's investigations has also confirmed the view taken by the parties and by the Commission in previous decisions that the relevant geographic market for stainless steel tubes is at least Western Europe. This conclusion was based on the levels of intra-Community trade and price similarity. In the present case, the parties have provided evidence of continued high levels of intra-Community trade.
23. In relation to tube fittings the parties have suggested that the relevant geographic market is at least EEA-wide. This is confirmed by the high level of intra-Community trade and the replies to the Commission's inquiries.
24. Ferrochrome is an internationally traded product and the parties consider that the relevant geographic market is worldwide. However in this case it is not necessary to exactly define the relevant geographic market, as even on a narrower EEA market the operation will not give rise to any competition problems.

C. ASSESSMENT *i) Welded stainless tubes*

25. The parties' combined share of the Western European market for stainless steel welded tubes is approximately [10-20%] making them the second largest producer behind Marcegaglia (Italy). This market is characterised by the presence of a large number of suppliers, six of which have market shares between [0-10%] and [5-15%]. In conclusion the proposed operation would not raise any competition problems in relation to these products.

ii) Stainless steel tube fittings

26. Stainless steel tubes fittings include threaded fittings and flanges and butt welded tube fittings but the parties' only manufacture the latter. On the narrow market for butt welded stainless steel fittings the parties combined market share of the Western European market is about [30-40]%, four other suppliers have shares between [5-15%] and [10-20%]. Imports from Asian producers have increased nearly [75-85%] in recent years. These products are of comparatively high value so that transport costs are not important and their manufacture does not require substantial capital investment. The parties market share of the overall market for stainless steel tube fittings will be lower than their share for butt-welded fittings. The proposed operation would not create or strengthen a dominant position in relation to stainless steel tube fittings.

iii) Ferrochrome

27. Avesta Polarit's share of the EEA market for ferrochrome would be less than [0-10%]. Furthermore nearly three quarters of its production is used in its own steel making operations. No competition problems would be raised by the proposed operation in relation to ferrochrome.

VI. CONCLUSION

28. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission,

Mario MONTI,
Member of the Commission