

***Case No COMP/M.4291 -
VOESTALPINE /
PROFILAFROID / SAP***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 19/09/2006

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19/09/2006
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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 party

Dear Sir/Madam,

**Subject: Case No COMP/M.4291 – Voestalpine/Profilafroid/SAP
Notification of 14.08.2006 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 14 August 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004, by which the undertaking voestalpine Profilform GmbH (“Profilform” Austria), controlled by voestalpine AG (“voestalpine”, Austria) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of both Profilafroid Société Anonyme (“Profilafroid”, France) and Société Automatique de Profilage (“SAP”, France), by way of purchase of shares.

I. THE PARTIES

2. voestalpine AG (“voestalpine”) is the parent company of the voestalpine group. The voestalpine group is a producer of steel products, primarily serving customers in the European automotive, construction, general manufacturing and white goods industries, and, on a worldwide basis, the railway infrastructure and oil industries. It is organised in four divisions; steel, railway, automotive and profilform.
3. voestalpine Profilform GmbH (“Profilform”) is a subsidiary of voestalpine AG. It serves as the strategic holding company for the companies which make up the organizational unit/division “Profilform” of the voestalpine group. The division Profilform combines

¹ OJ L 24, 29.1.2004 p. 1.

the activities of the voestalpine group in the areas of open and hollow sections (tubes and profiles), specializing in welded tubes and hollow sections, open standard sections, all types of custom-roll forming of special tubes and sections, storage technology and road crash barriers. The division has traditionally mainly served the construction, automotive, transportation (including aerospace) and storage technology industries, as well as customers from the civil and mechanical engineering sectors.

4. Profilafröid SA ("Profilafröid") and Société Automatique de Profilage ("SAP") are two operating companies which are active in the business of cold forming strip. Together with Profilafröid's subsidiary, Profivi S.A.S, the companies serve a wide range of customers including the agriculture, automotive, construction, electric power, environmental and transport sectors. They are active in a number of countries, in particular throughout the European Union. Both entities are owned by the same natural person, Mr Michael Benoist, who is selling them together.

II. THE OPERATION

5. The proposed operation consists in the purchase by voestalpine, through its directly held subsidiary Profiform of the entire share capital of Profilafröid and SAP, further to the terms of a Share Purchase Agreement entered into by the parties on 30 May 2006.

III. THE CONCENTRATION

6. Under the transaction, voestalpine acquires 100% ownership and therefore sole control of both Profilafröid and SAP. The operation therefore constitutes a concentration within the meaning of Article 3.1(b) of Council Regulation (EC) No 139/2004.

IV. COMMUNITY DIMENSION

7. The parties have a combined worldwide turnover of more than EUR €5 billion [voestalpine €000; Profilafröid € 000, SAP €0000] .The individual Community-wide turnover for each of at least two of the undertakings concerned does not exceed EUR €250 million [voestalpine € 000], [Profilafröid €000], [SAP €000]. However, following a reasoned submission by the notifying party pursuant to Article 4(5) of the Merger Regulation, no Member State expressed disapproval within the defined time-period. Furthermore, there is no single Member State in which each of these parties achieves more than two thirds of their turnover.
8. The concentration is therefore deemed to have a Community dimension within the terms of Article 1(3) of the Council Regulation (EC) No 139/2004.

V. MARKET DEFINITION

A. Relevant product markets

9. The notifying party submits that the transaction concerns the market for cold-formed (rolled: open (also known as “profiles”) and hollow (“tubes”)) non-construction sections (i.e. excluding profiles for roofing, cladding and decking).
10. The target entities do not produce either hot rolled profiles or profiles for cladding, roofing or decking used in the construction industry. In line with previous Commission decisions, the notifying party distinguishes between *hot* and *cold* rolled sections. For the same reason, it is submitted that a distinction should be made between profiles made for use in the construction industry for *roofing, cladding and decking* and sections made for *other applications*. This is not in contradiction with prior Commission decisions on profiles, which concerned profiles specifically for use in the construction industry for cladding, roofing and decking.²
11. It is submitted that the relevant market includes both open and hollow sections, which are manufactured using the same technique and production equipment, subject to the fact that hollow sections are finished with a “relatively inexpensive” welding process. The parties submit that switching production between hollow to open sections should not present any commercial issues and as such, that they are both part of the same product market. As hollow sections are a kind of steel tube, which are generally treated as a separate product market³, market shares have however been requested and provided for both open and hollow sections as separate markets.
12. Sections may also be divided according to their shape into standard and customised sections. The notifying party submits that given the broad range of individual products and applications they may be used for, it is not possible to distinguish separate markets. Given that most manufacturers produce such sections for use in any application on their existing equipment without major modifications, it is submitted that it is appropriate to consider these products as a group. Given that the relevant prior decision relates more specifically to profiles used for cladding, roofing and decking,⁴ market shares have however been requested and provided for all alternative markets.
13. With respect to vertically related markets, voestalpine is active in the production of hot rolled carbon steel products (excluding quarto plate) and metallic coated flat carbon steel (galvanised), both of which are upstream inputs for cold rolled carbon steel sections. In previous cases, the Commission has defined two separate product markets within hot-rolled carbon steel flat products: (i) hot-rolled flat products excluding quarto plates and (ii) quarto plates. The Commission has also previously defined a single relevant market for galvanised strip and coils, including both hot-dip galvanised and electro-galvanised.⁵
14. voestalpine is also active downstream in steel distribution. In previous cases, the Commission has defined separate product markets for (1) steel service centres for carbon

² See Case M.2382 – Usinor/Arbed/ Aceralia

³ Of which there are sub-product markets. See Case M.1595 – British Steel/Hoogovens §10

⁴ Case M.2382 – Usinor/Arbed/ Aceralia

⁵ Case COMP/ECSC.1351 – Usinor/Arbed/ Aceralia

steel flat products, (2) stockholding centres for carbon steel flat products, (3) stockholding centres for carbon steel long products and (4) oxycutting centres.⁶

15. Ultimately, the definition of the relevant product markets can be left open, since, regardless of the precise market definition, the transaction will not give rise to competition concerns.

B. Relevant geographic market

16. Previous Commission decisions⁷ have considered the relevant geographic markets in this sector at EU level and at national level. Profiles used for cladding, roofing and decking have been considered, other than the Benelux, as national markets⁸, while for tubes the market has been considered to be at least the EU.⁹

17. In this case, the notifying party submits that the relevant geographic market for the product markets mentioned above is EU wide. They argue that the reason for this is the fact that transportation costs are low in relation to the total cost of the products, that most suppliers have operations in a number of countries and that most trade is with other member states of the EU.

18. In previous Commission decisions, the Commission considered the geographic market for hot rolled carbon steel products and galvanized steel to be EU wide. The notifying party submits that the Commission's findings in that case still largely reflect competitive realities.¹⁰

19. Previous Commission decisions found the relevant geographic market for steel distribution to be national.¹¹

20. Ultimately, the definition of the relevant geographic markets can be left open however, since, regardless of the precise market definition, the transaction will not give rise to competition concerns.

VI. COMPETITIVE ASSESSMENT

21. The proposed transaction does not lead to a significant structural change on any of the alternative cold form steel section markets either on the EU or EU member-state national markets.

⁶ Case COMP/ECSC.1351 – Usinor/Arbed/ Aceralia

⁷ Case M.1329 – Usinor/Cockerill Sambre ; Case M.1595 – British Steel/ Hoogovens

⁸ Case M.1595 – British Steel/ Hoogovens, Case COMP/ECSC.1351 – Usinor/Arbed/ Aceralia

⁹ Case M.1595 – British Steel/ Hoogovens, Case M.1329 – Usinor/Cockerill Sambre

¹⁰ Case COMP/ECSC.1351 – Usinor/Arbed/ Aceralia

¹¹ Case M.1329 – Usinor/Cockerill Sambre , Case M.3747 – Rautaruukki/Wärtilä/SKF/JV

22. With a few exceptions, the market shares of the parties are relatively small. The product markets in which the parties have more substantial market shares are horizontally affected markets, in which post-merger, there would continue to be effective competition.

23. Market shares used for the analysis are based upon the parties’ best estimates.

Horizontal Overlaps

Cold formed hollow sections

24. Of the five alternative product market definitions considered (hollow + open, hollow, open, standard and customised sections) there is no horizontal overlap between the parties on the EU or EU member-state national markets for *cold formed hollow sections*, as neither of the target companies are active on those markets at either member state or EU level.

Cold formed open sections

25. Market shares of *cold formed open sections* by value¹² are as follows.

Geographic Market	Voestalpine share	Targets share	Combined share
EU 25	[5-15%]	[0-5%]	[10-20%]
Austria	[25-35%]	[0-5%]	[25-35%]
France	[0-10 %]	[10-20%]	[15-25%]
Germany	[5-15%]	[0-5%]	[5-15%]
Italy	[0-5%]	[0-5%]	[0-5%]
Poland	[0-5%]	[0-5%]	[0-5%]

26. As regards cold formed open sections in 2005, the parties’ combined market share on the EU market was [10-20%] (voestalpine [5-15%], target companies combined [0-5%]). Their combined market share on the Austrian market was [25-35%] (voestalpine [25-35%], target companies combined [0-5%]). Their combined market share on the French market was [15-25%] (voestalpine [0-10%], target companies combined [10-20%]). Thus the market for cold formed open sections on the EU, Austrian and French markets are affected within the sense of the form CO. The parties combined market shares in the other member state countries in which they are active fall below 15% and are therefore not affected markets.

27. The increment on affected markets as a result of the transaction would be quite minor [0-5%] other than the French market, with an increment of [5-10%]. However, the parties’

¹² Market shares given by value do not differ much from those given by volume.

combined market shares on the French market are less than 25%. Furthermore, post-merger, the parties will continue to face open competition on that market. Competitors active in France include Société de Profilage du Poitou [10-20%], Profil Steel [5-10%], Marcegaglia [0-5%] and Profil HB [0-5%].

Cold formed sections as a whole

28. Market shares of *cold formed sections as a whole* by value¹³ are as follows.

Geographic Market	Voestalpine share	Targets share	Combined share
EU 25	[5-15%]	[0-5%]	[5-15%]
Austria	[15-25%]	[0-1%]	[15-25%]
France	[0-5%]	[0-10%]	[5-15%]
Germany	[0-10%]	[0-5%]	[0-10%]
Italy	[0-5%]	[0-5%]	[0-5%]
Poland	[0-5%]	[0-5%]	[0-5%]

29. As regards cold formed sections as a whole in 2005, the parties' combined market share on the Austrian market was [15-25%](voestalpine [15-25%], target companies combined [0-5%]). Thus the market for cold formed sections as a whole on the Austrian market is affected, although the increment as a result of the transaction would be very minor [0-1%]. The parties combined market shares in the EU and other member state countries in which they are active fall below 15% and are therefore not affected markets.

Cold formed standardized sections

30. Market shares of *cold formed standardized sections* by value¹⁴ are as follows.

Geographic Market	Voestalpine share	Targets share	Combined share
EU 25	[0-10%]	[0-5%]	[0-10%]
Austria	[15-25%]	[0-1%]	[15-25%]
France	[0-5%]	[0-10%]	[0-10%]

¹³ Market shares given by value do not differ much from those given by volume.

¹⁴ Market shares given by value do not differ much from those given by volume.

Germany	[0-10%]	[0-5%]	[0-10%]
Italy	[0-5%]	[0-5%]	[0-5%]
Poland	[0-5%]	[0-5%]	[0-5%]

31. As regards cold formed standardized sections in 2005, the parties' combined market share on the Austrian market was [15-25%] (voestalpine [15-25%], target companies combined [0-1%]). Thus the market for cold formed standardized sections on the Austrian market is affected within the sense of the form CO, although the increment would be very minor [0-1%]. Their combined market shares in the EU and other member state countries in which they are active fall below 15% and are therefore not affected markets.

Cold formed customized sections

32. Market shares of *cold formed customized* sections by value¹⁵ are as follows.

Geographic Market	Voestalpine share	Targets share	Combined share
EU 25	[10-20%]	[0-5%]	[10-20%]
Austria	[15-25%]	[0-1%]	[15-25%]
France	[5-15%]	[0-5%]	[5-15%]
Germany	[5-15%]	[0-1%]	[5-15%]
Italy	[0-5%]	[0-5%]	[0-5%]
Poland	[0-5%]	[0-5%]	[0-5%]

33. As regards cold formed customized sections in 2005, the parties' combined market share on the Austrian market was [15-25%](voestalpine [15-25%], target companies combined [0-1%]). Thus the market for cold formed customized sections on the Austrian market is affected within the sense of the form CO, although the increment would be very minor [0-1%]. The parties combined market shares in the EU and other member state countries in which they are active fall below 15% and are therefore not affected markets.

Cold formed open and hollow sections sub-segmented into standardized and customized sections

34. The segmentation into standardized and customized sections can be also applied to hollow and open sections individually. However, in this scenario, the transaction would only give rise to horizontal overlaps for open standardized and open customized sections since the target is not active in hollow sections.

¹⁵ Market shares given by value do not differ much from those given by volume.

35. Market shares of *cold formed open customized* and *cold formed open standardised* sections by volume¹⁶ for the EU and France (where the major overlap between the parties occur) are then as follows¹⁷:

Cold formed open customized

Geographic Market	Voestalpine share	Targets share	Combined share
EU 25	[20-30%]	[0-5%]	[20-30%]
France	[10-20%]	[5-10%]	[15-25%]

Cold formed open standardised

Geographic Market	Voestalpine share	Targets share	Combined share
EU 25	[0-10%]	[0-5%]	[5-15%]
France	[0-5%]	[20-30%]	[20-30%]

36. At EU level, the parties’ combined market share is above 15% only for open customised sections, but with a very small overlap [0-5%]. At national level, and as it is the case for open sections as a whole, a significant overlap only occurs in France, given the negligible position of the target in the rest of the Member States. However, also in this case the combined market share is not likely to give rise to competition concerns: it remains [15-25%] for open customised sections and [20-30%] for open standardised sections, but with a minor overlap of [0-5%].

37. To summarize, horizontally affected markets would thus be i) the Austrian market for cold formed sections (as a whole, standardized or customized), ii) the EU, Austrian and French markets for cold formed *open* sections, iii) the EU market for cold formed open customized sections and iv) the French markets for cold formed open customized and cold formed open standardized sections. However, the combined market shares in question are within a range of [10-20%] to [25-35%] and other than the French markets for cold formed open sections (increment of [5-10%]) and cold formed open customized sections (increment of [5-10%]), the increment to market share brought about by the transaction would be very minor.

Vertical Relationships

38. voestalpine is active in the production of hot rolled carbon steel products (excluding quarto plate) and metallic coated flat carbon steel (galvanized), both of which are upstream inputs for cold rolled carbon steel sections. However, voestalpine’s market share

¹⁶ Market shares given by value do not differ much from those given by volume.

¹⁷ Market shares at EU level for the Target based on the same split between standardised and customised sections used for France. Changes in this split do not materially affect either the overlaps or the final combined market shares.

on these product markets is less than 25% and they are not therefore vertically affected. On this basis, it is unlikely that there would be upstream foreclosure by voestalpine as a supplier of hot rolled carbon steel products and metallic coated flat carbon steel of the target companies' competitors in the open and hollow steel sections markets.

39. There is also a potential vertical relationship between the target companies as suppliers and voestalpine as a downstream distributor active in stockholding for carbon steel flat products. However, as voestalpine is estimated to have less than 1% of the stockholding for carbon steel flat products distribution market in any member state in which it is active, other than Austria, in which it has less than 25%, this would not be vertically affected within the meaning of the form CO. On this basis, it is unlikely that there would be downstream foreclosure by voestalpine as a distributor of the target companies' competitors in the open and hollow steel section markets.

40. Hence, the notified transaction does not significantly impede competition in the relevant markets.

VII. CONCLUSION

41. 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 (EC) No 139/2004.

For the Commission,
signed,
Neelie KROES
Member of the Commission