

***Case No COMP/M.5643 -
ARCELORMITTAL/
MIGLANI/ JV***

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

Article 6(1)(b) NON-OPPOSITION
Date: 30/11/2009

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.11.2009

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 parties:

Dear Sir/Madam:

**Subject : Case No COMP/M.5643 – ARCELORMITTAL/ MIGLANI/ JV
Notification of 23/10/2009 pursuant to Article 4 of Council Regulation
No 139/2004**

1. On 23 October 2009, the European Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ("EC Merger Regulation")¹ by which the undertakings ArcelorMittal Netherlands B.V. wholly controlled by ArcelorMittal S.A. ("ArcelorMittal"), Luxemburg, and the Miglani family of India acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of Uttam Galva Steels Limited ("Uttam"), India, by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the EC Merger Regulation but does not raise serious doubts as to its compatibility with the common market and the functioning of the EEA Agreement.

I. THE PARTIES AND THE OPERATION

3. ArcelorMittal Netherlands B.V. is wholly owned by ArcelorMittal S.A., Luxembourg. ArcelorMittal's principal business is the production, distribution, marketing and sale of steel products and, to a lesser extent, products of first transformation. ArcelorMittal is also active in the mining business.

¹ OJ L 24, 29.1.2004, p. 1.

4. Uttam is an Indian re-roller of flat steel products and producer of coated (galvanized and organic-coated) steel, which exports its products to a number of countries worldwide. Uttam is listed on various Indian stock exchanges and is currently controlled by members of the Miglani family, either directly or via investment vehicles.
5. The Miglani family of India currently owns a de facto controlling equity interest of around 45.1 % in Uttam. The remainder of the shares is according to the notifying parties publicly held and widely dispersed.
6. The proposed transaction constitutes a concentration according to Article 3(1)(b) of the EC Merger Regulation as it relates to the acquisition of joint control of an undertaking by purchase of shares. On 3 September 2009, ArcelorMittal signed an agreement for the purchase from the Miglani family of a minority shareholding of around 5.6 % in Uttam. ArcelorMittal further launched a public tender offer on 7 September 2009. Upon successful completion of the proposed transaction ArcelorMittal expects to own an approximate 35% equity interest in Uttam and the Miglani family expects to own a 40% equity interest in Uttam, and in any event will together own at least 45.1 % of Uttam's outstanding share capital.
7. Pursuant to the Co-Promotion Agreement between ArcelorMittal and the Miglani family, each of ArcelorMittal and the Miglani family² will have veto rights over strategic business decisions including the approval of the business plan, the annual budget and the appointment or removal of Uttam's (single) managing director. Uttam will have between 6 and 12 directors, comprising both non-independent and independent directors. The independent directors will be nominated jointly by the Miglani family and ArcelorMittal, the non-independent directors will be nominated half by ArcelorMittal and half by the Miglani family. Therefore, after the proposed transaction, ArcelorMittal will have acquired joint control of Uttam pursuant to Article 3(1)(b) of the EC Merger Regulation.

II. COMMUNITY DIMENSION

8. The concentration does not have Community dimension according to Article 1 of the Merger Regulation³.

² The communality of interest within the Miglani Family is ensured by the fact that each member of the family has appointed Mr. Rajinder Uttamchand Miglani as sole legal representative and attorney-in-fact empowered to exercise all the rights conferred by the shares holding of the Miglani Family including voting, signing, providing and receiving all necessary documents in the exercise of his functions. Mr. Miglani cannot be removed or replaced without the unanimous consent of all Miglani Family members. The actions and decisions of Mr. Miglani are affirmed, ratified, confirmed and approved by all members in all respects.

³ ArcelorMittal has a Community-wide turnover of EUR [...] million and a world wide turnover of EUR 84944 million. The Miglani family has no revenues in the EEA (or elsewhere) other than through its existing controlling shareholding in Uttam. Its world wide turnover is EUR 687 million, but it generated a Community-wide turnover of only EUR [...] million in 2008, which means that the threshold of EUR 250 million set out in Article 1(2)(b) of the EC Merger Regulation is not met. Uttam did also not generate a turnover of more than EUR 25 million in three different Member States. Uttam's 2008 revenues exceeded EUR 25 million [...]. Therefore, the alternative thresholds set out in Article 1(3)(c) of the EC Merger Regulation are not met.

9. However, by way of a reasoned submission of 25 September 2009, the parties informed the Commission that the concentration is capable of being reviewed under the national competition laws of at least three Member States⁴ and has a cross-border nature. None of the Member States concerned expressed a disagreement with the case being referred to the Commission within the 15 working days period laid down by the EC Merger Regulation. The notified operation therefore is deemed to have a Community dimension pursuant to Article 4(5) of the EC Merger Regulation.

III. RELEVANT MARKETS

A. Relevant product markets

10. ArcelorMittal's and Uttam's activities in the EEA overlap in the fields of hot-rolled flat steel, cold-rolled flat steel, galvanized flat steel, and organic-coated flat steel. Although these product segments give rise to horizontally affected markets, the increments brought about by the proposed transaction are minimal, with a maximum increment of [0-5] % under any plausible market delineation.
11. Along the production process of carbon steel, liquid carbon steel is first processed into semi-finished products (slabs, blooms, and billets), which are then rolled into finished steel products. Finished steel products comprise among other flat steel products. Within flat steel products, the Commission has in past distinguished between hot-rolled flat products, cold-rolled flat products and metallic and organic coated products, including galvanized products, metallic-coated steel for packaging and organic-coated steel⁵.
12. *Hot rolled flat products* are used in the automotive and construction industries, as well as in the manufacture of pipes and tubes for the petrochemicals, shipbuilding, and in general engineering industries. This market can be sub-segmented into two separate product markets within hot-rolled carbon steel flat products: (i) hot-rolled flat products excluding quarto plates and (ii) quarto plates⁶ The notifying parties consider the market for hot-rolled flat products, excluding quarto plates as the appropriate product market delineation.
13. Cold-rolling is a further processing stage undergone by hot-rolled flat products. In line with the cited recent Commission decision⁷, the notifying parties consider all *cold-rolled flat steel products* as the appropriate product market
14. The corrosion resistance of flat carbon steel can be increased by coating it with zinc or another metal (metallic coating) and / or by applying an organic topcoat (organic-coating or color-coating). In line with the cited Commission decision, the notifying parties consider that metallic-coated steel can be divided into two different broad classes, steel for packaging and galvanized steel⁸. As Uttam is not active in metallic-

⁴ The transaction would have been subject to review in the following Member States: Austria, Belgium, Bulgaria, Greece, Italy, Romania, and the United Kingdom.

⁵ See in detail Case COMP/M.4137 – Mittal/Arcelor.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

coated steel for packaging, only *galvanized steel* and *organic-coated steel* are relevant product markets

15. Due to the absence of serious doubts under any market delineation, it is not necessary to determine the exact market definitions in this case.

B. Relevant geographic markets

16. According to the notifying parties, the markets for hot-rolled flat products, cold-rolled flat products, galvanized flat steel and organic-coated flat steel are at least EEA-wide. This is in line with the cited Commission decision⁹.

17. Due to the absence of serious doubts under any market delineation, it is not necessary to determine the exact geographic market definitions in the case.

IV. COMPETITIVE ASSESSMENT

18. The transaction does not give rise to serious doubts in any of the possible affected markets. Uttam's activities in the EEA are limited to importing small amounts of steel to customers in the EEA area from India. Uttam has no European production facilities. The situation can be illustrated by the following table¹⁰.

EEA-wide sales (volume) and shares data 2008				
Flat steel products	ArcelorMittal		JV	
	MT ('000)	%	MT ('000)	%
Hot-rolled	[...]	[20-30]%	[...]	<[0-5]%
Cold-rolled	[...]	[30-40]%	[...]	<[0-5]%
Galvanized	[...]	[30-40]%	[...]	[0-5]%
Organic-coated	[...]	[20-30]%	[...]	[0-5]%

19. Vertically, the notifying parties are not active in areas upstream or downstream of each other in the EEA.

20. The purpose of the transaction is to grant ArcelorMittal access to the Indian steel markets. It does not have physical installations in India at the moment, only sales to an insignificant extent. Therefore, the primary effects, if any, on competition are located in India.

⁹ Ibid.

¹⁰ The Miglani Family or their portfolio companies do not have any horizontally or vertically affected activities with ArcelorMittal regardless of the geographic scope of the markets except the controlling shareholding in the JV.

V. CONCLUSION

21. 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)
Günter VERHEUGEN
Vice-President of the Commission