



OPINION

of the ADVISORY COMMITTEE on MERGERS
AT ITS MEETING OF 27th MAY 2019
CONCERNING A PRELIMINARY DRAFT DECISION RELATING TO
Case COMP/ M.8713 – Tata Steel/ThyssenKrupp/JV

Rapporteur: BULGARIA

Operation

1. The Advisory Committee (13 Member States) agrees with the Commission that the Transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

Union Dimension

2. The Advisory Committee (13 Member States) agrees with the Commission that the Transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

Product Markets

3. The Advisory Committee (13 Member States) agrees with the Commission's definitions of the relevant product markets for the production and supply of certain finished flat carbon steel products and in particular that **tinplate, electrolytically-coated chromium steel (ECCS) and laminated steel for packaging products constitute distinct product markets.**
4. The Advisory Committee (13 Member States) agrees with the Commission's definitions of the relevant product markets for the production and supply of certain finished flat carbon steel products and in particular:
 - 4.1. **Hot-dip galvanised steel products supplied to the automotive industry ('automotive HDG') constitute a distinct product market** from hot-dip galvanised steel products supplied for other applications, in particular due to the limited demand and supply side substitutability, the other specificities of the demand and supply of automotive HDG as detailed in the decision, and prevailing conditions of competition ([Information on margins]) between automotive and non-automotive customers;

- 4.2. All automotive HDG, regardless of whether supplied directly or indirectly to the automotive OEMs, belongs to the same relevant product market, which is likely differentiated.

Geographic markets

5. The Advisory Committee (13 Member States) agrees with the Commission's definitions of the relevant geographic markets for the production and supply of certain finished flat carbon steel products and in particular:
 - 5.1. The markets for tinplate, ECCS and laminated steel are at most EEA-wide; and
 - 5.2. The market for automotive HDG is at most EEA-wide, but there is evidence that it is geographically differentiated within the EEA.

Competitive Assessment

6. The Advisory Committee (13 Member States) agrees with the Commission's assessment that the Transaction **would significantly impede effective competition due to horizontal non-coordinated effects** with regard to the production and supply of:
 - 6.1. Tinplate, ECCS and laminated steel for packaging in the EEA; and
 - 6.2. Automotive HDG in the EEA.

Efficiencies

7. The Advisory Committee (13 Member States) agrees with the Commission that none of the efficiencies claimed by the Parties meet the cumulative efficiency test of verifiability, merger specificity and benefit to consumers.

Commitments

8. The Advisory Committee (13 Member States) agrees with the Commission that the Final Commitments do not remove the significant impediment to effective competition in relation to the production and supply of:
 - 8.1. Tinplate, ECCS and laminated steel for packaging in the EEA; and
 - 8.2. Automotive HDG in the EEA.
9. The Advisory Committee (13 Member States) agrees with the Commission that the Final Commitments do not sufficiently ensure the viability and competitiveness of the Divestment Businesses.

Compatibility with the Internal Market

10. The Advisory Committee (13 Member States) agrees with the Commission that the Transaction should therefore be declared incompatible with the internal market and the functioning of the EEA Agreement in accordance with Articles 2(3) and 8(3) of the Merger Regulation and Article 57 of the EEA Agreement.
