



OPINION

of the ADVISORY COMMITTEE on MERGERS

given at its meeting of 29th January 2019

**CONCERNING A PRELIMINARY DRAFT DECISION RELATING TO
CASE M.8900 Wieland/Aurubis Rolled Products/Schwermetall**

Rapporteur: IRELAND

Operation

1. The Advisory Committee (11 Member States) agrees with the Commission that the notified operation constitutes a concentration within the meaning of Article 3(1)(b) of the Council Regulation No 139/2004 (the "Merger Regulation").

Union Dimension

2. The Advisory Committee (11 Member States) agrees with the Commission that the notified operation has a Union dimension pursuant to Article 1(3) of the Merger Regulation.

Product Market

3. The Advisory Committee (11 Member States) agrees with the Commission's definitions of the relevant product markets as stated in the draft decision for the purpose of assessing the present operation, in particular:
 - a. The supply of billets and cakes, the distinction between billets and cakes being left open
 - b. the supply of pre-rolled strip;
 - c. the supply of rolled products, with significant differentiation between the high end part of the market and the low end part of the market

Geographic Market

4. The Advisory Committee (11 Member States) agrees with the Commission's definitions of the relevant geographic markets as stated in the draft decision, in particular:
 - a. The relevant markets for the supply of billets or cakes is EEA-wide in scope;
 - b. The relevant market for the supply of pre-rolled strip is EEA-wide in scope
 - c. The relevant market for the supply of rolled products is EEA wide in scope.

Competitive Assessment

Horizontal non-coordinated effects

5. The Advisory Committee (11 Member States) agrees with the Commission's assessment on horizontal non-coordinated effects, namely that
 - a. The Transaction is likely to result in a significant impediment of effective competition through the removal of an important competitor on the rolled products market, with the likely result of an increase in prices
 - b. The Transaction is likely to result in a significant impediment of effective competition through the creation of a dominant position of Wieland on the rolled products market in the EEA.

6. The Advisory Committee (11 Member States) agrees with the Commission that the acquisition of sole control in Schwermetall aggravates the horizontal effects in the sense that it strengthens Wieland's ability to raise the costs of its competitors in the rolled products market and provide Wieland access to rivals' confidential information.

Vertical non-coordinated effects

7. The Advisory Committee (11 Member States) agrees with the Commission's assessment that the Transaction will not significantly impede competition as a result of input foreclosure effects in relation to billets.

Commitments

8. The Advisory Committee (11 Member States) agrees with the Commission that the Commitments do not eliminate the significant impediment to effective competition resulting from (i) the elimination of the important competitive constraints exerted on Wieland by ARP and/or (ii) the creation of Wieland's dominant position.

9. The Advisory Committee (11 Member States) agrees with the Commission that the Commitments do not address the issues related to increasing costs of third parties reliant on supplies from Schwermetall and access to rivals' confidential information through the acquisition of the 50% stake in Schwermetall.

Compatibility with the internal market

10. The Advisory Committee (11 Member States) agrees with the Commission's view that the notified concentration should be declared incompatible with the internal market and the functioning of the EEA Agreement, in accordance with Articles 2(3) and Article 8(3) of the Merger Regulation and Article 57 of the EEA Agreement.
