



Brussels, 22 April 2020

Final Report of the Hearing Officer¹

Case M.9409 — Aurubis/Metallo Group Holding

(Text with EEA relevance)

1. On 14 October 2019,² the Commission received a notification of a proposed concentration by which Aurubis AG (‘Aurubis’) would acquire, within the meaning of Article 3(1)(b) of Council Regulation (EC) No 139/2004³ (‘the Merger Regulation’), sole control of the whole of Metallo Group Holding N.V. (‘Metallo’) (the ‘Proposed Transaction’). For the purpose of this report, Aurubis and Metallo are together referred to as ‘the Parties’.
2. On 19 November 2019, the Commission adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation.
3. On 10 December 2019, following a request from Aurubis, an extension of 10 working days pursuant to Article 10(3), second subparagraph, first sentence, of the Merger Regulation was granted.
4. On 11 February 2020, the Commission adopted a statement of objections (the ‘SO’). The SO was formally notified to Aurubis on 12 February 2020⁴ and Aurubis was granted a deadline to submit its observations until 25 February 2020. On the same day, Metallo was informed of the adoption of the SO and of the possibility to submit observations on it pursuant to Article 13(2) of Commission Regulation (EC) 802/2004.⁵
5. Between 12 and 24 February 2020, Aurubis obtained access to the accessible documents in the Commission’s case file as well as via a data room⁶ that was

¹ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, OJ L 275, 20.10.2011, p. 29 (‘Decision 2011/695/EU’).

² It concerns a re-notification by Aurubis of the Proposed Transaction, after an initial notification on 30 August 2019 that was withdrawn by it on 25 September 2019.

³ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24, 29.1.2004, p. 1.

⁴ In the evening of 11 February 2020, an (informal) advance information copy of the SO and its cover letter were sent to Aurubis’ lawyers.

⁵ Commission Regulation (EC) No 802/2004 of 21 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ L 133, 30.4.2004, p.1.

⁶ On 19 February 2020, an external adviser to Metallo was granted access to the data room as well.

organised on the premises of the Directorate-General for Competition (‘DG Competition’). I have not received any complaint or further request from the Parties regarding access to the file.

6. On 24 February 2020, one undertaking was admitted to be heard as an interested third person in this case. The interested third person did not request or indicate that it would be interested to attend the oral hearing. The interested third person was provided with a non-confidential version of the SO and given a time limit within which to make known its views.
7. On 25 February 2020, the Parties submitted their written comments on the SO, in accordance with the deadline for response by this date as granted to Aurubis. The Parties requested a formal oral hearing.
8. On 2 March 2020, the formal oral hearing took place. There were no procedural problems or complaints raised in relation to this hearing.
9. On 10 March 2020, an extension of 10 working days pursuant to Article 10(3), second subparagraph of the Merger Regulation was granted.
10. The draft decision unconditionally declares the Proposed Transaction compatible with the internal market and the functioning of the EEA Agreement.
11. In view of the above, I consider that the effective exercise of procedural rights has been respected in this case.

Wouter WILS

Hearing Officer