

*Case No COMP/M.2111 -
ALCOA / BRITISH
ALUMINIUM*

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 27/10/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27-10-2000

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Sirs,

Subject: Case No COMP/M.2111 – ALCOA / BRITISH ALUMINIUM

Notification of 26 September 2000 pursuant to Article 4 of Council Regulation (EEC) No 4064/89

1. On 26 September 2000, the Commission received a notification of two transactions pursuant to Article 4 of Council Regulation (EEC) No 4064/89¹ as last amended by Regulation (EC) No 1310/97² by which (i) Alcoa Inc. ('Alcoa') acquires, within the meaning of Article 3(1)(b) of the Regulation, sole control of British Aluminium Ltd. ('British Aluminium'), a wholly-owned subsidiary of Luxfer Holdings plc ('Luxfer'), and (ii) Alcoa's wholly-owned subsidiary Reynolds acquires Baco Consumer Products Ltd from the same vendor, i.e., Luxfer (see paragraph 6 below).
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

I. THE PARTIES AND THE OPERATION

3. **Alcoa** is the leading aluminium producer world-wide. During the last five years, Alcoa has acquired a number of European aluminium companies³. On 3 May 2000, Alcoa was authorised to acquire control of another US aluminium producer, namely Reynolds Metals Company⁴. As a result of these acquisitions, Alcoa has become the leading integrated aluminium producer in the world and has acquired a strong position in the

¹ OJ L 395, 30.12.1989, p.1, corrigendum; OJ L 257, 21.9.1990, p.13.

² OJ L 189, 9.7.1990, p.1, corrigendum; OJ L 40, 13.2.1998, p.17.

³ See Commission Decisions in cases COMP/M.1919 – Alcoa/Cordant; COMP/M.1161 – Alcoa/Alumax; COMP/M.1003 – Alcoa/Inespal; COMP/M.723 – Norsk Alcoa/Elkem and COMP/M.675 – Alcoa/Alumix

⁴ Commission Decision of 3 May 2000 (Case No COMP/M.1693 – Alcoa/Reynolds)

aluminium supply chain in Europe (i.e., alumina, flat rolled products, extrusions and other finished aluminium products).

4. **British Aluminium** was controlled by Alcan until the beginnings of the '90s when it was transferred to Luxfer. British Aluminium owns five business entities active in the production and distribution of finished and semi-finished aluminium products. These are British Aluminium Plate, British Aluminium Sheet, British Aluminium Commercial Extrusions, Aluminium Supply Aerospace (processes and distributes metal products including aluminium plate, sheet and extrusions used mainly in aerospace applications from locations in the UK) and Baco Metal Centres (processes and distributes metal products including aluminium plate, sheet and extrusions used in non-aerospace applications from locations in the UK and Ireland).
5. **Luxfer**, a U.K.-registered public limited company, has four operating divisions. These are Gas Cylinders (manufactures and distributes high-pressure aluminium and composite gas containment cylinders); Elektron (manufactures and distributes zirconium products and magnesium alloys); Aerospace and Speciality Products (manufactures and distributes aluminium plate, extrusions, sheet and tubes); and Engineering and Consumer Products (manufactures and distributes aluminium plate, sheet, extrusions and consumer and foodservice wrap products). After the transfer of British Aluminium and Baco Consumer Products to Alcoa, Luxfer will retain certain aluminium businesses, namely its Gas Cylinders operating division and its hard-alloy aluminium extrusions and tubes businesses.

Application of Article 5(2) of the Merger Regulation

6. Together with the acquisition of British Aluminium from Luxfer, Alcoa is hereby notifying another acquisition which took place between the same vendor and purchaser within a two-year period. Before the signature of the British Aluminium agreement, Reynolds Metals Company – a wholly-owned subsidiary of Alcoa since May 3, 2000 (see paragraph 3 above) – signed an agreement with Luxfer Holdings plc whereby it acquired control of Baco Consumer Products Ltd from Luxfer (hereinafter the “BCP Transaction”). Baco Consumer Products Ltd is Luxfer’s consumer and foodservice wrap products business branch. The BCP Transaction was completed on August 7, 2000 - that is, after Alcoa was authorised to acquire control of Reynolds. Originally, the BCP Transaction was not notifiable under the Merger Regulation as it lacked Community dimension. Pursuant to Article 5(2) of the Regulation, the BCP Transaction is now being notified together with Alcoa’s acquisition of British Aluminium. Thus the two transactions shall be considered as one concentration.

III. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion⁵ (Alcoa: €15,332 million, British Aluminium: €[...] million and Baco Consumer Products: €[...] million). The aggregate Community-wide turnover of each of at least two of the undertakings concerned exceeds €250 million (Alcoa: €[...] million, British Aluminium: €[...] million). None of the undertakings concerned do

⁵ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension within Article 1 of the Council Regulation (EEC) No 4064/89.

IV. THE RELEVANT MARKETS

8. The operation creates horizontal overlaps in the following areas: aluminium flat rolled products; aluminium extrusions; distribution of aluminium flat rolled products and extrusions. Moreover, the operation creates vertical relationships between primary aluminium, on the one hand, and flat rolled products and extrusions, on the other hand, as well as between foil stock, on the one hand, and kitchen foil, on the other hand.

A. Flat Rolled Products

Relevant Product Market

9. Flat rolled products (“FRPs”) are used in a number of applications, such as in packaging⁶, engineering, automotive, aerospace industries and so fourth. FRPs are produced at rolling mills. These manufacturing facilities may be configured in such a way as to produce various types of FRPs depending on the final application (the so-called ‘product mix’). In its decision in the case COMP/M.1663 – Alcan/Alusuisse⁷, the Commission concluded that, in spite of a certain degree of supply-side substitutability in the production of FRPs, several types of FRPs, such as lithographic sheet, could stand alone as separate product markets. Alcoa and British Aluminium produce, in the EEA, various types of FRPs, none of which could be considered as a separate product market according to the market definition principles used in the Alcan/Alusuisse decision. However, they also produce aerospace aluminium FRPs, which could constitute a distinct product market. The Commission will thus consider the effects of the operation on both the market for FRPs and that for aerospace FRPs. However, as it will be shown further below, the concentration is not likely to give rise to serious doubts at either level of product market definition – that is, the whole of FRPs or particular types thereof, such as aerospace FRPs.

Relevant geographic markets

10. In previous Commission decisions⁸ in the aluminium sector, FRPs were found to constitute EEA-wide markets. The same would apply to aerospace FRPs, although the investigation has suggested that the geographic market for these products could even be wider than the EEA. For instance, all of Alcoa’s sales of aerospace FRPs to the EEA are made from its Davenport rolling mill in the U.S.A. However, the precise geographic market definition may be left open since regardless of the market definition chosen, the operation does not raise serious doubts.

Competitive assessment

11. The operation hardly creates any affected market within the meaning of Section 6 of Form CO, if the relevant markets were to be defined as all-FRPs. British Aluminium

⁶ Ranging from beverage can body sheet to foil stock material used to make aluminium household foil.

⁷ Commission Decision of 14 March 2000 pursuant to Article 8(2) of Council Regulation (EEC) No 4064/89

⁸ See footnote 3 above

would add 1% to Alcoa's existing [10% - 15%]. The market leader, in this case, is Alcan/Alusuisse ([25% - 30%]), followed by VAW ([10% - 20%]) and Pechiney ([10% - 20%]). Consequently, the concentration does not raise serious doubts on the EEA market for aluminium FRPs.

12. If a separate market for aerospace FRPs were to be defined, the merged entity would become the second supplier in Europe, with [30% - 40%] of sales (Alcoa: [20% - 25%]; British Aluminium: [10% - 15%]), behind Pechiney ([45% - 50%]) and in front of Corus-Hoogovens ([10% - 15%]), Kaiser ([0% - 5%]) and McCook (<1%).
13. On the basis of its market investigation the Commission has concluded that the concentration does not raise serious doubts as to the creation of a single dominant position held by the merged entity. The current level of market share would not allow the merged firm the possibility to behave independently of its competitors and customers. Sales of FRPs to aerospace customers take place following competitive tenders launched by aerospace manufacturers, such as Airbus and its partners, ATR and so fourth. The relevant market is a bidding market characterised by a lumpy demand and as a result the relative market positions of the various suppliers may fluctuate according to the number of tenders that each of them has been or will be able to win. In fact, the above market share figures reflect the market position of competitors in relation to EEA sales of aerospace FRPs in 1999. Moreover, there exist several actual qualified suppliers of aerospace FRPs which are able to bid competitively against the merged firm's, thus procuring a wider choice of suppliers to aerospace manufacturers. The latter are a few, large companies which can yield considerable bargaining power in their choice of suppliers. Furthermore, such manufacturers may, and have done so in the past, "sponsor" the entry of potential suppliers of aerospace FRPs, such as in particular Alcan/Alusuisse, VAW, AMAG, all of whom have the capabilities to obtain accreditation with the major aerospace manufacturers.
14. The market investigation has also shown that the concentration does not raise serious doubts as to the creation of a joint dominant position held by the merged firm and Pechiney. The post-merged market structure and characteristics of the market are not conducive to oligopolistic dominance. Thus, although the merged firm and Pechiney would have accounted for around 80% of the 1999 EEA sales of aerospace FRPs, the Commission considers that the operation does not raise serious doubts on the basis of the following elements. Market shares in this market are volatile. As mentioned in the preceding paragraph, market shares mainly reflect the firms' winning bids over the last competitive round of tenders launched by aerospace purchasers in 1996 and 1998. In fact, market shares have not been stable over the past years, but have fluctuated according to the relative number of tenders that one or another supplier has won over that period. Moreover, the number of tenders launched is relatively low (i.e., aerospace manufacturers launch tenders every four to five years) with FRPs suppliers bidding for infrequent, non-standard and large transactions which concern long-term supply commitments to aerospace manufacturers. As a consequence of the consolidation of purchases at the level of the former Airbus consortium and its partners, the number of tenders will be reduced even further in Europe. As a result of the absence of a regular bidding pattern, it is unlikely that the oligopolists will be able to respond to each other's actions in order to tacitly co-ordinate their bidding behaviour and unjustifiably raise prices or reduce output. This is further supported by the fact that purchasers have significant countervailing power which is even more enhanced by their ability to deal with other existing suppliers or to qualify potential suppliers as new entrants. The market is not transparent in relation to

prices, to the extent that prices of the selected suppliers are not communicated to the other bidders. Furthermore, the investigation has not identified any early-detection mechanism, nor any retaliation system in case of deviation by any of the oligopolists. In the absence of a credible retaliation mechanism, tacit co-ordination may not be sustainable. In addition, the degree of technological innovation and after-sales follow-up in that market is considerable, thus having as a result that the choice of suppliers does not rely only on the price factor.

15. On the basis of the foregoing, it can be concluded that the notified concentration will not raise serious doubts as to the creation of either a single or a duopolistic dominant position in the market for the supply of either FRPs or aerospace FRPs in the EEA.

B. Aluminium Extrusions

Relevant Product Market

16. Following FRPs, extrusions are the second most important category of aluminium semi-finished products. They are formed by pushing aluminium billets through a die. The process of extrusion offers the possibility of giving aluminium various shapes and can thus be used in a large variety of applications, such as building and construction (for instance, window frames), aerospace, automotive and so fourth. In previous Commission decisions⁹, two separate types of aluminium extrusions have been identified: hard-alloy and soft-alloy extrusions. Although most producers manufacture both hard and soft-alloy extrusions, not all extrusions facilities operate with both types of alloys since different treatment processes are used in the preparation of hard alloys. As far as the present operation is concerned, only soft-alloy extrusions constitute an affected market, since British Aluminium does not produce hard-alloy extrusions.

Relevant Geographic Market

17. In previous cases, the Commission has defined the geographical market for aluminium soft-alloy extrusions as being EEA-wide (see footnote 9). The same would apply to the present case.

Competitive assessment

18. The concentration does not appear to raise any serious concerns in relation to the EEA market for soft-alloy extrusions. The supply side in this market is constituted of integrated producers, such as the merging parties, as well as a multitude of independent non-integrated extruders. The market investigation has shown that extrusion manufacturing facilities are easy to set up as they do not require any particular investment or specific know-how, whilst vertical integration does not give any competitive advantage to the extent that raw materials (aluminium billets) are largely available, from producers or traders, both at European and world-wide level.
19. The combined market share of the merged firm will be [15% - 20%] (Alcoa: [10% - 15%]; British Aluminium: [0% - 5%]). The increment in Alcoa's market share is insignificant and therefore not likely to significantly change competition conditions in this market. Several integrated aluminium producers compete in this market. These are Norsk Hydro ([10% - 15%]), Gränges ([5% - 10%]), Alcan/Alusuisse ([5% - 10%]) or

⁹ Case IV/M.1003 – Alcoa/Inespal

Pechiney ([5% - 10%]), as well as non-integrated aluminium extruders which account for 53% of the EEA market.

20. On the basis of the foregoing, the notified concentration does not raise serious doubts as to the creation of dominant position in the EEA market for aluminium extrusions.

C. Distribution Businesses

21. By the same transaction, Alcoa will acquire two British Aluminium's distribution businesses, more particularly, Baco Metal Centres, which distributes metal products including aluminium used in non-aerospace applications and Aluminium Supply Aerospace, which distributes metal products including aluminium used in aerospace applications. These two businesses are active only in the UK and in Ireland. Although Alcoa did not distribute third parties' aluminium products, its recently acquired subsidiary, Reynolds, does distribute some non-aerospace products in Ireland.
22. Distribution activities could be viewed as retail sales of aluminium products to local users. As opposed to wholesale sales by the aluminium producers themselves, which take place at EEA-wide level, retail distribution of aluminium products appear to be of national geographic dimension. The only overlap is on the distribution of non-aerospace FRPs in the UK and in Ireland, where the merged firm will account for [10% - 15%] of the market. Therefore, the notified concentration does not give rise to serious doubts.

D. Primary aluminium/FRPs and extrusions (vertical relationship)

23. Alcoa produces primary aluminium which, amongst others, can be used to produce FRPs and extrusions. Although there is no competitive overlap with British Aluminium (the latter does not produce primary aluminium), the operation will result in a vertical relationship, owing to British Aluminium's FRPs and extrusions activities.
24. In previous Commission decisions, primary aluminium was found to constitute a distinct product market of world-wide dimension. Alcoa accounts for [15% - 20%] of total global capacity and [15% - 20%] of EEA-based capacity.
25. British Aluminium's share in the demand/consumption of primary aluminium is well below 1% world-wide or in the EEA. As a consequence of the low market shares of Alcoa in the supply of primary aluminium, as well as of the low market shares of British Aluminium and Alcoa in the downstream markets for FRPs or extrusions, this vertical relationship does not give rise to serious doubts.

E. Aluminium foil stock/Aluminium kitchen foil (vertical relationship)

26. As mentioned in paragraph 6 above, together with its acquisition of British Aluminium, Alcoa is notifying another operation which consisted of Reynolds' acquisition of Baco Consumer Products Ltd ("Baco"). Baco produces and sells a variety of consumer products, such as kitchen foil, bin liners, clingfilm, and plastic and other bags. From those, only kitchen foil is relevant to the notified concentration. Alcoa does not produce kitchen foil, but does produce aluminium foil, a raw material for kitchen foil. The operation will thus create a vertical relationship between Alcoa's activities in aluminium foil and Baco's activities in kitchen foil. However, the transaction does not give rise to serious doubts, as the respective shares of the parties in the upstream (foil

stock) and downstream (kitchen foil) markets are less than 10% at either national or EEA level.

VII. CONCLUSION

27. 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 (EEC) No 4064/89.

For the Commission,