

***Case No COMP/M.4495 -  
ALFA ACCIAI /  
CRONIMET /  
REMONDIS / TSR  
GROUP***

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 06/02/2007

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## COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.02.2007

SG-Greffe (2007) 200547/8/9

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.4495 - ALFA ACCIAI / CRONIMET / REMONDIS / TSR GROUP**

1. On 8 December 2006, the Commission received a notification of a proposed concentration by which the undertakings ALFA Acciai s.p.a. ("ALFA Acciai", Italy), Cronimet Holding GmbH ("Cronimet", Germany), and Remondis AG & Co. KG ("Remondis", Germany) acquire within the meaning of Article 3(1)(b) of Council Regulation (EC) No. 139/2004<sup>1</sup> ("Merger Regulation") joint control of the undertaking TSR Group ("TSR", Germany) 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 Merger Regulation, and insofar as it has not been referred to the German Competition Authorities, does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

### I. THE PARTIES AND THE OPERATION

3. ALFA Acciai is a family-run Italian company. The majority of its shares are held by the Italian Siderurgica Investimenti Group which in turn is owned by the Lonati family and the Stabiumi family. ALFA Acciai is active in the production of rebars and reinforcing steel. The products are sold within the European Union, Eastern Europe as well as in Northern Africa. The parties state that the Lonati and Stabiumi families have no other activities in the sectors relevant for the proposed transaction.

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<sup>1</sup> OJ L 24, 29.1.2004, p.1.

4. Cronimet is the holding company of a group of companies trading globally in raw material for the production of steel. Cronimet buys, prepares, and sells ferrous scrap for use in the steel production. In addition, Cronimet trades in primary raw materials such as pure metals and ferro alloys. Cronimet operates through subsidiaries in Europe, America, Africa and Asia. Cronimet is controlled by the Pilarsky family. The parties state that the Pilarsky family members have no other activities in the relevant sectors.
5. Remondis is a German based private company active globally in water- and recycling management. Remondis is a wholly-owned subsidiary of Rethmann AG & Co. KG., which is controlled by the Rethmann family. The parties state that none of the Rethmann family members hold shares or rights which grant them control over any company active in markets that would be affected by the proposed transaction.
6. TSR is active in trading and processing secondary raw material for the steel industries (i.e. scrap). Its business activities focus on Germany, the Netherlands and the Czech Republic. The TSR Group trades mainly in ferrous metal scrap as a secondary raw material. As regards non-ferrous metal scrap, only marginal volumes are traded.
7. According to the Consortium Agreement dated 31 July 2006, the acquisition will be effected through a special purpose vehicle, the TSR Holding GmbH & Co KG ("TSR Holding"), in which Remondis will hold 60 % of the shares. The remaining shares are to be held by Cronimet, 20% and ALFA Acciai, 20%.<sup>2</sup>
8. Upon closing of the transaction, ALFA Acciai, Cronimet, and Remondis will jointly control TSR. Each of the partners ALFA Acciai, Cronimet and Remondis has the right to appoint one director in the TSR Holding and its subsidiaries. The parties state that the managers will have identical or similar rights. Strategic decisions require a 75% majority, ALFA Acciai and Cronimet will have voting rights of 25.1% each (while Remondis will have the remaining voting rights) in relation to such decisions. All three companies are therefore able to block these decisions.
9. Decisions relating to the financial planning of the target companies will require a positive vote of 80.1% of the issued shares. Each of the shareholders is therefore able to block decisions. In the event that no consensus can be reached, the Agreement foresees an arbitration mechanism with three arbitration rounds in which all three parties are equally represented. If no unanimous agreement can be found, the shareholders have to agree to the proposal as presented by the majority of votes. Under these circumstances, Remondis' vote will therefore prevail. If the conclusion on the financial planning is reached in two consecutive years in such way, ALFA Acciai and Cronimet on the one hand or Remondis on the other can put their shares to the respective other shareholder(s). Consequently, in line with paragraph 37 of the Commission Notice on the concept of concentration, it appears that all shareholders

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<sup>2</sup> The parties further submit that it is intended to restructure the shareholdings in Thyssen Alfa Rohstoffhandel München GmbH & Co KG. ("Thyssen ALFA") which is currently owned by ALFA Acciai (60%) and TSR (40%). It is the intention of the parties that ALFA Acciai's shareholding in Thyssen ALFA will be sold to TSR Holding. However no binding agreement on this has been signed yet. According to the Commission's assessment the restructuring of the shareholdings in Thyssen ALFA is not considered as being part of the notified transaction since the parties to the restructuring of Thyssen ALFA are different from the transaction concerning TSR. Also, the sale of shares in Thyssen ALFA to TSR is not linked by way of conditions to the proposed concentration.

have a decisive influence on the financial planning since Remondis' casting vote can only be exercised after a series of stages of arbitration.

10. In the light of the above, each of the parties will have a veto over strategic decisions. All parties will therefore exercise decisive influence on the commercial policy of TSR Holding and the companies incorporated in the TSR Group. TSR Group will therefore be jointly controlled by ALFA Acciai, Cronimet and Remondis. Therefore, the notified operation constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

## **II. COMMUNITY DIMENSION**

11. The combined aggregate worldwide turnover of the undertakings concerned exceeds EUR 5 billion (combined: EUR 7.747 billion, ALFA Acciai: EUR 934 million; Cronimet: EUR 2,103 million; Remondis: EUR 3,286 million; TSR: EUR 1,422 million). The aggregate Community-wide turnover of each undertakings concerned is more than EUR 250 million (ALFA Acciai: [...]; Cronimet: [...]; Remondis: [...]; TSR: [...]). Whereas Remondis and ALFA Acciai both achieved more than two thirds of their turnover in one Member State, they have not achieved it in the same Member State [...]. As a result, the operation has a Community dimension in the sense of Article 1(2) of the Merger Regulation.

## **III. PROCEDURE: Article 9(2) referral request of Germany**

12. By letter dated 12 January 2007, Germany requested the referral to its competent authorities of the part of the proposed concentration relating to all German markets for the collection and processing of carbon steel scrap and all German markets for the collection and processing of alloyed steel scrap including the market for the collection of carbon steel scrap in the Ruhrgebiet (ca. 50km around Bottrop) and the market for the collection and processing of stainless steel scrap in the Stuttgart area. On 31 January 2007 Germany limited its requests to the above mentioned markets in the Ruhrgebiet and in the Stuttgart area and withdrew its request for the other German markets. By its letter of 12 January 2007 Germany also requested a referral with respect to the German market for the recycling of cooling systems. The request by Germany is based on Article 9(2)(a) or, alternatively, Article 9(2)(b) of the EC Merger Regulation with a view to assessing it under German competition law.
13. By Decision of today, the Commission has decided to partially refer the case to the competent authorities of Germany pursuant to Art. 9 (3) of the Merger Regulation. This referral covers two German regional markets for the collection of carbon steel scrap in the Ruhrgebiet (around Bottrop) and for the collection of alloyed steel scrap in the area around Stuttgart, and the market for the recycling of cooling systems in Germany (based on Article 9(2)(a) of the Merger Regulation).

## **IV. RELEVANT MARKETS**

### **Relevant product markets**

#### Trade, collection and processing of ferrous scrap

14. The proposed concentration concerns the market for trade in ferrous scrap. In the past, the European Commission has left it open whether, within the overall market for trade in ferrous scrap, the market segment for collecting and processing represents a separate market, or whether collection, processing and trade of processed ferrous

scrap belong to one single product market<sup>3</sup>. Likewise, the Commission has until now left open whether within the market for ferrous scrap a distinction between carbon steel scrap and stainless (or alloyed) steel scrap should be made, whereby carbon steel scrap by far represents the largest portion of the ferrous scrap.

15. The parties submit that there is one single product market for collection, processing and trade of ferrous scrap. According to the parties, collection and processing activities are only one part of the overall activities provided by merchants active in the market. Once ferrous scrap has been sourced (and processed), it is sold and therefore traded. The parties furthermore submit that all merchants regardless of their size have the ability to sell to the steel industry.
16. The Bundeskartellamt considers that there are separate markets for the trade of processed ferrous scrap on the one hand and for the collection and processing of ferrous scrap on the other hand with a further distinction between carbon steel scrap and stainless steel scrap.
17. The market investigation has broadly confirmed the Bundeskartellamt's contention that there is likely to be a separate market for the collection/processing of ferrous scrap, and that the market for the collection/processing of carbon steel scrap and alloyed steel scrap can likewise be distinguished.
18. On this basis the Commission referred the market for the collection and processing of carbon steel scrap in the Ruhrgebiet (Bottrop area) and the market for the collection and processing of alloyed steel scrap in the Stuttgart region to Germany.
19. For the purposes of this decision it can be left open whether trade and collection/processing of steel scrap are separated markets and whether there should be a distinction between carbon steel scrap and stainless (or alloyed) steel scrap, since apart from the parts of the concentration that were referred to the Bundeskartellamt, the proposed transaction does not give rise to competitive concerns on any reasonable product market definition.

#### Collection and recycling of cooling systems

20. The parties submit that the collection and recycling of cooling systems ("refrigerators") constitute one single product market. According to the parties, the recycling market for refrigerators necessarily includes their collection and transport. The parties submit that following the German Electric and Electronic Act ("ElectroG"), manufacturers are the responsible entities for the disposal of refrigerators and are obliged to take old machines back and dispose of them at their own expense. According to the parties, most manufacturers use this possibility and outsource their obligations. Such service contracts are generally awarded (for a period between one and three years) on the basis of bidding processes. The parties submit that in the project description, manufacturers request both the collection and recycling of the refrigerators.
21. However, the majority of respondents to the market investigation indicate that the collection and the recycling of refrigerators are offered as separate services in the market and that they therefore constitute two distinct product markets. Moreover, for

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<sup>3</sup> COMP/ECSC.1358-Scholz/Alba/JV, COMP/ECSC.1355-Interseroh/Hansa

similar reasons, the Bundeskartellamt considers that there are separate markets for the collection and recycling of cooling systems.

22. The Commission has referred the German market for the recycling of cooling systems to Germany. The present decision deals with the German market for the collection of cooling systems.

#### Market for the production of rebars and reinforcing steels

23. Rebars and other reinforcing steels are used as a component of reinforced concrete and reinforced masonry structures.<sup>4</sup> For the purpose of the present decision the definition of the relevant product market can be left open, since the proposed transaction does not give rise to competitive concerns under any reasonable product market definition.

#### **Relevant geographic markets**

##### Market for trade in ferrous scrap

24. The parties submit that the market for the trade in ferrous scrap is at least EEA-wide if not global. According to the parties, ferrous scrap is a raw material that is sold and bought on an international level and its prices are determined by the world market price for primary raw material. The parties further submit that freight costs for ferrous scrap are low and currently represent 5% to 10% of the final price. Cronimet and TSR are active on a global level with Cronimet operating yards and/or trading offices in 15 countries world-wide. TSR Group operates yards in several Member States of the EU and has sales activities in Europe, the USA, and Asia.
25. Moreover, with respect to the trade in ferrous scrap, the large majority of respondents believe, that this is at least an EEA-wide if not a worldwide market. This is in line with earlier Commission practice<sup>5</sup>. Based on the parties' submission that alloyed steel scrap is in general more expensive than carbon steel scrap, and hence transport costs are of minor significance, the same geographic dimension would apply to this potential sub-segment of the trade market.
26. For the purpose of the current decision it is not necessary to conclude whether the market for trade in ferrous (carbon and alloyed) scrap is EEA-wide or wider since the proposed transaction does not give rise to any competitive concerns.

##### Markets for collection and processing of ferrous steel scrap

27. In so far as the markets for collecting and processing of ferrous steel scrap have not been referred to Germany, the Commission still has to assess the concentration.
28. The parties submit information on the basis of different German regions (radius of around 200km). There are indications in the market investigation that these regions might be even smaller.
29. However, for the purpose of the present decision the precise geographic scope of a market for the collection and processing of carbon steel scrap and alloyed steel scrap

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<sup>4</sup> COMP/M. 4137 - Mittal /Arcelor

<sup>5</sup> COMP/ECSC.1355 - Interseroh/Hansa; COMP/ECSC.1358 – Scholz/ ALBA / JV.

can be left open since, apart from the parts of the concentration that were referred to the Bundeskartellamt, the proposed transaction does not give rise to competitive concerns even on the narrowest geographic market definition.

#### Market for collecting refrigerators

30. The parties submit that the geographic market for the collection and recycling of refrigerators is national. Concerning the geographic dimension of the markets for the collection and recycling of refrigerators, a number of respondents indicated that due to transport costs markets might be smaller than national.
31. For the purpose of the present decision, the exact geographic market definition can be left open since the proposed transaction does not give rise to any competitive concerns.

#### Market for the production of rebars and reinforcing steels

32. According to the parties, the relevant geographic market is at least EU-wide. ALFA Acciai sells its products through Europe. No import restrictions exist in this area. The transport costs are so moderate that they do not limit the market from a geographic point of view. This is also in line with the previous Commission's practice.<sup>6</sup>
33. For the purpose of the present decision, the exact geographic market definition can be left open since the proposed transaction does not give rise to any competitive concerns.

### **V. COMPETITIVE ASSESSMENT**

#### EEA-wide market for trade in ferrous scrap

34. In 2005, a volume of 1,099 million tons of steel was produced world-wide and 187.2 million tons within the EU. In the EU approximately 53.9 % (101 million tonnes) of the demand for raw material within the steel production is provided from secondary raw material (i.e. mainly ferrous scrap). On a world-wide level the input of steel scrap amounts to 43.1 % (474 million tonnes).
35. The parties estimate that the world-wide market volume of the trade in ferrous scrap (comprising carbon scrap and to a small extent also alloyed scrap) in 2005 amounted to 947 million tons (474 million tons multiplied by 2) since they believe that ferrous scrap is traded at least twice before it is sold to a steel producer. In the EU the trade volume would be approximately 202 million tons (101 million tons multiplied by 2). However, the figures in paragraphs below are based on the final sales to steel companies and therefore represent the most conservative view.
36. The parties submit that the overall market for trade in ferrous scrap is highly fragmented and characterised by strong competition. Cronimet, TSR, and - to a limited extent - Remondis are active on the overall market for the trade in ferrous scrap. Based on the parties' estimates, on the worldwide market for overall trade in ferrous scrap, the combined market position of Cronimet, Remondis and TSR will be [0-5] %. On a narrower EEA-wide geographic market, the parties would achieve a

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6 COMP/M. 4137 - Mittal /Arcelor

combined market share of [0-10] %. Due to the low market shares on the overall market for trade in ferrous scrap, no competition problems arise.

37. For the potential segments of trade in carbon steel scrap and alloyed steel, the parties submit that Remondis and TSR are active in the trade of carbon steel scrap and that TSR has only minor activities in alloyed steel scrap. Cronimet is not active in the trade in carbon steel scrap but only in the trade of alloyed steel scrap. According to the parties, ALFA Acciai is not active in any of these segments. The parties therefore submit that there is only a minor overlap of the parties' activities and therefore no significant addition of market shares.
38. For the potential segments of trade in carbon steel scrap and alloyed steel, the parties provided estimates for the German segment, where the parties are concentrating their activities. The estimated market shares of the parties are around [20-30] % for carbon steel scrap and [10-20] % for alloyed steel scrap in Germany.
39. With respect to a potential market segment for the purchase of carbon or alloyed steel scrap in Germany (on the narrowest possible market), the parties submit that the combined market shares would be [20-30] % and [10-20] % respectively.
40. Additionally, concerning the trade of scrap with steel companies, the market investigation confirms that the proposed concentration does not raise competition concerns. Most of the customers (steel producers) do not see any competition issues due to the proposed concentration.
41. For the reasons stated above, the concentration does not lead to serious doubts in (i) the at least EEA-wide market for the trade in ferrous scrap and (ii) the at least EEA-wide markets for the trade in carbon steel scrap and stainless steel scrap.

#### Market for the collection and processing of ferrous steel scrap in the Netherlands

42. TSR Group is the only party active on the market for collecting and processing ferrous scrap in the Netherlands where, according to the parties' estimates, it has a market share of [20-30] %. Hence, no horizontal overlap arises on the Dutch market for the collection and processing of ferrous steel scrap.

#### Market for the collection and processing of ferrous steel scrap in the Czech Republic

43. TSR Group is the only party active on the market for collecting and processing of ferrous scrap in the Czech Republic where, according to the parties' estimates, it has a market share of [10-20] %. Hence, no horizontal overlap arises on the Czech market for the collection and processing of ferrous steel scrap.

#### German markets for the collection and processing of carbon steel scrap and for alloyed steel scrap

44. The parties estimate that the volume of the German market for the collection of ferrous scrap amounts to approximately 20-25 million tons. The parties submit that the segment for collecting and processing is fragmented with no market player holding a market share exceeding 15%. The parties assess their combined market share on the German market for the collection and processing of ferrous scrap to be less than 5%.
45. TSR and Remondis are active on the market for the collection of ferrous scrap (comprising carbon steel scrap and to smaller extent also alloyed steel scrap) in



Germany. In none of the possible regions – apart from the markets referred to Germany - the parties reach a combined market share of above 10%. For the potential segment of alloyed steel scrap, the parties estimate their combined market shares not to be more than 5% in Germany. Moreover, in the regions that were not referred to Germany, the Commission's investigation did not find substantiated grounds for competition concerns.

46. In the light of above, the notified transaction does not lead to serious doubts on the German markets for the collection and processing of carbon steel scrap and alloyed steel scrap that are subject to this decision irrespective of the product and geographic market definition.

#### German market for the collection of cooling systems

47. Only Remondis is active on the German market for the collection of refrigerators, where it has a market share of less than 25%. TSR Group is not active in the market for the collection of refrigerators. TSR Group holds a 50% shareholding in ReCool Kühlgerätereycling GmbH, (“ReCool”), which operates a plant for the recycling of refrigerators but is not active in their collection. Hence, no horizontal overlap arises on the German market for the collection of cooling systems.

#### EEA-wide market for the production of rebars and reinforcing steels

48. Only ALFA Acciai is active in the downstream markets for rebars and reinforcing steels. ALFA is a comparatively small steel producer and consumes less than 2% of the ferrous scrap collected in the EEA. The new entity will have to sell more than 80% of the ferrous scrap it collects (which itself is only about [0-10] % of total EEA. In light of the above, the notified transaction does not raise serious doubts on the EEA-wide markets for the production of rebars and for reinforcing steels.

## **VI. CONCLUSION**

49. 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  
Neelie KROES  
Member of the Commission