

***Case No COMP/M.5072 -
AMSSC / BE GROUP /
JV***

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

Article 6(1)(b) NON-OPPOSITION
Date: 10/04/2008

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10/04/2008
SG-Greffe (2008) D/201721/201722

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.5072 - AMSSC / BE GROUP / JV
Notification of 04.03.2008 pursuant to Article 4 of Council Regulation No 139/2004¹

1. On 4 March 2008, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertakings ArcelorMittal Steel Service Centres SAS ("AMSSC", Sweden), belonging to the ArcelorMittal group ("ArcelorMittal", Luxembourg) and BE Sverige AB ("BE group", Sweden) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of a newly created company constituting a joint venture (JV) which will combine the steel service centre activities of both parties in Sweden.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and does not raise serious doubts as to its compatibility with the common market and the functioning of the EEA Agreement.

I. THE PARTIES

3. **AMSSC** is specialized in flat carbon steel processing and logistics and is active on the Swedish market through its wholly owned subsidiary Arcelor SSC Sverige AB. AMSSC is ultimately controlled by the steel group ArcelorMittal.
4. **BE Group** is a steel distribution company on the Scandinavian market and is active in steel service centre ("SSC") activities on the Swedish market. BE Group is ultimately

¹ OJ L 24, 29.1.2004 p. 1.

controlled by BE Group AB, one of Northern Europe's leading trading and service companies within the steel, stainless steel and aluminium sectors.

5. **The JV** would combine the steel service centre activities of both parties in Sweden. The joint venture will be only active in distribution of flat carbon steel. It will be jointly controlled by AMSSC and BE Group.

II. THE TRANSACTION AND THE CONCENTRATION

6. According to Investment Agreement ("IA") signed by the parties on 25 January 2008, the SSC activities of AMSSC and BE Group in Sweden will be combined in an existing company, Arcelor SSC Sverige AB, currently solely owned and controlled by AMSSC. AMSSC and BE Group will establish a new ownership structure in this company, according to which each of AMSSC and BE Group will hold 50% of the JV's shares. Each of the shares will be equal in all respects, including without limitation par value, voting power and dividend rights. AMSSC and BE Group will each be entitled to appoint the same number of representatives to the Board of Directors of the JV and the parties will be obliged to reach agreement on major decisions concerning the JV².
7. Furthermore, the JV will perform on a lasting basis all the functions of an autonomous economic entity. The JV will be active on the SSC market in Sweden and will perform on a lasting basis all the functions normally carried out by an undertaking operating on this market. The JV will not depend on its parent companies for its day-to-day operations as it will have a management dedicated to its day-to-day operations and will have all the resources necessary in order to conduct on a lasting basis its activities.
8. Thus, it can be concluded that the JV constitutes a full-function joint venture and the notified transaction constitutes therefore a concentration within the meaning of Article 3(4) of the EC Merger Regulation.

III. COMMUNITY DIMENSION

9. The transaction has a Community dimension pursuant to Article 1(2) of the Merger Regulation. The parties have a combined aggregate worldwide turnover in excess of €5,000 million (ArcelorMittal € 76,829 million; BE Group AB € 826 million) and at least two have a Community-wide turnover in excess of € 250 million (ArcelorMittal € [...] million; BE Group € [...] million). None of the parties achieve more than two-thirds of its Community-wide turnover within one and the same Member State.

IV. RELEVANT MARKETS

10. The impact of the proposed concentration would be limited to the activity of steel service centres in Sweden. The joint venture will be essentially active on the Swedish market of distribution of flat carbon steel through SSCs.

² Such as the approval of the business plan and the budget of the JV, the appointment and dismissal of the Managing Director, or the approval of investments exceeding a value of [...].

(A) Horizontal relationships: steel distribution

11. According to the previous Commission's practice steel distribution is considered as a separate market from production and direct sales.³ This is because there are significant differences between such markets in terms of number of customers, the size of order, the ability to respond rapidly to customer requirements, the geographic scope of the business and the number of companies involved in the business⁴.
12. Moreover, in previous cases the Commission has identified three separate steel distribution markets; steel service centres, stockholding and oxy-cutting centres.⁵ The Commission has found in previous cases⁶ that these three types of distribution constitute different relevant markets, as (i) they are supplied with different products; (ii) they use different means and techniques, which involve investments in machinery, to carry out their core activities; and (iii) they develop different products aimed to particular kinds of clients.
13. The present case involves only steel service centres. Steel service centres purchase strip mill products from the steel producers and afterwards slit and cut the material as required by the customers. Steel service centres are only active in the sector of flat steel products (carbon and/or stainless).
14. Steel distribution is a national or regional business and in its previous decisions the Commission found that the geographic market for steel service centres is national or at most regional, to be determined on a case by case basis.⁷ Distribution costs are an important constraint on the ability of a steel service centre to sell over long distances. As a result the Commission has previously found that steel service centres generally serve customers within a radius of about 200 to 250 km, depending on the circumstances of each case.⁸
15. In the current case, the headquarters of the JV will be located in Karlstad, Sweden [...]. Accordingly, the parties consider that the most relevant geographic market for assessment of the current transaction is that for SSC activities in Sweden. Although the relevant geographical market could possibly be enlarged to Norway, the SSCs that will be contributed to the JV make only marginal sales in Norway. In any event, the exact geographic market definition can remain open, since even with the narrowest relevant geographic market definition (Swedish market) the concentration does not seem to give rise to any anti-competitive effects.

(B) Vertical relationships: the upstream steel products

16. SSCs buy the steel products that they transform from steel producers. Whereas BE Group is not a steel producer, ArcelorMittal produces a large range of steel products bought by SSCs, such as hot-rolled flat steel products, cold-rolled flat steel products and/or coated flat products (metallic coated and organic coated). In this decision only the

³ Case COMP/ECSC.1351 Usinor/Arbed/Aceralia

⁴ Case COMP/ECSC.1351 Usinor/Arbed/Aceralia

⁵ Case COMP/ECSC.1351 Usinor/Arbed/Aceralia

⁶ Case COMP IV/M.4137 Mittal/Arcelor; Case COMP/ECSC.1351 Usinor/Arbed/Aceralia.

⁷ Case IC/M.578 Hoogovens/Klockner & Co

⁸ Case COMP/ECSC.1351 Usinor/Arbed/Aceralia

three upstream product markets in which ArcelorMittal had market shares above 25% in the EEA in 2006 are discussed in more detail.

(i) Hot rolled carbon steel

17. In previous cases, the Commission has considered that there are two separate product markets within hot rolled carbon steel flat products: (i) hot rolled flat products excluding quarto plates and (ii) quarto plates.⁹ The latter are non-coiled products with very different dimensions, in particular in term of thickness, from other hot rolled flat products. In this decision only hot rolled flat products excluding quarto plates are discussed further below.

(ii) Cold rolled carbon steel

18. Cold rolling is a further processing stage undergone by hot-rolled carbon steel flat products that affects their basic properties by reducing their thickness, improving their profile and finishing their surface. The Commission has defined the production and sale of these products as a separate product market.¹⁰

(iii) Metallic coated carbon steel

19. According to previous Commission's decisions, metallic coated strip can be divided into two different broad classes:¹¹ (i) steel for packaging (tinplate and ECCS) and (ii) galvanised steel (hot-dip and electro-galvanised, including coatings of zinc alloys).

(iv) Geographic markets

20. Flat carbon steel markets are characterized by extensive trade flows at the European level. There are no barriers to trade within the EEA. Moreover, the adoption of EEA wide standards has led to the harmonisation of customers requirements within the EEA. Therefore, in line with prior Commission precedents, the geographic scope of each of these markets is considered to be at least EU-wide.¹²

V. COMPETITIVE ASSESSMENT

(A) Horizontal issues: steel distribution centres

21. On the Swedish market for steel distribution centres, the predicted market shares of the JV measured in volume will remain below 15% based on the parties' current market shares. The current horizontal overlap between the parties for steel service centres appears to be limited (AMSSC [5-10%], BE Group ([5-10%])).¹³ On Swedish market for SSCs the JV will face competition from Dickson/Tibnor ([25-35%]), Ruukki ([15-25%]), GA Industri AB ([5-15%]) and Norsk Stal ([0-10%]).

⁹ Case COMP/ECSC.1351 Usinor/Arbed/Aceralia

¹⁰ Case COMP/ECSC.1351 Usinor/Arbed/Aceralia

¹¹ Case COMP/ECSC.1351 Usinor/Arbed/Aceralia

¹² Case COMP/M.4137 Mittal/Arcelor

¹³ The total sales in volume of the JV are lower than the actual sum of the sales in volume of AMSSC and the BE Group taken together. This is the result of inter-company sales between the two parties.

22. In case the geographic market was enlarged to Norway, the SSCs' market share would be even lower than on the Swedish SSCs market due to the JV only marginal sales in Norway and neither party has SSCs operations based in Norway.
23. Therefore, the proposed transaction will not change the market structure significantly and do not raise competition concerns on the Swedish market (or Swedish and Norwegian market) for steel service centers.

(B) Vertical Issues: the upstream steel products

24. According to the data submitted by the parties, Arcelor Mittal has market shares of above 25%, in the sale of hot-rolled carbon flat products (excluding quarto plates), cold-rolled carbon flat products, and galvanised steel products. In the EEA these market shares (in volume) in 2006 are respectively of about [20-30%], [20-30%] and [30-40%].¹⁴
25. In terms of Arcelor Mittal foreclosing the distribution market from its upstream shares in flat steel, the establishment of the JV seems not to change the competitive situation. Arcelor SSC Sverige AB is already supplied by ArcelorMittal for up to [...] of its supplies. This level will not change after the transaction. In addition, ArcelorMittal is an important supplier of the BE Group Sweden SSC Business (the BE Group has no steel making activities), with a volume that corresponds to approximately [...] of the purchases of BE Group Sweden SSC Business. According to data submitted by the parties, ArcelorMittal other Swedish clients (apart from the parties) active in distribution of steel constitute [...] of ArcelorMittal's sales of hot rolled flat carbon steel products and [...] of galvanized carbon steel products. In view of above, it is unlikely that ArcelorMittal would have incentive to foreclosure other Swedish distributors and only sale to the JV.
26. Moreover in view of the availability of flat carbon steel products from other EU suppliers including SSAB (Sweden) and Ruukki (Finland) and from imports and the comparatively modest share of the Swedish SSC market the JV will hold¹⁵ the Commission came to the conclusion that Arcelor Mittal will not be able to effectively restrict supplies to competing SSCs.
27. In view of the arguments set out in paragraphs 24-26 above, the operation does not give rise to serious doubts about its compatibility with the common market in relation to vertical links between the parent company ArcelorMittal and the JV.

14 The parties submit that accurate data for 2007 are not yet available. These market shares are estimated to be the following in 2007: hot-rolled steel products: [20-30%]; cold-rolled steel products: [20-30%]; and galvanised steel products: [30-40%].

15 Moreover, the parties' estimate that the future position of the JV in terms of its EEA sales of flat carbon steel products will be very small (of less than 0.5%)

VI. CONCLUSION

28. 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 the Merger Regulation.

For the Commission,

(signed)

Neelie KROES
Member of the Commission