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Case No COMP/M.7461 - AMDS ITALIA/ CLN/ JV

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

Article 6(1)(b) NON-OPPOSITION
Date: 20/03/2015

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EUROPEAN COMMISSION

Brussels, 20.3.2015
C(2015) 2060 final

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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(2) DECISION

To the notifying parties:

Dear Sir/Madam,

**Subject: Case M.7461 - AMDS Italia / CLN / JV
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004¹ and Article 57 of the Agreement on the European Economic Area²**

1. On 13 February 2015, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which ArcelorMittal Distribution Solutions Italia ("AMDS Italia", Italy) and C.L.N. – Coils Lamiere Nastri S.p.A. ("CLN", Italy) acquire, within the meaning of Article 3(1)(b) of the Merger Regulation, joint control of a newly created company, therefore creating a joint venture, ArcelorMittal CLN Distribuzione Italia S.r.l. ("the JV", Italy), by way of purchase of all its newly issued shares. AMDS Italia and CLN are collectively referred to as "Parties".³

¹ OJ L 24, 29.1.2004, p. 1 ('the Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

² OJ L 1, 3.1.1994, p.3 ("the EEA Agreement").

³ Publication in the Official Journal of the European Union No C 062, 20.02.2015, p. 6.

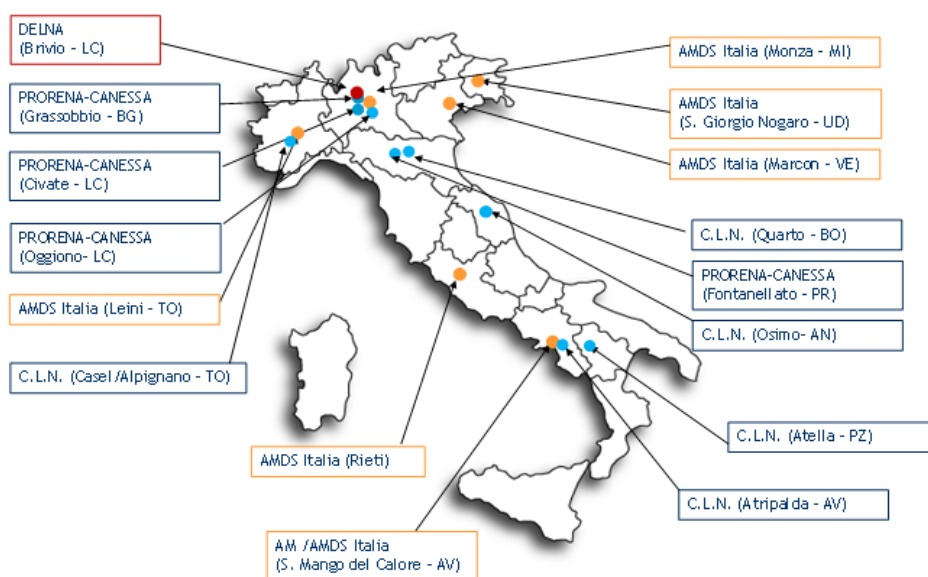
1. THE PARTIES

2. **AMDS Italia** is active in steel distribution, processing and commercialisation in Italy. It is totally held by ArcelorMittal, a globally active steel and mining group. ArcelorMittal is the world's largest steel manufacturer. AMDS Italia has 7 Steel Service Centres (“SSCs”) in Italy.
3. **CLN** is active in steel distribution and processing, as well as in steel wheel production for cars, motorcycles, commercial and industrial vehicles and production of pressed components for cars and commercial vehicles. [...] ArcelorMittal holds 24.56% of the capital of CLN,⁴ without control over the company. The remaining stake is held by Marubeni Itochu Group. CLN has currently sole or joint control of several SSCs in Italy.

2. THE OPERATION

4. On 21 October 2014, the Parties signed a Framework Agreement, for the combination of their SSCs in Italy in a JV. An addendum to the Framework Agreement was signed on 5 March 2015.

Figure 1: Location of the Parties' SSCs in Italy



October 20th, 2014

Source: Form CO.

5. The Parties state that the rationale of the transaction is to achieve synergies, notably cost savings, and provide better services to major customers in the Italian SSC market (including notably industrial customers and automotive customers).

⁴ Before August 2013, ArcelorMittal held a 35% stake.

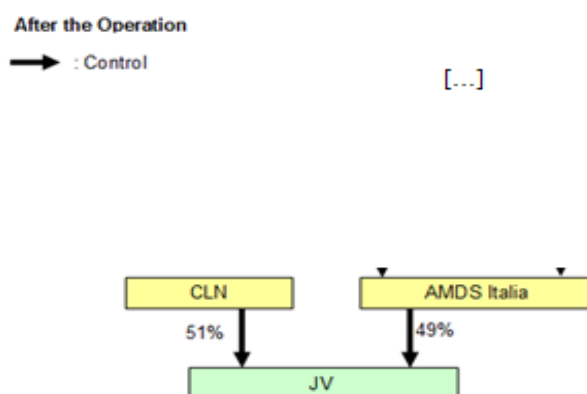
Steps in the transaction

6. The transaction will proceed in two phases:
 - a. Before the definitive closing of the agreement relating to the creation of the JV, CLN will acquire sole control of the participated company Prorena Canessa, active in the Italian SSC market, and its subsidiary Metaltranciati, also operating in the SSC market, over which CLN currently has joint control.⁵
 - b. Then, at closing the Parties will contribute their SSCs businesses into the newly established JV.
7. The Parties submit that the two phases are interdependent and constitute a single concentration, as the sole purpose of CLN's acquisition of sole control over its two participated companies is to contribute their and CLN's SSC activities to the JV and the Framework Agreement specifically provides that AMDS Italia's obligation to make the closing of the main transaction is conditional upon CLN's acquisition of 100% of Prorena Canessa and Metaltranciati.

Joint control

8. The Parties will contribute their SSCs activities in Italy to the JV.⁶ CLN will own 51% and AMDS Italia will own 49% of equity and voting rights.⁷ The Parties have agreed to appoint [...]. AMDS will have the right to appoint [...] board members, and CLN [...]. [...].⁸ For some key matters, such as approval of the budget and business plan, the approval by the Board of Directors will require the favourable vote of at least one director appointed by each Party and will not be decided by the casting vote of the Chairman.⁹

Figure 2: the JV's foreseen shareholding



Source: Form CO.

⁵ CLN has currently joint control of Prorena Canessa S.r.l., holding 50.98% of the shares, and indirect joint control of Metaltranciati S.r.l., which is fully owned by Prorena Canessa S.r.l. The Parties submit that the two companies account for approximately [0-5] % of SSC market in Italy.

⁶ With the exception of AMDS Italia's site of Flero, which is active in the processing of the beams (long products). The Collegno steel service centre site (owned by the company Nuova Sabel, in bankruptcy) currently managed by CLN under a business lease agreement will be contributed to the JV subject to the approval of the Bankruptcy Court of Torino.

⁷ The closing is subject to the clearance of the Competition Authorities of the European Union, [...].

⁸ See [...].

⁹ See [...].

Full-functionality of the JV

9. The JV will be an Italian limited liability company (*società a responsabilità limitata*). The Parties submit that the JV's SSCs will be full-function in nature and fact, and will not act as a mere sales agent of its co-owners.¹⁰ The JV will operate as an autonomous going concern business with its own management dedicated to the day-to-day operations¹¹ and have access to sufficient resources including capital, staff, and assets for its business activities. It will hold and operate the assets, tangible and intangible, consisting in the Parties' SSC businesses, estimated to be approximately [...]. As such, the JV will supply to third party customers unaffiliated with the Parties. It will also deal with the ArcelorMittal and CLN at arm's length on the basis of normal commercial conditions. Although the JV will source [...] from its parents,¹² as the Parties state is consistent with industry practice, the Parties submit it will add significant value to these inputs. Finally, the JV is intended to be indefinite in duration for as long as is commercially feasible, [...].
10. Consequently, the proposed transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. EU DIMENSION

11. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million¹³ [ArcelorMittal: EUR 59 815 million; CLN: EUR 1 539 million]. Each of them has an EU-wide turnover in excess of EUR 250 million [ArcelorMittal: EUR [...] million; CLN: EUR [...] million], but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State.
12. The notified operation therefore has an EU dimension.

4. RELEVANT MARKETS

13. The Parties' activities overlap in the distribution through SSCs of certain steel flat products, where JV will be active. ArcelorMittal is also active upstream in steel production, while CLN is also active downstream in the manufacturing of automotive components.

A. Relevant product markets

1. Steel distribution: distribution of steel products through SSCs

14. In addition to ex-mill sales, steel products may also be sold through various distribution channels. While steel mills tend to supply large orders of standard dimensions with longer lead times, distribution centres typically supply smaller lot sizes and also have shorter lead times.

¹⁰ See ECSC.1351, *Usinor/Arbed/Aceralia* (2001) and M.578 – *Hoogovens / Klöckner & co* (1995).

¹¹ See [...].

¹² ArcelorMittal Group will provide [...] the JV's mother coil needs [...].

¹³ Turnover calculated in accordance with Article 5 of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p1).

Past decisional practice

15. In earlier decisions,¹⁴ the Commission has considered separate markets for distribution of steel products on the basis of the following cumulative distinctions:
- i. distribution of carbon steel products¹⁵ vs distribution of stainless steel products¹⁶;
 - ii. distribution of flat steel products¹⁷ vs distribution of long steel products; and
 - iii. distribution through steel service centres (SSCs)¹⁸ vs distribution through stockholding centres (SCs)¹⁹ vs distribution through oxy-cutting centres.²⁰
16. Steel service centres purchase strip mill products from the steel producers and afterwards slit and cut the material to customers' requirements. Their customers include major consumers, such as the automobile and white goods manufacturers, stockholders and customers of all sizes.²¹

The Parties' arguments

17. The Parties submit that it is unnecessary to analyse the possible segmentations of the market for the distribution of steel according to distribution channels, type of steel and/or shape of the product or the possible distinctions between different kinds of SSCs and the exact definition of the relevant product market can be left open, as these further segmentations would not affect the competitive assessment.

Commission's assessment

18. The results of the investigation generally confirm that there is limited substitutability between the SSCs and other distribution channels.²²

¹⁴ See for instance M.7155 - *SSAB/Rautaruukki* (2014), M.4137 - *Mittal/Arcelor* (2006), M.6471 - *Outokumpu/Inoxum* (2004).

¹⁵ Carbon steel is carbon-based steel containing no or little amounts of alloying elements. Carbon steel is used in a very wide range of applications including car bodies, beverage cans, beams, and reinforcing materials for the construction industry.

¹⁶ Stainless steel contains significant proportions of chrome and nickel and other elements. It is therefore much more expensive than carbon steel, and is primarily used in applications which require resistance to corrosion and/or resistance to high temperatures.

¹⁷ Flat products (hot-rolled wide strips, hot-rolled narrow steel, quarto plates and sheets) can be distinguished from long products (sections and steel beams, permanent way material, merchant bars and wide rods). See ECSC.1351, *Usinor/Arbed/Aceralia* (2001).

¹⁸ SSCs purchase from steel manufacturers strip mill products, which they then slit and cut to customers' requirements.

¹⁹ Stockholding centres are active as wholesalers in the steel industry, purchasing steel products in bulk and re-selling in smaller quantities.

²⁰ Oxycutting centres purchase quarto plate from steel manufacturers, which they then cut to particular sizes and shapes as required by customers using oxyhydrogen blowtorches.

²¹ IV/M.971 - *Klöckner/Comercial de Laminados*, ECSC.1351 - *Usinor/Arbed/Aceralia*.

²² Replies to questions 4 and 5 - Questionnaire to customers (Q2) and replies to questions 5 to 8 - Questionnaire to competitors (Q1). For instance, a customer pointed out that SSC products are the non-commodity ones for which "*grades/dimensions/finishes [...] are different to the basic product from the mill*" and which "*are not directly available from the mill*". Another customer specified that steel mills and SSCs have different delivery times which require different planning and another pointed out that the two channels can supply different volumes of product.

19. SSCs differ from other distribution channels to a significant extent in the type of services provided. Customers who replied to the Commission's questionnaires explained that SSCs offer customized processing services, including just-in-time slitting/cutting steel products to required dimensions, whereas SCs as well as ex-mill distribution offer rather standardised products.²³ According to competitors, producers distribute a variety of different products through stocking centres (finished product) and SSCs (coils to be further processed), and substitutability of supply is not always feasible.²⁴ SCs may also have a smaller scale, limited geographic coverage, and would generally sell products at a higher price compared to SSCs.²⁵ Accordingly respondents confirmed that SSCs mainly compete with other SSCs and only to a limited extent with other channels for the distribution of steel. Different distribution channels therefore seem to complement each other rather than be in direct competition.
20. To a certain extent, SSCs may specialise in certain types of products or customers, and there are only few SSCs that offer all types of flat steel products. A customer explained that "*[s]ome of the Service Centers are specialized in Carbon Steel, some other in Stainless steel.*"²⁶ The main distinction appears to be between stainless and carbon steel SSCs. Other specializations by sector/type of product were also mentioned.²⁷ However, within the segment of carbon steel flat products, where the Parties are active, no further specific subsegments have been identified. Therefore, for the purposes of the assessment of this transaction, there is no ground for further segmentation of SSCs distributing carbon steel flat products.
21. In view determining whether the proposed transaction may significantly impede competition, the Commission will assess the transaction under the narrowest product market definition, namely the market for distribution of carbon steel flat products through SSCs.
2. *Upstream of steel distribution: production and supply of carbon steel*
- Past decisional practice*
25. In its previous decisions²⁸ the Commission has distinguished, according to their different chemical composition, price and end applications, four broad categories of finished steel products: (i) carbon steel, (ii) stainless steel (iii) highly alloyed steel and (iv) electrical (silicon) steel.²⁹

²³ Replies to questions 4 and 5 - Questionnaire to customers (Q2). In particular, several customers replied that switching to other distributors than SSCs for certain products is not possible.

²⁴ Replies to questions 5 and 6 - Questionnaire to competitors (Q1).

²⁵ Replies to question 6 - Questionnaire to competitors (Q1).

²⁶ Replies to question 8 - Questionnaire to customers (Q2).

²⁷ Replies to question 9 - Questionnaire to competitors (Q1).

²⁸ IV /ECSC.1351 - *Usinor/Arbed/Aceralia* (2001); M.4137 - *Mittal/Arcelor* (2006).

²⁹ Electrical (silicon) steel sheets are characterised by specific electromagnetic properties, and it is used mainly for the construction of large transformers, electric motors, power supply and switching units, and power plant generators. See for instance IV /ECSC.1351 *Usinor/Arbed/Aceralia* (2001).

26. The Commission has consistently found in past cases that flat steel products form a separate product market from long steel products.³⁰ Within carbon steel flat products – those that the JV will distribute – the Commission has generally considered there to be separate product markets for (1) hot rolled carbon steel flat products excluding quarto plates, (2) quarto plates, (3) cold rolled carbon steel flat products, (4) galvanised carbon steel flat products, (5) steel for packaging and (6) organic coated carbon steel flat products.

The Parties' arguments

27. Even though the Parties consider that organic coated steel products are in competition with organic coated aluminium products, they accept the previous approach of the Commission in defining the upstream markets.

Commission's assessment

28. ArcelorMittal is active upstream of the JV, in the production of carbon steel flat products, both organic coated and galvanised. These carbon steel flat products are distributed, amongst others, through SSCs. The investigation provided no grounds for deviating from previous decisional practice, where galvanised carbon steel flat products were analysed separately from organic coated carbon steel flat products. The Commission will accordingly maintain its established practice and consider galvanised carbon steel flat products as separate from organic coated carbon steel flat products.

3. *Downstream of steel distribution: production of steel automotive components*

Past decisional practice

29. In previous decisions, the Commission has considered possible segmentation of the market for production of automotive components, ultimately leaving this question open. Furthermore, according to Commission's decisional practice, further distinctions may be found between supply of components to the original equipment manufacturers (OEMs, including original equipment suppliers, OESs) and supply of components to the independent aftermarkets. Within the supply of components to OEMs/OESs, the Commission has further distinguished between manufacturers of light vehicles and of heavy vehicles.³¹ In the *Gestamp Automocion/Edscha* case, the Commission considered a market for flat steel components for the coachwork and chassis based on (i) supply side substitutability, (ii) similar product characteristics (structural strength of raw material and light and stable product design), (iii) joint pricing method for various products, based on commodity prices for steel, (iv) same customer base.³² The Commission however left the exact market definition open.

The Parties' arguments

30. CLN is active in the production of steel automotive components (body in white, structural components and steel wheels). The Parties further submit that the above mentioned distinctions between OEMs/OESs and independent aftermarkets, on one

³⁰ M.7155 - *SSAB/Rautaruukki* (2014), M.7138 - *Thyssenkrupp/Acciai Speciali Terni/Outokumpu VDM* (2014); M.6471 - *Outokumpu /Inoxum* (2004); M.4137 - *Mittal / Arcelor* (2006).

³¹ M.6714 - *U-Shin/Valeo "CAM"* (2006).

³² M.5733 – *Gestamp autmocion/ Edscha Hinge & Control Systems* (2010).

hand, and OEMs/OESs of light vehicles and of heavy vehicles is not appropriate due to the extensive supply-side sustainability which characterises the flat steel components and, in any case, such distinction would not affect the competitive assessment, given the low market shares of the Parties.

Commission's assessment

31. As the result of the assessment of the proposed transaction would not change under any plausible subsegments of the market considered, the exact market definition for flat steel components for the automotive sector can be left open for the purpose of assessing the effects of the transaction.

B. Relevant geographic markets

1. Steel distribution

Past decisional practice

33. In previous decisions,³³ the Commission found that the scope of the relevant product market was national or at most regional, taking into account factors such as: value of material handled, value added by the relevant service, location of competitors, delivery time and relevant transportation costs.

The Parties' arguments

34. The Parties submit that it is not necessary to determine whether Italy forms a separate relevant geographic market or falls within a single cross-border regional geographic market, as the distinction would not affect the competitive assessment.

Commission's assessment

35. In the course of the market investigation, competitors indicated that the ability of specific SSCs to service throughout Italy depends on a number of elements, such as their location in Italy (impact of transport costs varies), their scale/capacity (smaller SSCs not having the capacity to serve the entire Italian territory) and the type of products distributed (low-value products travel shorter distances).³⁴ However, considering these criteria, the majority of respondents³⁵ considered that Italian SSCs can serve customers anywhere in Italy and possibly even abroad.
36. As for the distance, respondents suggest that is possible to source from suppliers located, on average, in a maximum radius of between 350 and 2 000 km.³⁶ Bigger and more sophisticated SSCs were indeed reported not only to be able to supply the whole of Italy, but also to export to other Member States, including France and

³³ IV /ECSC.1351 - *Usinor/Arbed/Aceralia* (2001), M.4137 - *Mittal/Arcelor* (2006).

³⁴ Replies to questions 10 to 13 - Questionnaire to competitors (Q1).

³⁵ Replies to question 11 - Questionnaire to competitors (Q1) and replies to question 9 - Questionnaire to customers (Q2).

³⁶ Replies to question 10 - Questionnaire to customers (Q2).

Germany, and customers were similarly sourcing in some instance from other European countries.³⁷

37. In the light of the above and for the purpose of assessing this transaction, the Commission will assess the transaction under the narrowest geographic market definition, namely at national level.

2. *Upstream of steel distribution: production and supply of carbon steel*

Past decisional practice

38. The Commission has generally considered that the geographic scope of production and supply of carbon steel is EEA-wide, or at least EEA-wide.³⁸ In its most recent relevant decision,³⁹ while not concluding on the exact geographic market definition, the Commission indicated that there was at least a serious possibility that the geographic scope of carbon steel flat product markets is in fact not wider than the Nordic countries (Finland, Sweden and Norway), at least for hot-rolled, cold-rolled and organic coated products.

The Parties' arguments

39. In this case, the Parties submit that the relevant geographic market is EEA-wide for the production and supply of carbon steel flat product market and its further distinctions, namely hot rolled, cold rolled, galvanised and organic coated. Moreover, according to the Parties, it is not necessary to conclude on the exact geographic market definition as no competition concerns would arise if looking at a hypothetical Italian market.

Commission's assessment

40. For the purpose of the present decision, as result of the assessment of the proposed transaction would not change irrespective of whether the market was national or EEA in scope, the exact definition of the geographic market for the distribution of production and supply of carbon steel flat product can be left open.

3. *Downstream of steel distribution: production and supply of steel automotive components*

41. In previous decisions, the Commission found that the scope of the relevant product market was at least EEA-wide.⁴⁰

42. The Parties submit that whether the market is EEA-wide or wider may be left open, as adopting the narrowest considered geographic market would not affect the competitive assessment.

43. In the light of the above and for the assessment of the current transaction, the Commission considers that the relevant geographic market for the production and

³⁷ Replies to question 9 - Questionnaire to customers (Q2). See also minutes of calls with customers of 26 and 27 February 2015.

³⁸ M.4137 – *Mittal/Arcelor* (2006).

³⁹ M.7155 - *SSAB/Rautaruukki* (2014).

⁴⁰ M.6714 - *U-Shin/Valeo "CAM"* (2006).

supply to OEMs/OESs of flat steel components for the automotive industry is likely to be at least EEA-wide.

5. COMPETITIVE ASSESSMENT

48. The transaction gives rise to horizontal overlaps in the Parties' activities for the distribution steel products through SSCs in Italy, Slovenia and Croatia. However, no **horizontally** affected market arises with the transaction:
- a. In Slovenia and Croatia, the Parties' combined market shares in the relevant markets for the distribution of steel products are below 10%.⁴¹
 - b. In Italy, the Parties' combined market share for the distribution of flat carbon steel products through SSCs is around [10-20]%.⁴²
49. **Upstream** of the JV's activities, ArcelorMittal is active in steel production. CLN is not active upstream of SSCs' activities. Relevant vertically affected markets arise since, upstream of SSC activities, ArcelorMittal has significant shares (just above the 30% threshold⁴²) in two markets for the production of carbon steel.
50. **Downstream** of the JV's activities, CLN is active in the production and supply to OEMs/OESs of flat steel components for the automotive industry in the EEA, namely stamped steel components, subassemblies, modules and wheels.⁴³ ArcelorMittal is not active downstream of SSC activities.⁴⁴ No relevant vertically affected market arises downstream, in view of CLN's limited activities. These are markets where the Parties' shares at each level remain below 30%.⁴⁵
51. The table below indicates the Parties' market shares in the vertically affected markets which do not fall under the presumption of paragraph 25 of the Guidelines on non-horizontal mergers.

⁴¹ The JV's SSCs will distribute only flat carbon steel products (hot rolled, cold rolled, metallic coated – excluding tinplates, and organic coated products). Both Parties are not active in Italy in the distribution of steel long products through stockholding centres and in steel distribution through oxy-cutting centres. ArcelorMittal is active in the distribution of long carbon steel through SSCs in Italy in its Flero site (with an estimated market share of [5-10]% in 2014). The Flero site will not be contributed to the JV. The steel service centre activities of AMDS Italia also include the processing of approximately [...] per year of electrical (silicon) steel. CLN does not process this product. The Parties submit there is no overlap and the activity is negligible, accounting for a very small share ([0-5]%) of the 2013 SSCs' Italian market for electrical steel (estimated in [...]).

⁴² See paragraph 25 of the Guidelines on non-horizontal mergers. Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings, adopted on 28 November 2007, OJ C265/6 of 18.10.2008, p.6.

⁴³ The Parties estimate that CLN's sales in the concerned market amount to an estimated market share of [0-5]% in 2013. They submit CLN's share can be estimated at [5-10]% for passenger cars and light commercial vehicles, and at [0-5]% for medium/heavy commercial vehicles.

⁴⁴ ArcelorMittal is active in the production of Tailor Welded Blanks ("TWB"), which is downstream of steel production, but sources the steel directly from the mills, rather than through SSCs.

⁴⁵ See paragraph 25 of the Guidelines on non-horizontal mergers.

Table 1: Market shares in the vertically affected markets, 2014, in volume

Upstream markets	EEA market share	Downstream market	Italy market share
Supply of galvanised carbon steel flat products	[30-40]%	Distribution of flat carbon steel products through SSCs in Italy	[10-20]%
Supply of organic coated carbon steel flat products	[30-40]%		

Source: Based on the information provided in the Parties' reply to the Commission's request for information of 23 February 2015.

52. This section will therefore analyse first the Italian SSCs competitive landscape, then ArcelorMittal's position upstream, and the impact of the transaction.

A. Competitive landscape for the distribution of flat carbon steel through SSCs in Italy

Market shares

53. The Parties' combined market share in the distribution of flat carbon steel through SSCs in Italy was [10-20]% in 2014, and appears to have remained relatively stable since 2011, as illustrated in Table 2 below.

Table 2: Sales and market shares of the Parties in the distribution of flat carbon steel products through SSCs in Italy, 2011-2014, in volume

	Total market (th. tonnes)	AMDS Italia	CLN	Combined
2014	[5 000-10 000]	[5-10]%	[10-20]%	[10-20]%
2013	[5 000-10 000]	[0-5]%	[10-20]%	[10-20]%
2012	[5 000-10 000]	[5-10]%	[5-10]%	[10-20]%
2011	[5 000-10 000]	[5-10]%	[10-20]%	[10-20]%

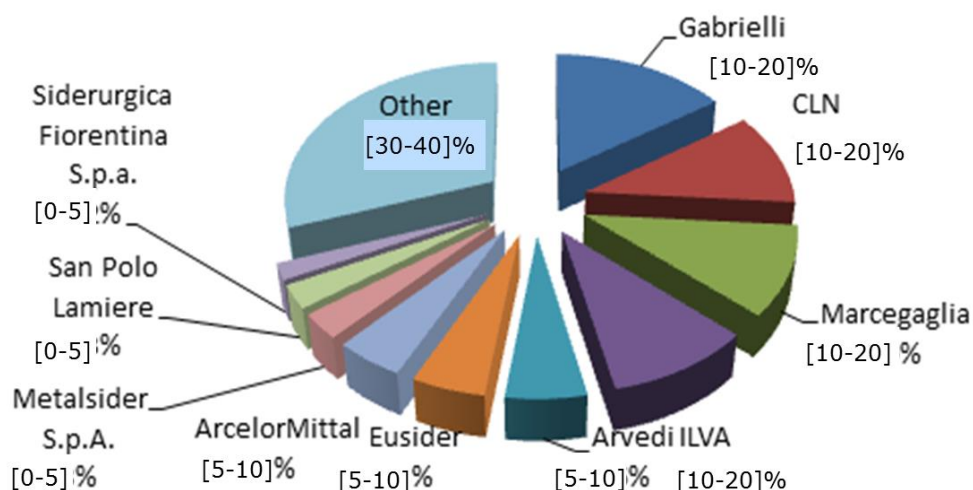
Source: Assofermet and Parties' estimates.

The Parties' arguments

54. The Parties submit that the market for the distribution of flat carbon steel through SSCs in Italy is highly fragmented, with more than 120 players. They further state that brand and customer loyalty is low, with low switching costs and customers in general having a multiple sourcing policy.

55. The Parties state that the top 10 players account for approximately [70-80]% of the market, as represented in Figure 3 below.

Figure 3: Market share of the Parties and main competitors in the SSC market in Italy, 2013



Source: Form CO.

56. The Parties also provided a map to illustrate the geographic coverage of their competitors.

Figure 4: Italy SSC distribution map

[...]

Source: Form CO.

The investigation

57. Competitors of the Parties at SSC level who replied to the Commission's questionnaire confirmed that the Italian SSC market is highly fragmented. Respondents indicate, on average, that there are about 100 SSC in Italy, including several independent players. Notwithstanding this, respondents stated that the top players, notably Marcegaglia ([10-20]%), Gruppo Gabrielli ([10-20]%), Ilva ([10-20]%), and CLN ([10-20]%), represent above 40% of the market.⁴⁶ Competitors confirmed that CLN and AMDS have respectively about [10-20]% and [5-10]% of the Italian SSC market.⁴⁷
58. According to competitors, there has not been any recent entry on the market.⁴⁸ However, the majority of competitors consider that there is spare capacity in the overall SSC market in Italy and that they would be able to expand capacity or output if prices were to go up.⁴⁹ For instance two players point towards an estimated spare

⁴⁶ Replies to questions 14 and 15 - Questionnaire to competitors (Q1).

⁴⁷ Replies to questions 14 and 15 - Questionnaire to competitors (Q1).

⁴⁸ Replies to question 19 - Questionnaire to competitors (Q1).

⁴⁹ Replies to questions 16 to 20 - Questionnaire to competitors (Q1).

capacity of about 35-40%. The majority of competitors expect no impact of the transaction on the competition between SSCs in Italy.⁵⁰

59. The majority of customers who replied to the Commission's questionnaire multisource from at least 2 SSCs and the vast majority of customers multisource from at least 5 SSCs.⁵¹ Customers confirmed that CLN and AMDS have respectively about [10-20]% and [5-10]% of the Italian SSC market.⁵² A customer noted that there is a trend of consolidation in the market of steel distribution in Italy.⁵³ However, the market investigation showed that the majority of customers consider that the competition in the region where they operate is adequate⁵⁴ and that the transaction will have no impact on prices.⁵⁵ In case of a price increase, the majority of customers state they could easily switch their flat steel purchases from one SSC to another SSC.⁵⁶
60. Internal documents of the Parties also confirm the view that the Italian SSCs market is highly fragmented ("[...]"⁵⁷).

B. Competitive landscape for the upstream markets

63. ArcelorMittal is active worldwide in the following markets for the production of carbon steel: hot rolled carbon steel flat products excluding quarto plates, quarto plates, cold rolled carbon steel flat products, galvanised carbon steel flat products, and organic coated carbon steel flat products.

Market shares

64. The Parties submit that ArcelorMittal's market shares at EEA-level is just over 30% for two affected markets: (i) the market for the production and supply of galvanised carbon steel flat products, and (ii) the market for the production and supply of organic coated carbon steel flat products. The Parties further submit that, if the geographic market was limited to Italy, the combined market shares would be lower than on the EEA level, and would not exceed 30% on any of the plausible upstream markets.⁵⁸
65. The EEA and Italian estimated sales and market share of the Parties in the two affected markets are shown in Tables 3 and 4 below.

50 Replies to question 29 - Questionnaire to competitors (Q1).

51 Replies to question 11 - Questionnaire to customers (Q2). See also minutes of calls with customers of 19 and 26 February 2015.

52 Minutes of calls with customers of 19 February 2014.

53 Minutes of a call with a customer of 26 February 2014.

54 Replies to question 12 - Questionnaire to customers (Q2).

55 Replies to question 17 - Questionnaire to customers (Q2).

56 Replies to question 6 - Questionnaire to customers (Q2).

57 Internal document of ArcelorMittal, Annex 5.4.C to the Form CO, [...].

58 However, ArcelorMittal's share in organic coated carbon steel flat products in Italy reached [30-40]% in 2014, up from market shares below 30% in 2011-2013.

Table 3: Market size and shares of ArcelorMittal in the supply of galvanised and organic coated carbon steel flat products in the EEA, 2011-2014, in volume

		Galvanized carbon steel flat products in the EEA	Organic coated carbon steel flat products in the EEA
2014	Total market (th. tonnes)	[20 000-25 000]	[4 000-5 000]
	ArcelorMittal's share	[30-40]%	[30-40]%
2013	Total market (th. tonnes)	[20 000-25 000]	[4 000-5 000]
	ArcelorMittal's share	[30-40]%	[30-40]%
2012	Total market (th. tonnes)	[20 000-25 000]	[4 000-5 000]
	ArcelorMittal's share	[30-40]%	[20-30]%
2011	Total market (th. tonnes)	[25 000-30 000]	[5 000-6 000]
	ArcelorMittal's share	[30-40]%	[20-30]%

Source: Eurofer and Parties' estimates.

Table 4: Market size and market shares of ArcelorMittal in the supply of galvanised and organic coated carbon steel flat products in Italy, 2011-2014, in volume

		Galvanized carbon steel flat products in Italy	Organic coated carbon steel flat products in Italy
2014	Total market (th. tonnes)	[2 000-3 000]	[500-600]
	ArcelorMittal's share	[10-20]%	[30-40]%
2013	Total market (th. tonnes)	[2 000-3 000]	[500-600]
	ArcelorMittal's share	[10-20]%	[20-30]%
2012	Total market (th. tonnes)	[2 000-3 000]	[500-600]
	ArcelorMittal's share	[10-20]%	[20-30]%
2011	Total market (th. tonnes)	[2 000-3 000]	[700-800]
	ArcelorMittal's share	[10-20]%	[10-20]%

Source: Eurofer and Parties' estimates.

66. The Parties submitted their estimates of market shares of competitors at EEA level, as presented in Tables 5 and 6 below.

Table 5: Market shares of ArcelorMittal and competitors in the supply of galvanised carbon steel flat products the EEA, 2013, in volume

ArcelorMittal	[30-40]%
TKS	[10-20]%
Tata Steel	[5-10]%
Voest Alpine	[5-10]%
Ilva (Riva Group)	[5-10]%
Others European competitors	[10-20]%
Imports	[5-10]%

Source: Parties' estimates.

Table 6: Market shares of ArcelorMittal and competitors in the production of organic coated carbon steel flat products in the EEA, 2013, in volume

ArcelorMittal	[30-40]%
Tata Steel	[10-20]%
TKS	[5-10]%
Marcegaglia	[5-10]%
Voest Alpine	[5-10]%
Other European competitors	[10-20]%
Imports	[10-20]%

Source: Parties' estimates.

The Parties' arguments

67. The Parties submit that ArcelorMittal faces significant competition on all the steel production markets from major EEA competitors including TKS, Tata Steel, and Voest Alpine. In terms of sales to SSCs in particular, many of the SSCs competing with the Parties in Italy are vertically integrated. The Parties submit that, even where SSCs have vertical relationships, SSC supplies are mainly governed by short term contracts (less than one year) and involve sourcing from multiple suppliers to achieve the best available market conditions. Steel products are generally commodity products, and customers can switch with relative ease.
68. The Parties refer to the 2011 *ArcelorMittal/ATIC Services* decision, where the Commission looked at whether ArcelorMittal had market power with respect to galvanised and organic coated carbon steel flat products sufficient to foreclose

vertically-related markets (in that case, seaport terminal services for raw materials upstream). In that decision, the Commission stated that “*It follows that while ArcelorMittal enjoys a leading position on each of these segments its nearest rivals have substantial market shares so that it does not enjoy significant market power in any of these segments.*”⁵⁹

69. The Parties also argue that ArcelorMittal would have, on top of no ability, no incentive for input foreclosure, in view of the JV's limited market share in a highly-competitive market. Furthermore, the Parties state that the supply relationships between ArcelorMittal and the Parties' contributed SSC activities are not an effect of the operation, as they will not change as a result of the proposed transaction. The [...] Supply Agreement between ArcelorMittal and CLN provided that CLN would guarantee and reserve to ArcelorMittal [...] of its purchasing needs. Likewise, through the Parties' Memorandum of Understanding of March 2014, CLN has already committed to sourcing [...] purchases from ArcelorMittal.

The investigation

70. Market participants perceive ArcelorMittal in Italy as a very strong player in steel, whose role may be further strengthened due to the difficulties of the Italian player Ilva. However, Ilva has remained active in flat steel products, while being under management of an Extraordinary Commissioner appointed by the Italian Government.⁶⁰
71. Two competitors in the upstream market replied that, through the transaction, ArcelorMittal will gain market presence all over Italy whilst now it seems to be limited to the North of Italy, and could have a better access to end users, especially in the auto motive markets.⁶¹
72. As for customers, the majority state that ArcelorMittal will not gain any particular advantage for the distribution of its flat steel products.⁶² Several customers specified that a partnership between CLN and ArcelorMittal is already in place.⁶³

C. Commission's assessment

Input foreclosure

73. According to the Commission's Guidelines on non-horizontal mergers, a merger may result in foreclosure where actual or potential rivals' access to supplies or markets is hampered or eliminated as a result of the merger, thereby reducing these companies' ability and incentive to compete. Such foreclosure is regarded as anticompetitive where, as a result of the merger, the merging companies, and possibly also some of its competitors, are able to profitably increase the price charged to consumers.

⁵⁹ M.6376 - *ArcelorMittal/ATIC Services*, para. 19 (2011).

⁶⁰ Internal documents of ArcelorMittal indicate that ArcelorMittal has expressed interest in acquiring Ilva. The Parties state that in November 2014 ArcelorMittal and Marcegaglia have filed a non-binding offer with the Italian Government for the acquisition of Ilva assets.[...].

⁶¹ Replies to question 7 - Questionnaire to steel competitors (Q3).

⁶² Replies to question 15 - Questionnaire to customers (Q2). See also minutes of a call with a customer of 26 February 2015.

⁶³ Replies to question 14 - Questionnaire to customers (Q2). See also minutes of a call with a customer of 27 February 2015.

74. When assessing the likelihood of such an anticompetitive input foreclosure scenario, the Commission examines whether the merged entity would have the ability post-merger to foreclose access to inputs, whether it would have the incentive to do so, and moreover, whether a foreclosure strategy would have a significant detrimental effect in the downstream market.
75. In relation to the proposed transaction, first, the market shares of ArcelorMittal at upstream level and of the JV at SSC level remain limited.
76. Second, strong steel competitors exist, included integrated companies with links to SSCs in Italy. The majority of SSC competitors expect no impact of the transaction on the competition between SSCs in Italy.⁶⁴
77. Third, as pointed out also in the Market investigation, the Parties plan that the JV will source from ArcelorMittal an amount of steel inputs representing [...] of the JV's needs [...]. [...] Agreements were already in place between CLN and ArcelorMittal in relation to these supplies. In that respect, the transaction does not change the structure of the market in a significant way.
78. Based on the above, the Commission finds that the merged entity is unlikely to have the ability to foreclose access to inputs following the proposed transaction.
79. Therefore the Commission concludes that no input foreclosure concerns arise from the proposed transaction.

Customer foreclosure

80. First, the market shares of ArcelorMittal at upstream level and of the JV at SSC level remain limited.
81. Second they are other strong players at upstream level. In the course of the market investigation, competitors in the upstream market stated that they have sufficient access to SSCs in Italy.⁶⁵ They overall indicated that the transaction will have no impact on their business and the supply of steel to and through SCCs in Italy.⁶⁶ Some steel competitors further confirmed that they hold shares or control over Italian SSCs, therefore being vertically integrated.⁶⁷ A steel producer commented that "[i]n the highly fragmented SSC market in Italy we see the positive aspect of some consolidation."⁶⁸
82. The Commission's investigation has shown that the merged entity would have neither the ability nor the incentive to implement a customer foreclosure strategy.

Conclusion

83. In the light of the above, the Commission considers that the proposed transaction does not raise serious doubts as to its compatibility with the internal market.

⁶⁴ Replies to question 29 - Questionnaire to competitors (Q1).

⁶⁵ Replies to question 6 - Questionnaire to steel competitors (Q3).

⁶⁶ Replies to questions 8 and 9 - Questionnaire to steel competitors (Q3).

⁶⁷ Replies to question 4 - Questionnaire to steel competitors (Q3).

⁶⁸ Replies to question 8 – Questionnaire to competitors (steel) (Q3).

6. CONCLUSION

84. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

*For the Commission
(Signed)*

*Christos STYLIANIDES
Member of the Commission*