



Brussels, 15 February 2022

Final Report of the Hearing Officer¹

Case M.10078 – Cargotec / Konecranes

(Text with EEA relevance)

1. On 28 May 2021, the Commission received a notification of a proposed concentration by which Cargotec Corporation ('Cargotec') intends to enter into a full merger within the meaning of Article 3(1)(a) of the Merger Regulation² with Konecranes Plc ('Konecranes') (the 'Proposed Transaction'). For the purposes of this report, Cargotec and Konecranes are together referred to as 'the Parties'.
2. On 2 July 2021, the Commission adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation, as the Commission's first phase investigation raised serious doubts as to the compatibility of the Proposed Transaction with the internal market.
3. On 20 July 2021, the Commission adopted two decisions pursuant to Article 11(3) of the Merger Regulation requiring each of the Parties respectively to supply information that had been the object of a previous request for information. The applicable time limit referred to in Article 10(3) of the Merger Regulation was suspended as of 20 July 2021 until 13 September 2021.
4. On 22 October 2021, the Commission adopted a statement of objections addressed to the Parties (the 'SO'). The SO was formally notified to the Parties on 25 October 2021³ and the Parties were granted a deadline to submit their observations until 9 November 2021.
5. The Parties were provided with access to the file on 25 October 2021 by means of a DVD, as well as by means of a data room organised between 25 and 29 October 2021. Following a request from the Parties to the Directorate-General for Competition, on 29 October 2021, requesting access to certain information considered as confidential by third party information providers, the Parties were provided access to six additional documents between 29 October and

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

² Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

³ An informal advance information copy of the SO was provided to the Parties on 22 October 2021.

- 5 November 2021. Additional access to file was also given on 3⁴ and 21 December 2021, as well as on 17 January 2022. Upon their request of 22 December 2021, the Parties received less redacted versions of two documents, provided to them on 22 December 2021 and on 10 January 2022 respectively.
6. I have not received any complaint or request from the Parties regarding access to the file.
 7. Between 21 October and 11 November 2021, I admitted eight undertakings (competitors, suppliers and/or customers of the Parties) as interested third persons in this case. The interested third persons were provided with a non-confidential version of the SO and given a time limit within which to submit their observations. Two interested third persons submitted observations. One of them also requested to attend the oral hearing and was admitted.
 8. On 9 November 2021, the Parties submitted their reply to the SO, in accordance with the deadline for response by this date.
 9. In their reply to the SO, the Parties requested a formal oral hearing to be held, which took place on 16 November 2021. The hearing proceeded smoothly. No procedural problems or complaints were raised in relation to the hearing.
 10. On 23 November 2021, the Commission extended the deadline for the Commission's investigation by 20 working days, in accordance with article 10(3) second subparagraph of the Merger Regulation.
 11. On 2 December 2021, the Commission sent the Parties a letter of facts, to present additional and/or updated factual elements that were considered by the Commission to support the preliminary conclusions reached in the SO and to be potentially relevant to substantiate its final decision.
 12. On 9 December 2021, the Parties submitted commitments, with a view to rendering the Proposed Transaction compatible with the internal market and the functioning of the EEA Agreement, pursuant to Article 8(2) of the Merger Regulation (the 'Initial Commitments'). The Commission launched a market test of these Initial Commitments on the same day.
 13. On 10 December 2021, the Parties submitted their written observations on the letter of facts.
 14. On 6 January 2022, having received feedback from the Commission on the Initial Commitments, the Parties submitted revised commitments, in accordance with Article 8(2) and 10(2) of the Merger Regulation, with a view to rendering the Proposed Transaction compatible with the internal market and the functioning of the EEA Agreement. On the same day, the Commission launched a market test of part of these revised commitments. Following a further addendum to that specific part of the revised commitments, submitted by the Parties on 20 January 2022, the revised set of commitments became final (the 'Final Commitments').

⁴ Another data room was also organised on 6 December 2021.

15. The draft decision declares the Proposed Transaction compatible with the internal market and the EEA Agreement, subject to full compliance with the Final Commitments.
16. I have reviewed the draft decision pursuant to Article 16(1) of Decision 2011/695/EU and I conclude that it deals only with objections in respect of which the Parties have been afforded the opportunity of making their views known.
17. In view of the above, I consider that the effective exercise of procedural rights has been respected in the present proceedings.

Dorothe DALHEIMER
Hearing Officer