

BOSNA I HERCEGOVINA
Konkurencijsko vijeće



БОСНА И ХЕРЦЕГОВИНА
Конкуренијски савјет

BOSNIA AND HERZEGOVINA
Council of Competition

DECISION

**upon Notification of intended concentration between undertaking Voestalpine AG,
Austria, and undertaking Boehler-Uddelholm AG Modecenterstr, Austria**

Sarajevo, September 2007



BOSNIA AND HERZEGOVINA
Council of Competition

Number: 01-05-26-011-12-II/07
Sarajevo, 21 September 2007

Pursuant to Article 25, paragraph(1), item e), Article 42, paragraph (1), item d) in connection with Article 12, 14, 16 and 18, harmonized with Article 24, paragraph (2) of the Act on Competition («Official Gazette of BH», No. 48/05) and Article 193, paragraph (2) of the Law on Administrative procedure («Official Gazette of BH», No. 29/02), upon Notification of intended concentration between undertaking Voestalpine AG Voestalpine-Strasse 1, 4020 Linz, Austria, represented by Branko Marić, a lawyer, Mehmeda Spahe 24, 71000 Sarajevo, and undertaking Boehler-Uddelholm AG Modecenterstr. 14/A/3, A-1030 Vienna, Austria, entered under the registration number 01-05-26-011-11/07, on 18.04.2007., the Council of Competition in its 50th (fiftieth) session, held on 21.09.2007. has adopted

D E C I S I O N

1. The Concentration which will be created in the market of steel and steel products in Bosnia and Herzegovina by means of purchasing the majority of stocks of undertaking Boehler-Uddelholm AG Modecenterstr. 14/A/3, A-1030 Vienna, Austria, by undertaking Voestalpine AG Voestalpine-Strasse 1, 4020 Linz, Austria, is assessed compatible.
2. This Decision shall be recorded in the Registry of Concentrations.
3. This Decision shall be published in the «Official Gazette of BH», in official gazettes of Entities and Brcko District of Bosnia and Herzegovina.

E x p o s i t i o n

Voestalpine AG Voestalpine-Strasse 1, 4020 Linz, Austria submitted by its authorized representative, a lawyer Branko Marić, from Sarajevo, (hereinafter: the Applicant or Voestalpine AG), a Notification of intended concentration to the Council of Competition on 18 April 2007 which was supplemented on 04 May 2007 and on 10 May 2007. The Applicant states in the Notification that he wants to buy majority of stocks of undertaking Boehler-Uddelholm AG Modecenterstr. 14/A/3, A-1030 Vienna, Austria (hereinafter: Boehler-Uddelholm AG).

As the Notification was not complete after the submitted documentation, the Council of Competition requested supplements to the Notification on 22 May 2007. The supplements were delivered by official letters on 30 May 2007, 31 May 2007, 15 June 2007, 27 June 2007 and 18 July 2007.

After, the Council of Competition issued an Acknowledgement of receipt of complete and adequate Notification, No.: 01-05-26-011-10-11/07, on 27 July 2007, pursuant to Article 30, paragraph (3) of the Act on Competition.

The Notification ensues as result of an obligation, pursuant to Article 14, paragraph(1), item a) of the Act, because the total annual income of the undertaking Voestalpine AG and undertaking Boehler-Uddelholm AG in the world market amounts over 100.000.000,00 KM, according to the final account in 2006 (the year preceding the concentration concerned).

Consolidated income of the parties to the concentration on 31 December 2006:

Table 1.

| Consolidated income (KM) | Voestalpine AG | Boehler-Uddelholm AG |
|--------------------------|---------------------|----------------------|
| Worldwide | (..)** ¹ | (..)** |
| Bosnia and Herzegovina | (..)** | (..)** |

The Notification is, also, submitted for assessment to European Commission and to responsible bodies in Switzerland and USA. The European Commission approved the concentration concerned on 18 June 2007. The Brazilian body responsible for the concentration assessed the concentration concerned compatible.

Further, the notification of intended concentration in question was also submitted for assessment to the responsible bodies in Ukraine, South Africa and South Korea

Considering all the data from the Notification, from other submitted documents and data in possession of the Council of Competition and on the basis of an appraisal of positive and negative effects of the concentration concerned, pursuant to Article 17 of the Act, the Council of Competition, applying the regulations of the Act, the Regulation on Notification and Criteria for Assessing a Concentration of undertakings («Official Gazette of BH», No. 95/06) and Regulation on the Definition of the Relevant Market («Official Gazette of BH», No. 18/06) ascertained the following:

1. Legal basis and form of the concentration

Legal basis of the concentration concerned is public tender for buying up the stocks which is published by the Applicant on 26 April 2007 by means of which it will make takeover of all stocks of Boehler-Uddelholm AG in free circulation in order to gain more than 50% of stocks with voting rights. Before the publication of the said public tender for buying up the stocks, the Voestalpine AG, who owns 20,95% of stocks of Boehler-Uddelholm Industrieholding GmbH AG, made on 10 April 2007 a Stock Sale Agreement with Boehler-Uddelholm Industrieholding GmbH AG on purchase 100% of stocks.

On the basis of the above mentioned Agreement and public tender for buying up the stocks, as a legal basis for the concentration concerned, Voestalpine AG will acquire ownership rights of more than 50% of stocks.

The legal form of the concentration, pursuant to Article 12, paragraph (1), item b) of the Act, is control acquisition by purchasing majority stocks over the undertaking Boehler-Uddelholm AG by undertaking Voestalpine AG.

2. The parties to the concentration

VOESTALPINE AG

Voestalpine AG Voestalpine-Strasse 1, 4020 Linz, Austria is the parent company –Voestalpine group, entered into register of the Provincial Court of Linz under number FN 66209 t on 10 December 1993. The ownership structure consists of Austrian investors who together have 46% of the company's stocks, North-American investors who have almost 25% of stocks and shareholders of Great Britain and Germany who have 17%. More than 10% of stocks are in possession of employees of Voestalpine AG. The main activity of Voestalpine AG is production of steel products. The group structure comprises four divisions as is: - Steel Division –the production of hardened steel products through which it realizes 51% of the total income, Railway System Division– production of components for railways and other similar products, Automotive Division- production of the armour plates and so-called white components and models, and Profileform Division –focused on rolled products. Voestalpine AG is also active in direct trade in its products and it owns subsidiaries that are active in

¹ (..)** the data is deemed to be a business secret

distribution of goods in Austria (Voestalpine Steel Service Center GmbH), Czech Republic, Croatia (Veting Stahlhandel d.o.o. Varaždin), Poland, Romania and Bosnia and Herzegovina. Voestalpine AG has also the trade offices in Hungary, Slovakia and Slovenia.

On 20 December 2006, Voestalpine AG sold 74,9% of shares in Voestalpine Stahlhandel GmbH to Poland company Zlomrex S.A whose subsidiaries deal with distribution and direct sales of steel. As Voestalpine AG through Stahlhandels group has 25, 1% of shares in Voestalpine Stahlhandel GmbH, it has no decisive control over the mentioned company and has no decisive influence on decision making procedure in that company. The Council of Competition assessed, on 05 April 2007, by its Decision No.: 01-05-26-024-9-II/06, the concentration concerned compatible.

Subsidiary associations of Voestalpine AG in BiH

Voestalpine AG in Bosnia and Herzegovina indirectly owned a subsidiary association Veting voestalpine Stahlhandel d.o.o. Džemala Bijedića 160, 71000 Sarajevo because the mentioned association is 100% owned by Veting Stahlhandel d.o.o. Vilka Novaka 48K, 42000 Varaždin from Croatia, which is subsidiary association of Voestalpine AG.

BOEHLER-UDDELHOLM AG

Boehler-Uddelholm AG Modecenterstr. 14/A/3, A-1030 Vienna, Austria, which is active worldwide, entered into register of the Commercial Court of Vienna under the number 193960 k, on 08 April 2000. The main activity of Boehler-Uddelholm AG is production of steel which is organized in four main divisions: metals of high quality, welding, precise strings and specially forged materials. Boehler-Uddelholm AG group acquires 69, 2% of the total income through the division of high performances metals and it has production units in Austria, Germany, Sweden, Brazil, Belgium, USA, Mexico, Italy, Turkey and Indonesia. On 31 December 2006 the stock capital of Boehler-Uddelholm AG amounted (..)** of stocks, where 20,95% of stocks are owned by Boehler-Uddelholm AG Industrieholding GmbH, and 79,05% of stocks are in free circulation (where no one of stockholders gained 5% or more than 5% of stocks of Boehler-Uddelholm AG).

Subsidiary associations of Boehler-Uddelholm AG in BiH

Boehler-Uddelholm AG in BiH has no subsidiary associations in Bosnia and Herzegovina. It is present with its products in the market of BiH through its subsidiary association Boehler International GmbH, Austria.

3. Analysis of the relevant market

Voestalpine AG finds a market for its goods in Bosnia and Herzegovina in three ways: through subsidiary association Voestalpine Steel Service Center GmbH in Austria, selling its products directly to customers using the order forms. The presence of the products of the undertaking Voestalpine AG is arranged also through the association Veting voestalpine Stahlhandel d.o.o. Sarajevo, but BiH customers in the border with Republic of Croatia are supplied also through Veting Stahlhandel d.o.o. Varaždin.

An assortment of Voestalpine AG products for the sale in the market of Bosnia and Herzegovina consists of dark flat steel products of medium quality (with 10% of market shares), the wires modeling (with less than 5% of the total market shares) and other steel products of this company which are sold in Bosnia and Herzegovina through the company's connected associations (with less than 1%).

Boehler-Uddelholm AG sells directly its products, through its subsidiary association Boehler International GmbH from Austria, to BiH customers upon submission of the order form.

An assortment of Boehler-Uddelholm AG products for the sale in the market of Bosnia and Herzegovina consists of special steel with 37 tones sold in 2006 (that is less than 1% of the market shares). Boehler-Uddelholm AG has no distributor or agency in BiH and it sells directly its products to

customers in Bosnia and Herzegovina upon submission of order form through its subsidiary association Boehler International GmbH headquartered in Austria, whose majority owner is Boehler-Uddeholm,

The parties' main competitors in the market of Bosnia and Herzegovina are Mittal Steel, Intermerkur, LIM Products, BHR ex and Treasury.

Relevant market, pursuant to Article 3 of the Act, and Article 4, 5 and 6 of the Regulation on Definition of the Relevant Market is a market of particular products /services that are the subject of business activities in the particular geographic market.

Relevant products market of the concentration concerned is a market for sale and distribution of steel products.

Relevant geographic market is a market of Bosnia and Herzegovina due to the fact that the sale and distribution of the products of the parties to the concentration concerned is performed in the whole territory of Bosnia and Herzegovina.

By considering all mentioned above, the Council of Competition established that the relevant market of the concentration concerned is a market for sale and distribution of steel products in whole territory of Bosnia and Herzegovina.

4. Appraisal of the concentration

After the analysis of all data and established facts during the decision making procedure, the Council of Competition ascertained that implementation of the concentration concerned will not lead to horizontal overlapping between the parties to the concentration in the relevant market due to the fact that undertaking Boehler-Uddeholm AG in Bosnia and Herzegovina, having no subsidiary associations, secures a market in BIH for its products in insignificant quantity. Therefore, it can be said that the Voestalpine AG market shares will be insignificantly changed so that the concentration concerned will not cause the change in market positions in the relevant market.

The Council of Competition ascertained that the concentration between the undertakings in question does not prevent, restrict and distort market competition in the relevant market for distribution of steel products in Bosnia and Herzegovina and therefore it decides as it is in enacted terms of this Decision.

Administration tariffs

On this Decision the Applicant, pursuant to the Article 2, paragraph (1), tariff number 107, item d) 1) of the Regulation on administration taxes relating to the practices before the Council of Competition ("Official Gazette of BIH", No. 30/06), is obliged to pay administration tariff of 2.500,00 KM for the benefit of the budget of Institutions of Bosnia and Herzegovina

LEGAL REMEDY

No appeal is allowed against this Decision. Unsatisfied party shall be entitled to bring an administrative dispute before the Court of Bosnia and Herzegovina within thirty days (30 days) from the date of acceptance of this Decision, i.e. from the date of its publication in the Official Gazette of BIH.

President

Sanja Božić