



DETERMINATION OF MERGER NOTIFICATION M/18/028 - ECOCEM MATERIALS/ARCELORMITTAL/ECOCEM FRANCE

Section 21 of the Competition Act 2002

Proposed acquisition of joint control of Ecocem France S.A.S. by Ecocem Materials Limited and ArcelorMittal Sourcing S.C.A.

Dated 4 May 2018

Introduction

1. On 10 April 2018, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (“the Act”), the Competition and Consumer Protection Commission (“the Commission”) received a notification of a proposed acquisition, whereby ArcelorMittal Sourcing S.C.A. (“AMS”), a wholly-owned subsidiary within the ArcelorMittal group of companies (“ArcelorMittal Group”), would acquire 19% of the issued share capital of Ecocem France S.A.S. (“Ecocem France”) from Ecocem Materials Limited (“EML”), which would increase the ArcelorMittal Group’s total interest in Ecocem France to 49% and thereby confer joint control of Ecocem France on the ArcelorMittal Group and EML (“the Proposed Transaction”).

The Proposed Transaction

2. EML currently holds 70% of the issued share capital of, and thus exercises sole control over, Ecocem France. The ArcelorMittal Group currently holds 30% of the issued share capital of Ecocem France through ArcelorMittal Méditerranée, a wholly-owned subsidiary of the ArcelorMittal Group.
3. The parties have informed the Commission that the Proposed Transaction involves the acquisition by the ArcelorMittal Group of joint control, with EML, of Ecocem France by way of the following steps:
 - AMS will acquire 19% of the issued share capital and voting rights in Ecocem France from EML pursuant to a share purchase agreement (the “SPA”) dated 13 March 2018 between EML and AMS;



- within thirty business days from the completion date under the SPA, ArcelorMittal Méditerranée will undertake to sell its entire 30% shareholding in Ecocem France to AMS¹; and
 - pursuant to a joint venture and shareholders agreement dated 13 March 2018 between AMS, ArcelorMittal Méditerranée and EML, entered into in the presence of Ecocem France, various veto rights will be granted to the ArcelorMittal Group which, the parties have informed the Commission, will permit the ArcelorMittal Group to exercise joint control over Ecocem France with EML.
4. Following completion of the Proposed Transaction, the ArcelorMittal Group, through AMS, will hold 49% of the issued share capital of Ecocem France, while EML will hold 51% of the issued share capital of Ecocem France, and the ArcelorMittal Group and EML will exercise joint control over Ecocem France.²

The Undertakings Involved

The ArcelorMittal Group

5. ArcelorMittal S.A. is the ultimate parent company within the ArcelorMittal Group, a steel and mining conglomerate, with a presence in over 60 countries and an industrial footprint in 18 countries. ArcelorMittal S.A. is listed on the stock exchanges of New York, Amsterdam, Paris, Luxembourg and on the Spanish stock exchanges of Barcelona, Bilbao, Madrid and Valencia.
6. The ArcelorMittal Group produces and delivers a broad range of steel finished and semi-finished products, including flat carbon steel products and long carbon steel products. It supplies quality steel in the major global steel markets including automotive, construction, household appliances and packaging. Furthermore, it is one of the world's largest producers of iron ore and metallurgical coal, and supplies its network of steel plants and the external global market.
7. The ArcelorMittal Group produces granulated blast furnace slag ("GBS"), a by-product of the steel industry, in all of its integrated plants. The ArcelorMittal Group supplies GBS to manufacturers of a type of cement called ground granulated blast furnace slag

¹ Ultimately, AMS will hold 49% of the issued share capital of Ecocem France.

² Following completion of the Proposed Transaction, the parties intend to enter into a related transaction, whereby [...]. On the basis of the information provided in the notification, the Commission agrees with the parties' assessment that the acquisition by the ArcelorMittal Group and EML of indirect joint control of Ecocem GB is not notifiable to the Commission.



(“GGBS”)³ and blended cements. In the State, the ArcelorMittal Group sells GBS and carbon steel products.

8. AMS, the direct acquirer in the Proposed Transaction, is a wholly-owned subsidiary within the ArcelorMittal Group. It buys and re-sells raw materials and products (including iron ore, solid fuels, ferro-alloys, base metals, rolls and electrodes) to the ArcelorMittal Group’s business units according to their needs. It is also in charge of sales of any by-products.
9. For the financial year ended 31 December 2017, the ArcelorMittal Group’s worldwide turnover was approximately €60.8 billion, of which approximately €[...] was generated in the State.⁴

EML

10. EML is an independent producer and distributor of GGBS, supplying GGBS in the State, Belgium, France, Great Britain, the Netherlands, Germany and Sweden. EML owns and controls two GGBS production facilities located in Dublin Port in the State and in Moerdijk in the Netherlands.
11. EML is active in the State through its subsidiary, Ecocem Ireland Limited (“Ecocem Ireland”). Ecocem Ireland owns and operates a GGBS production facility, which produces GGBS using GBS as its raw material, and a bagging facility at Dublin Port. EML does not produce GBS. It purchases all of its GBS needs from steel manufacturers. Ecocem Ireland supplies GGBS and small quantities of blended cement CEM III⁵ in bulk form to ready-mix and precast concrete manufacturers on the island of Ireland. Ecocem Ireland also sells CEM III in bagged form to builders’ merchants. In addition to sales in the State, Ecocem Ireland also sells bagged cement directly in the UK, while also supplying Ecocem GB - on a temporary basis - with bulk GGBS for UK distribution.

³ In the notification, the parties described GGBS as: “...a type of cement. Cement is a fine powder which hardens when mixed with water. Ordinary Portland Cement (“OPC”) is the main form of cement used throughout the world and is the principal product produced by all the major international cement companies (e.g. CRH, LafargeHolcim, Cemex, Heidelberg etc.). OPC is widely used throughout the construction industry in the production of concrete, mortar and other building materials. Its principal component is clinker. GGBS can be used to replace, on a kilo-for-kilo basis, up to 90% of OPC in concrete although the average replacement rate is generally circa 50%”.

⁴ In the notification, the parties noted the following in relation to the turnover figures, “US Dollars have been translated into Euros using an average exchange rate of (US\$/Euro) of 1.1297 (source: European Central Bank).
<http://sdw.ecb.europa.eu/browseTable.do?dc=&removeItem=&ec=&rc=&oc=&node=bbn71&df=true&FREQ=A&CURRENCY=USD&pb=&activeTab=&DATASET=0&legendRef=reference>

⁵ Ecocem Ireland purchases ground clinker (OPC) and blends it with GGBS to produce CEM III.



12. For the financial year ended 31 December 2017, EML's worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

Ecocem France

13. Ecocem France is currently solely controlled by EML. EML currently holds 70% of the issued share capital and voting rights of Ecocem France and ArcelorMittal Méditerranée, a wholly-owned subsidiary within the ArcelorMittal Group, holds the remaining 30% of the issue share capital and voting rights of Ecocem France.
14. Ecocem France is not active in the State. Ecocem France is active in the south of France as a producer and distributor of GGBS. Ecocem France operates a GGBS production plant located in Fos-sur-Mer in the south of France which produces GGBS using GBS as its raw material.⁶ GBS is supplied to Ecocem France by ArcelorMittal Méditerranée.
15. For the financial year ended 31 December 2017, Ecocem France's worldwide turnover was approximately €34.6 million, [...] of which was generated in the State.

Rationale for the Proposed Transaction

16. The parties state in the notification:

“The commercial objective of the transaction is for ArcelorMittal Group and EML to build a strong base for a long term partnership to support Ecocem France in its mission of adding value to GBS by developing its position in the European cementitious market, marketing GGBS as a technically and environmentally superior product, and through innovation introducing new and improved GBS based products and applications.”

Third Party Submissions

17. No submission was received.

Competitive Analysis

Horizontal Overlap

18. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define precise relevant product and geographic markets, since there is no horizontal overlap between the business activities of the ArcelorMittal Group, on the

⁶ Ecocem France is currently building a new GGBS plant in Dunkirk in the north of France.



one hand, and EML and Ecocem France, on the other hand, in the State. Neither EML nor Ecocem France is involved in any steel activities in the State or in the supply of GBS in the State. Similarly, the ArcelorMittal Group is not involved in the cement sector in the State, i.e., it is not involved in the production of GGBS (other than through its current shareholding of 30% in Ecocem France) or of any other cementitious material. Therefore, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.

Vertical Relationship

19. There is currently an existing supply arrangement between the ArcelorMittal Group and Ecocem Ireland (which is a subsidiary of EML). Ecocem Ireland currently purchases GBS from the ArcelorMittal Group to manufacture GGBS in the State. Therefore, a vertical relationship exists between the ArcelorMittal Group and EML in the State. Following implementation of the Proposed Transaction, EML and the ArcelorMittal Group have agreed to enter a [...] year GBS non-exclusive supply contract pursuant to which the ArcelorMittal Group will supply GBS to Ecocem Ireland and to [...]. The parties state the following in the notification: *“EML will not be restricted from purchasing supplies of GBS elsewhere.”*
20. Ecocem Ireland currently purchases GBS from the ArcelorMittal Group and a Spanish supplier, [...]. In response to queries raised by the Commission, EML informed the Commission that in the period from 1 January 2017 to 31 December 2017, Ecocem Ireland purchased [...]% of its GBS supplies from [Spanish supplier] [...] with the remaining supplies provided by the ArcelorMittal Group. EML informed the Commission that: *“Ecocem Ireland has had a long term relationship with [...] which will continue into the future. The Proposed Transaction will have no impact on Ecocem Ireland’s relationship with [...].”*⁷
21. The Commission considers that, following completion of the Proposed Transaction, there will remain a sufficient number of competitors and customers for the supply of GBS and the supply of GGBS in the State and, as such, the Proposed Transaction does not give rise to any vertical foreclosure concerns in the State for the following reasons:
 - There are a number of competitors of the ArcelorMittal Group currently active in the supply of GBS into the State, such as Tata Steel and EDERSA.⁸
 - EDERSA will continue to be able to supply GBS to Ecocem Ireland.

⁷ EML provided this information on 19 April 2018 in response to the Commission’s queries dated 17 April 2018.

⁸ This information is based on import export customs data and the ArcelorMittal Group’s estimations submitted to the Commission by the parties.



- There are a number of competitors of Ecocem Ireland currently active in the supply of GGBS on the island of Ireland, such as Irish Cement Limited, Lafarge Ireland Limited and O'Brien Cement Unlimited Company.
 - Within the State, ArcelorMittal Group is not supplying GBS to any competitors of Ecocem Ireland.
22. The Commission's market enquiries indicated that the Proposed Transaction does not raise any vertical foreclosure concerns. There will remain a sufficient number of competitors and customers for the supply of GBS and the supply of GGBS in the State. For this reason, the Commission considers that the Proposed Transaction will not result in any vertical foreclosure concerns.

Conclusion

23. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

24. No ancillary restraints were notified.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition of joint control, whereby ArcelorMittal Sourcing S.C.A., a wholly-owned subsidiary within the ArcelorMittal group of companies, would acquire 19% of the issued share capital of Ecocem France S.A.S. from Ecocem Materials Limited, which would increase the ArcelorMittal group of companies' total interest in Ecocem France S.A.S. to 49% and thereby confer joint control of Ecocem France S.A.S. on the ArcelorMittal group of companies and Ecocem Materials Limited, will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Brian McHugh
Member
Competition and Consumer Protection Commission