

## Terms of reference and conduct of inquiry

### Terms of reference

1. Whereas in exercise of its duty under section 33(1) of the Enterprise Act 2002 (the 'Act') to make a reference to the Competition Commission (the 'Commission') the Office of Fair Trading (the 'OFT') believes that it may be the case that—
  - (a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation in that:
    - (i) enterprises carried on by or under the control of AlInvest Partners NV will cease to be distinct from enterprises carried on by or under the control of Air Products and Chemicals Inc; and
    - (ii) as a result, the condition specified in section 23(3) of the Act will prevail or will prevail to a greater extent, with respect to the supply of methylamines and methylamine derivatives in the United Kingdom; and
  - (b) the creation of that situation may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services, including within the market for alkylalkanolamines in the United Kingdom.
2. Now, therefore, the OFT, in exercise of its duty under section 33 of the Act, hereby refers to the Commission, for investigation and report within a period ending on 30 December 2004, the following questions in accordance with section 36 of the Act.
  - (a) whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and
  - (b) If so, whether the creation of that situation may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services.
3. In relation to the question whether a relevant merger situation will be created, the Commission shall exclude from consideration one of the subsections (1) and (2) of section 23 of the Act if they find that the other is satisfied.

*(signed)* Penny Boys  
Executive Director  
16 July 2004

### Conduct of inquiry

4. We placed a notice inviting interested parties to submit evidence to the CC in *Chemical Week* and *New Scientist*. In addition, we sought evidence from customers, competitors, trade and professional organizations and other interested parties, including appropriate government departments.

5. The administrative timetable for the inquiry was published on the CC web site together with details of the Group members conducting the inquiry.
6. Non-sensitive submissions that we received from third parties can be found on the CC's web site, together with a summary of third party key arguments and views.<sup>1</sup> We held hearings with six third parties. We also sent out customer and competitor questionnaires.
7. Members of the Group, accompanied by staff, visited the premises of Air Products at Billingham.
8. We received written evidence from Taminco and Air Products. Non-sensitive versions of their main submissions can be found on the CC's web site. In addition, the companies each attended a hearing.
9. In the course of our inquiry, we sent Taminco and Air Products, and published on the CC web site at the relevant time, a Statement of Issues, a Notice of Provisional Findings and the non-sensitive version of our provisional findings report. We received and considered comments from Taminco and Air Products on our provisional findings.
10. We should like to thank all those who assisted in our inquiry.
11. A copy of this report has been placed on the CC's web site.

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<sup>1</sup>[www.competition-commission.org.uk](http://www.competition-commission.org.uk).