ANALYSIS OF PROPOSED AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT

In the Matter of Carpenter Technology Corporation and Latrobe Specialty Metals, Inc.
File No. 111-0207

I. Introduction

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") with Carpenter Technology Corporation ("Carpenter"), Latrobe Specialty Metals, Inc. ("Latrobe"), and HHEP-Latrobe, L.P., which is designed to remedy the anticompetitive effects of Carpenter's proposed acquisition of Latrobe.

Pursuant to an Agreement and Plan of Merger dated June 20, 2011, Carpenter intends to acquire all of Latrobe's voting securities for approximately $410 million. Carpenter and Latrobe compete in the sale of specialty alloys used in the aerospace, energy, and other industries. The proposed acquisition would result in a merger to monopoly in the market for two of these specialty alloys: (1) MP159 and (2) MP35N used in aerospace applications ("Aerospace MP35N," and collectively, the "MP Alloys"). The Commission's Complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the markets for each of the MP Alloys.

The proposed Consent Agreement remedies the alleged violations by replacing the lost competition in the relevant markets that would result from the acquisition. Under the terms of the Consent Agreement, Carpenter is required to divest assets related to the manufacture and sale of the MP Alloys to Eramet S.A. ("Eramet"). The Consent Agreement requires Carpenter to provide Eramet with all of the relevant equipment, licenses, and technical information necessary for Eramet to replace Latrobe as a competitor in the markets for the MP alloys. In addition, the Consent Agreement requires Carpenter to contract manufacture the MP Alloys for Eramet at cost until Eramet is able to produce and commercially sell these products on its own.

The proposed Consent Agreement has been placed on the public record for thirty days, and comments from interested persons have been requested. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make final the accompanying Decision and Order.

II. The Products and Structure of the Markets

The MP Alloys have unique physical characteristics that make them well suited for use in aerospace applications, and especially in aerospace engine fasteners. Purchasers of the MP Alloys are generally willing to consider overseas suppliers, although to avoid the cost of dual inventories for commercial and military customers, they typically require that suppliers be located in countries approved by Congress to supply materials for military purposes. For these reasons, the relevant markets in which to analyze the competitive effects of the proposed acquisition are the markets for MP159 and Aerospace MP35N manufactured in the United States and in foreign countries approved to supply materials for military purposes under the Defense Federal Acquisition Regulation System ("DFARS"). In these markets, Carpenter and Latrobe are the only options for U.S. consumers, and the proposed transaction would create a monopoly in both relevant markets.

III. Entry

Entry or expansion by other specialty alloy manufacturers is not likely to avert the anticompetitive impact of Carpenter's acquisition of Latrobe. The time and cost required to obtain the physical assets, expertise, and qualifications necessary to produce the MP Alloys are substantial, and far outweigh the potential profits from entry into these small markets.

IV. Effects of the Acquisition

The proposed acquisition likely would result in significant anticompetitive harm in the highly-concentrated relevant markets for each of the MP Alloys. Carpenter and Latrobe are the only competitors in these highly-concentrated markets. The acquisition will eliminate actual, direct, and substantial competition between Carpenter and Latrobe, and likely result in higher prices for both of the MP Alloys.

V. The Consent Agreement

The proposed Consent Agreement remedies the competitive concerns raised by the transaction by requiring the parties to divest assets related to the manufacture of the MP Alloys to Eramet. The terms required by the Consent Agreement will enable Eramet to effectively replace the competition in the MP Alloys markets lost as a result of the proposed acquisition.

Eramet is a global supplier of specialty alloys with an established sales and marketing network in the United States that will allow it to be immediately competitive in the relevant MP Alloys markets. Eramet is based in France, which is an approved foreign source country for U.S. military operations under DFARS. The proposed Consent Agreement requires Carpenter to provide Eramet with product licenses and the manufacturing technology necessary to manufacture the MP Alloys. This includes technical assistance from current Latrobe company designees, and confidential business information directly related to the manufacture of the MP Alloys. In addition, the Consent Agreement requires Carpenter to contract manufacture the MP Alloys for Eramet at cost until Eramet is able to produce and commercially sell these products on its own. The Commission has appointed James R. Bucci, who has over 35 years of experience in the specialty alloy industry, as the interim monitor to oversee the divestiture.

If after the public comment period the Commission determines that Eramet is not an acceptable acquirer of the assets to be divested, or that the manner of the divestitures is not acceptable, Carpenter must unwind the divestiture and divest the assets within 180 days of the date the Order becomes final to another Commission-approved acquirer. If Carpenter fails to divest the assets within the 180 days, the Commission may appoint a trustee to divest the relevant assets.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Consent Agreement or to modify its terms in any way.