UTIPULP

Group of European Market Wood Pulp users

General Assembly meeting

BARCELONA – September 14th, 2018
9h00 – 13h30

Minutes

Attendees:

Mr	Luis	ARRUE	Papelera del ORIA SA
Mr	Romain	BALDI	AHLSTROM-MUNKSJÖ
Mr	Paul	BARTMANN	MONDI
Mr	Bernhard	BECK	AHLSTROM-MUNKSJÖ
Mrs	Cinzia	CARADINI	ASSOCARTA
Mr	Jörg	DITTOMBEE	MITSUBISHI
Mr	Peter	DONNABAUER	DELFORT Group
Mr	Martin	DREWS	VDP
Mr	Steve	FREEMAN	CONFEDERATION OF PAPER INDUSTRY
Mrs	Ute	GIERDEN	KANZAN SPEZIALPAPIERE GmbH
Mr	Joao	CLARA	RENOVA
Mr	Burkhard	KRÜCKE	WEPA
Mr	Jacek	LOS	ARCTIC PAPER
Mr	Ivo	MAZZURANA	BURGO Group
Mr	Stéphane	MOZDYNIEWICZ	PAPETERIES DE CLAIREFONTAINE
Mr	Peter	OFFNER	BRIGL & BERGMEISTER GmbH
Mr	Andrea	PIAZZOLLA	SOFIDEL SPA
Mr	Norman	SNEL	SAPPI
Mr	Joep	STEVENS	INKOOP-COMBINATIE “DE EENDRAGT” BV
Mrs	Charo	VIEJO	LECTA
Mr	Martin	WERNER	SCHOELLER TECHNOCELL GmbH & Co KG
Mr	Mustapha	ZAOUG	ARJOWIGGINS
Mr	Paul-Antoine	LACOUR	UTIPULP

Guests:

Mr	Senén	AMUNARRIZ	PAPEL ARALAR
Mr	Fraser	HART	BRIAN McCLAY&ASSOCIATES (partly)
Mr	Rafique	BACHOUR	FRESHFIELDS (partly)

1. Introduction

1.1 – 1.3 Welcome, Safety and Legal guidelines for attending UTIPULP meetings

The Chairman, Bernhard Beck, welcomes all the participants, and particularly Mr Los, who attends the meeting for the first time, and Mr Werner. He also welcomes Mr Amunarriz, who will participate in the meeting as guest.

The Chairman then reminds safety procedures, as well as the Guidelines pertaining to the competition laws that have been sent prior to the meeting, and that participants have strictly to comply with.

1.4. Approval of the minutes of the last meeting (Vienna, April 20th 2018)

The minutes are approved without amendments.

2. Situation of the "merger file" and procedure followed by DG Competition to assess mergers

P-A LACOUR reminds of the decisions taken during the last General Assembly regarding the merger between Suzano and Fibria, as well as the actions undertaken by UTIPULP since this meeting has taken place. He mentions in particular that:

- A letter has been sent by UTIPULP on 8 June to DG competition. This letter expresses concerns from the National Associations, members of UTIPULP, and consequently asks the Commission not to clear the merger,
- This letter has triggered reactions from Suzano, that contacted several companies participating in UTIPULP meetings,
- In July/end of August, the Secretariat had e-mails and phone contacts with DG competition in order to follow the process (especially in order to know if DG competition has been notified by the parties),
- During these contacts, DG competition mentioned that it was willing to have a list of companies interested in receiving the questionnaire under preparation. This request was forwarded to the members. So far, 14 companies have expressed their interest in receiving the questionnaire,
- During the past months, several antitrust authorities have cleared the merger with no restrictions (US, China and Turkey). The Brazilian competition authorities is likely to give its answer soon.

The Secretary then briefly presents the procedure followed by DG Competition to investigate on a merger. He notably mentions that:

- DG Competition is a competent authority to investigate even if the merging companies are not located in the EU. Indeed, the EU Commission has to investigate when the merging companies have turnovers and EU-wide turnovers over certain thresholds (which is here the case),
- It is compulsory for the parties to notify the merger. This notification has not taken place yet vis-à-vis the European Commission but during the pre-notification phase, the merging companies and DG competition have nonetheless contacts,

- The investigation from DG competition consists in two phases. After notification, the Commission has 25 working days (phase I) to analyse the deal. More than 90% of all cases are resolved in phase I, generally without remedies. If after phase I the merger still raises competition concerns, the Commission opens a phase II investigation that may last 90 working days,
- In phase I or phase II, the remedies are proposed by the parties, and consist in modification of the project (e.g: divestment of assets).

The Chairman then mentions that the Excom has discussed about the file and has reconsidered the situation after the developments since the last General Assembly. He mentions in particular that as three anti-trust authorities have cleared the merger, it seems likely that the EU Commission will do so as well. Consequently, if the EU Commission imposes conditions and the remedies consist in the divestment of certain assets, the future shareholder constellation might be considered the less preferable choice. The potential new shareholders may indeed devote the pulp production of their mills to non-European markets with the effect that competition decreases even further than with the proposed merger. An indirect consequence of this could also be the reduction of the availability of the certified market pulp.

The Chairman then proposes, in light of the recent development, a re-evaluation of the UTIPULP position after listening to the lawyer appointed by Suzano (see below).

Agreed: The delegates agree to resume the discussion after Mr BACHOUR's presentation.

3. Presentation of "Trade Tree Online" (Fraser Hart / Brian McClay&Associates)

The Chairman welcomes Fraser HART, and gives him the floor. Mr HART then presents an online system providing price indexes of various pulps in different geographical markets (see slides).

Following some questions, Mr HART mentions that the business model is based on a subscription fee (different for buyers and sellers) and that the on-line tool will address the European market in 2019.

4. Legal information on the merger and conclusion of the discussions

Mr Rafique BACHOUR, from the law firm Freshfields, joins the General Assembly and introduces himself. He then gives a presentation on the legal process of the merger.

He then:

- confirms that the parties are in a pre-notification phase with the Commission and have exhausted all the questions, which means the notification will be done soon.
- He considers that the process is going well and that the Commission has good knowledge of the market.
- Anti-trust authorities know each other well (via the International Competition Network). They follow different processes but seek for consistency in results.

Following a question "why the letter sent by UTIPULP triggered a substantial reaction from Suzano", he mentions that (i) there are no worries from the parties (as the letter does not provide real new arguments) (ii) it's normal that such a merger fuels concerns amongst customers (iii) consequently, the parties want to engage with the customers in order to discuss and explain the situation.

The Chairman thanks Mr Bachour. Delegates mention that this presentation was interesting, but that some elements may be analysed cautiously as the lawyer is representing the parties and may therefore not be neutral.

The Chairman then says that the delegates have all the elements to consider the proposal of the Excom to reassess the position of UTIPULP in the light of the latest developments.

After discussions, delegates agree that the position should be altered. They agree to vote following a secret ballot on the following statement: "Do National Associations agree that UTIPULP sends a letter to DG competition stating that, based on new facts (approval by other competition authorities, risk of purchase in case of remedies), UTIPULP, as an Association, has a neutral position regarding the merger?".

The 9 following associations take part to the ballot: Austropapier (Austria), COPACEL (France), VDP (Germany), Assocarta (Italy), SPP (Poland), CELPA (Portugal), ASPAPEL (Spain), VNP (The Nethelands), CPI (United-Kingdom).

The outcome of the ballot is: seven answers "yes", one answer "no" and one abstention.

Agreed:

- ***UTIPULP will send a letter to DG competition stating that, based on new facts (approval by other competition authorities, risk of purchase in case of remedies), UTIPULP, as an Association, has a neutral position regarding the merger,***
- ***The letter will be reviewed by a lawyer,***
- ***The General Assembly gives mandate to the Excom to draft and approve the letter.***

5. Special Subject Dossiers

5.1 Bales safety

The General Assembly notices that no new elements are reported on this topic. Consequently, the issue will be removed from the agenda, unless new information is provided by delegates.

5.2 EU Timber Regulation

Delegates do not mention particular difficulties in the controls done at national level regarding the EU Timber regulation.

Regarding the potential consequences of the Brexit, Steve FREEMAN reports that the Commission and the UK Government are continuing to work towards a formal agreement for the UK to exit the EU, likely after a two-year transition period. However, the nature of the negotiations (plus the generally poor spirt of discussions) means that the possibility of the UK leaving the EU with no deal 29/3/19 is a real one – but still thought unlikely.

Even though unlikely, both sides have begun to issue a series of notes advising on the impact of a no-deal Brexit on companies and individuals. While the UK preferred position is to stay in EUTR, the Commission has issued a note stating that (with no-deal) the UK would be out of EUTR and any obligated materials would be treated as from outside the EU. The key sentence reads: "According to Article 4 of the Regulation (EU) No 995/2010, operators have a due diligence obligation when placing timber or timber products on the market. As of the withdrawal date (29/3/19), this obligation applies to EU-27 operators who import timber and timber products from the United Kingdom – no matter where the timber was initially logged." The full note is at:
https://ec.europa.eu/info/sites/info/files/notice_to_stakeholders_brexit_timber.pdf

Steve FREEMAN concludes that, to date, the UK has not issued a note on this specific topic, though more notes are due for publication later today. So, at this stage we have no indication of how the UK will treat products imported from the EU to the UK.

5.3 FSC/PEFC/ISO

The Secretary reminds that it is important for pulp buying companies selling "FSC mix" papers to be able to purchase FSC Controlled Wood Pulp (FSC mix is a mixture of "100 % FSC" and FSC Controlled Wood pulp). He adds that within FSC, there is a push of various stakeholders to phase out FSC CW.

In order to have the view of the stakeholders, FSC opened a public consultation (deadline 17 September). CEPI prepared an answer advocating that FSC CW must be maintained as an important part of the FSC system. National associations and companies are invited to answer to the consultation with a similar message.

Regarding the ISO, the Secretary reports that ISO PC 287 has finalized the Standard ISO 38200 "Chain of custody of wood and wood-based products", and that Standardization organizations members of ISO are formally voting (3rd August/28 September).

6. Measurement of Moisture content

J. DITTOMBEE and C. VIEJO CHAVES report that there is no new information from EPIS on this topic. The information to be obtained from a new device cannot be provided, as the mill that envisaged to acquire it has postponed this investment.

Agreed:

- ***The topic will be on the agenda of the next meeting so that it's possible to report on the progress (new contacts with EMCO….).***

7. Association Topics

7.1 Finance and administration

The provisional accounts for 2018 are in line with the budget approved in Vienna in April 2018. The deficit is likely to be close of the one that was in the budget (7 260 €) and will be covered by the UTIPULP reserves (21 594.38 €).

Special points to mentions are:

- Meeting expenses increased of 1 690 € [26 x (120-55)] due to the "extra costs" resulting in the new fees' calculation for Europulp seminar attendance (120 € compared to 55 € during the past years),
- Secretariat costs increased of 2 800 € due to additional work for the follow up of the "merger file"
- Legal advice: costs amount to 3 800 € and include two lawyer consultations concerning the VAT questions and the support for actions concerning the "merger file".

The Secretary also informs the members that COBELPA, who is hosting the postal address of UTIPULP, has moved to a new place in Brussels (Place du Champ de Mars 2 – 1er étage – 1050 Brussels).

7.2 Excom members and chairmanship

The Secretary mentions that there is no change in the composition of the Excom. He reminds that Andrea PIAZZOLLA as vice-chairman of UTIPULP is proposed to succeed to Bernhard Beck as Chairman of UTIPULP at the next meeting, in April 2019.

Agreed: The delegates agree that Mr Andrea PIAZZOLLA becomes Chairman of UTIPULP as of April 2019, until the General Assembly of Spring 2021.

7.3 Member countries: special items

Delegates report on the key features impacting the pulp production and consumption in their respective countries.

8. Confidentiality within UTIPULP

The Chairman regrets that third parties had very detailed information on the documents released by UTIPULP to its members, as well as on some internal discussion. He strongly reminds that being a UTIPULP delegate imposes a need for confidentiality on the debates and documents. On the contrary, the risk would be a substantial alteration of the quality of the exchanges and the decision of some delegates to withdraw from UTIPULP. He asks the delegates to consider this as a formal appeal.

9. Any other business

Peter DONNABAUER mentions that he has information from pulp suppliers that some are working on the RFID to be placed on pulp bales. He then asks if some delegates also work on this topic. Following this question, about half a dozen of delegates give a positive answer.

It is also agreed that the minutes will be placed on the website at the same time they are sent to delegates.

10. Close out

10.1. New date & location

The Chairman proposes two dates for the next meeting.

Agreed: The next General Assembly will take place on 12 April 2019, in Brussels or in its vicinity.

10.2. Close

The Chairman thanks the participants and closes the meeting.

Andrea PIAZZOLLA, as vice-chairman of UTIPULP, warmly thanks Bernhard BECK for his excellent chairmanship during this past two years.

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