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COMMISSION OF THE EUROPEAN COMMUNITIES

Commission Decision of 07/12/1998

authorising the acquisition by British Steel plc of control of Laminacion y Derivados SA

(Case IV/ECSC.1289 - British Steel/Layde)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 66(2) thereof,

Having regard to the notification received on 5 November 1998 in which British Steel plc (BS), notified a proposed operation to the Commission whereby BS would acquire the outstanding 65.05% of the shares of Laminacion y Derivados (Layde) and subsequent information.

I. THE PARTIES

1. British Steel was formed in 1988 by vesting the assets of the British Steel Corporation into British Steel plc under the British Steel Act. The shares were subsequently floated and BS is now a public company listed on the London and New York stock exchanges. Its main activities are the production and distribution of ECSC steel products. It has major production facilities in the United Kingdom, Germany, Sweden and the USA. In addition it manufactures and distributes a range of steel that are not covered by the ECSC Treaty. In 1997/98 BS had a global turnover of approximately 10 282 million ECU of which 7 820 million ECU was realised in the Community.
2. British Steel Holdings BV (BSHBV) is a holding and finance company whose share capital is owned by British Steel International BV (BSIBV) except for one share which is held by British Steel International (Overseas Holdings) Ltd. BSIBV is itself a wholly owned subsidiary of British Steel International (Overseas Holdings) Ltd which is itself a wholly owned subsidiary of British Steel International, a wholly owned subsidiary of BS.
3. Layde is an independent Spanish producer of cold rolled narrow strip (CRNS) and pickled and oiled hot rolled wide strip (HRSWP&O). It also distributes a small amount of cold rolled coated and uncoated strip and other strip steel products. In addition Layde undertakes some hire work. BS currently holds some 34.95% of the shares of Layde but does not exercise control. In 1997 Layde's turnover which was realised almost entirely in the Community was 60.5 million ECU.

II. THE OPERATION

4. BS intends to purchase for cash, through its subsidiary BSHBV, the shares it does not already own in Layde.

III. THE CONCENTRATION

5. BS and Layde are undertakings within the meaning of Article 80 of the ECSC Treaty by virtue of their production and distribution of ECSC products as defined in Annex 1 of the Treaty.
6. BS acquired its original 34.95% of the shares in Layde in 1988. At that time the other major shareholders syndicated their shares with the result that BS, at that time, acquired neither sole nor joint control of Layde. After BS has acquired the outstanding shares in Layde it will exercise control over Layde within the meaning of Article 1 of High Authority Decision 24-54 and the operation will therefore be a concentration in the sense of Article 66 of the ECSC Treaty.
7. As the production of rolled steel products of BS alone exceeds 6 million tonnes the proposed operation cannot be exempted under the provisions of Decision 25-67 as amended.

IV. COMPETITIVE ASSESSMENT

General

8. Layde's principal activity is the production of cold rolled narrow strip, a product which does not fall under the ECSC Treaty. Its raw material is hot rolled wide strip (HRWS) which is an ECSC product. As part of the manufacturing process for CRNS, HRWS is pickled and oiled to produce pickled and oiled hot rolled wide strip (HRWSP&O). Layde sold approximately 46 000 tonnes of HRWSP&O to third parties in 1997 and hire rolled a further 34 000 tonnes. To complement these activities Layde also has a small distribution business for strip products. Any effects of the proposed operation will be felt in these product areas and in sectors upstream or downstream in relation any vertical integration arising from the operation.

Relevant Product Market - Production

9. Steel comes in many varieties distinguished by their physical and chemical properties. These varieties are normally divided into three groups, carbon steels, which make up the bulk of steel produced, stainless steels which have high resistance to temperature and corrosion and special steels.
10. The primary division of rolled carbon steel products is between flat products (for example, plates, hot rolled wide strip, tinplate etc) and long products (wire rod, beams, concrete reinforcing bars etc). There is an obvious difference in the geometrical configuration of these products. They are produced on different types of specialised rolling mill and are used for different applications.

11. In flat products a distinction may be made between plates and strip products. Plates are generally thicker and are rolled on an individual basis. That is the slab passes backwards and forwards through the rolls. Plates are used primarily in the engineering, ship building and industrial boiler making industries. On the other hand hot rolled strip is produced on continuous mills and after rolling is wound into coils. However in this case it is not necessary to decide whether strip and plate are individual relevant markets as Layde has no plate production and even on the narrow definition the proposed operation would not give rise to competition problems.
12. The first stage of the further processing of HRS is cold rolling. The process of cold rolling which is also carried out continuously and is preceded pickling to remove the oxide layer arising from hot rolling. Cold rolled strip (CRS) may be distinguished from HRS by its different surface and mechanical properties, its relative thinness and by its different price and applications.
13. A complication arises in the case of CRS. Material less than 500mm in width is excluded from the ECSC Treaty. However there is no essential difference in price, characteristics, or applications between material over and under 500mm in width. The Commission has concluded that all cold rolled strip whatever its width constitutes a single product market despite the fact that material wider than 500mm must be examined under the ECSC rules and material narrower than 500mm under the EC rules.
14. After cold rolling steel strip may be coated. There are two main classes of coating. Those for the food packaging industry, tinsplate and electrolytically coated chromium steel (ECCS) and those coated with zinc or zinc alloys. Zinc can be applied either by a hot dip process or by electrolysis. In the past the Commission has distinguished between the two methods of application however as modern hot dip lines can now produce, in most cases the surface finishes, thicknesses of coating and the differential thicknesses (differing thicknesses on each side of the strip) which were once the preserve of electrolytically coated strip there is no longer any requirement to differentiate between the products.
15. Finally some zinc coated strip is given an organic (paint) coating. This material is primarily made into panels for the building industry with smaller quantities being used in the white goods industry. In the present case it is not necessary to decide whether the various types of coated strip form individual relevant markets as Layde is not active in their production.
16. It is therefore possible to identify the following relevant product markets for flat carbon steel products. These products can be distinguished from each other by their characteristics, prices and uses:
 - plate hot rolled strip, including hot rolled pickled and oiled strip,
 - cold rolled strip
 - coated strip.

Steel Distribution

17. The distribution of steel flat products can be distinguished from sales made directly from the producing works. The tonnages in question are usually much smaller and clients expect distributors to maintain stocks of a wide range of products available.

Relevant Geographic Market

Hot and cold rolled products

18. In previous Decisions the Commission found that the relevant geographic market for rolled steel products comprised at least the territory of the Community.¹ The enquiries in the present case have confirmed this view. Transport costs within the Community are not significant. As the vast bulk of ECSC steel products are homogenous 'commodity' products customer preferences are not an important factor. There is significant interpenetration between the individual Member States. In 1996 the volume of intra-Community trade as a proportion of total deliveries into the Community by Community producers was about 40%.
19. With the exception of supplies from Russia, Ukraine and Kazakhstan, imports of ECSC rolled steel products into the Community are not subject to any quantitative restrictions. In the present case, however, the precise definition of the relevant geographic market does not in the last analysis need to be decided because, even on the basis of a market limited to the territory of the Community, the proposed merger does not raise any doubts from a competition point of view. The proportion of third country imports for the products under consideration varied between 2% for cold rolled sheet and 17% for quarto plate.

Distribution of steel products

20. Stockholders perform the wholesale function of buying material in bulk from steel producers, stocking it and then, if necessary after suitable processing (cutting to size), reselling it in smaller quantities to customers who need only such quantities. Since the distribution of flat products takes place at a regional level, the relevant geographic market is a regional market. As Layde is present to a significant extent only in Spain (it has minimal sales in France and BS is not at present active on this market it is not necessary to define a relevant geographic market for distribution.

Impact of the Operation - Production

21. The market for CRS includes both the material under 500mm in width produced by both Layde and BS and the material over 500mm produced by BS must be considered as part of a single relevant product market. The relevant geographic market is at least Community-wide.
22. The apparent consumption of cold rolled carbon steel strip in the Community is some 13.7 million tonnes. Of this total deliveries from BS accounted for [5-15%], while Layde's share is less than 1%. The combined operation will face competition from other suppliers including Arbed/Aceralia, Usinor, and Thyssen Krupp all of whom have larger market shares and from a number of other producers with between 5% and 10% each. In view of this situation there will be no scope for anti-competitive behaviour by the parties after the merger.
23. Layde's production of HRS amounts to less than 1% of Community apparent consumption. BS has a share of about [5-15%]. The combined market share of the parties will be lower than several competitors including Arbed/Aceralia, Usinor, and Thyssen Krupp.

¹ See Case IV/ECSC.969 - Fried. Krupp AG/Hoesch AG.

Impact of the Operation Distribution

24. In 1997 Layde distributed approximately [less than 25,000] tonnes a year of strip products almost exclusively in Spain ([less than 2,000]thousand tonnes were delivered in France). BS has no distribution operations in Spain. The operation will therefore not give rise to any aggregation of market shares in Spain. In France Layde's sales are negligible given that the market for strip products distribution is over 3 million tonnes a year. The proposed operation will not therefore give rise to competition problems.

Vertical Integration

25. BS is a major supplier of strip products to Layde. In 1997/98 it supplied [50,000-100,000]tonnes of HRWS out of Layde's overall requirements of [less than 150,000] tonnes. The additional outlet for BS products that could arise from the operation is approximately [less than 50,000] tonnes ([less than 30,000] tonnes of HRWS as feedstock for Layde's cold rolling operations and [less than 25,000] tonnes of strip products for distribution operations). These potential additional sales are very small compared to BS's production and deliveries of these products (in 1997/98 BS delivered [2.5-3.5] million tonnes of HRWS to its clients and [less than 1.5] tonnes of CRS). The proposed operation will not therefore enable BS to evade the rules of competition particularly not by establishing an artificially privileged position in relation access to markets.

V. CONCLUSION

26. On the basis of the above the proposed operation will not give British Steel the power to determine prices, restrict or control the production or distribution or to restrict effective competition in a substantial part of the market for hot and cold rolled strip or in the markets for the distribution of flat steel products nor will the parties be able to evade the rules of competition set out in the ECSC Treaty in particular they will not establish an artificially privileged position involving substantial advantage in access to supplies or markets.
27. Therefore the requirements of Article 66(2) of the ECSC Treaty are fulfilled, the notified transaction may be authorised.

HAS ADOPTED THIS DECISION:

Article 1

British Steel plc is authorised, under Article 66.2 of the ECSC Treaty, to acquire control of Laminacion y Derivados SA by the purchase of the outstanding shares.

Article 2

This Decision is addressed to:

The notifying party

Done at Brussels,
For the Commission