



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 02.10.2000
C(2000) 2795

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PUBLIC VERSION

COMMISSION DECISION

of 02.10.2000

**authorising the acquisition of 30% of the shares and joint control of Wuppermann
Staal Nederland B.V. by Corus**

(Case COMP/ECSC.1329 – Corus/Wuppermann/JV)

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authorising the acquisition of 30% of the shares and joint control of Wuppermann Staal Nederland B.V. by Corus (Case COMP/ECSC.1329 – Corus/Wuppermann/JV)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Decision No 24/54 of 6 May 1954 laying down in implementation of Article 66(1) of the Treaty a Regulation on what constitutes control of an undertaking,¹

Having regard to the notification made by the parties on 23 August 2000 and to the information communicated subsequently,

Whereas:

1. The undertaking Corus Group plc (“Corus”) and Wuppermann GmbH (“Wuppermann”) jointly notified on 23 August 2000 pursuant to Article 66(1) of the ECSC Treaty their proposal for Corus to acquire a 30% equity interest in Wuppermann Staal Nederland B.V. (“WSN”). WSN is at present wholly-owned by an indirect subsidiary of Wuppermann.
2. After examining the notification, the Commission concluded that the proposal falls within the scope of Article 66, read in conjunction with Article 80, of the ECSC Treaty.

I. THE PARTIES

3. Corus is a leading steel producer and distributor of steel products, including stainless steel, coated and uncoated strip products, tubular products and wire rod. Corus was formed in 1999 by the merger between British Steel plc and Koninklijke Hoogovens NV. It has operations in Asia, Australia, Europe and North America. During the period 3rd October 1999 – 1st April 2000 Corus achieved a world-wide aggregate turnover of EUR [...] million.
4. Wuppermann is a processor of steel products. It operates two galvanising lines and three slitting lines. Wuppermann achieved a world-wide aggregate turnover in 1999 of EUR[...] million.

¹ OJ of the High Authority No 9, 11.5.1954, p. 345.

II. THE PROPOSED TRANSACTION

5. The proposed transaction concerns the acquisition by Corus of a 30% equity interest in Wuppermann Staal Nederland B.V. (“WSN”). The sole business of WSN is the construction, and the subsequent operation and management of a production site at Moerdijk, the Netherlands, for pickling, galvanising and slitting of hot-rolled wide strip steel. WSN is at present wholly-owned by an indirect subsidiary of Wuppermann. Corus’ equity interest will confer on it the rights, amongst others, to veto the appointment of the managing director and to approve the Business Plan.
6. The WSN plant will be capable of producing [around 500] ktpa of hot-dipped galvanised strip when fully operational. The plant will have to purchase [...] ktpa of its annual feedstock requirements from Corus. Of its production, up to [...] ktpa will be sold to third parties independent from the parties (“the merchant market”) by Wuppermann’s sales organisation. The remainder, [...] ktpa, will be galvanised by WSN, at a fee, to fulfil Corus’ own needs.
7. Both Corus and Wuppermann are ECSC 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.
8. After Corus has acquired 30% of the share capital of WSN, Corus and Wuppermann will exercise joint control over WSN within the meaning of High Authority Decision 24-54 and the operation will therefore be a concentration in the sense of Article 66(1) of the ECSC Treaty.

III. ASSESSMENT UNDER ARTICLE 66(2)

9. The proposed merger may be authorised under Article 66(2) of the ECSC Treaty if it does not give the undertakings concerned the power:
 - to determine prices, to control or restrict production or distribution or to hinder effective competition in a substantial part of the market for these products; or
 - to evade the rules of competition instituted under the Treaty, in particular by establishing an artificially privileged position involving a substantial advantage in access to supplies or markets.

A. RELEVANT PRODUCT MARKET

10. The parties identify two markets where the joint venture will be active
 - (a) the supply of hot-rolled wide strip, and
 - (b) the manufacture and supply of hot-dipped galvanised strip.
11. **Hot-rolled wide strip** is strip steel of more than 600 mm in width, produced from slabs in automated hot strip mills and delivered in coils. In addition to wide strip, there is also hot-rolled narrow strip that is produced either directly in widths of less than 600 mm or by slitting hot-rolled wide strip. Most hot-rolled coil is used in-house as a feedstock for cold-rolled coil with a further substantial proportion being used for welded tubes. However, it is also sold to traders in coiled form, or to end users as a finished product.

12. Wuppermann is not active in the manufacture of hot-rolled coil. As the JV would purchase a mere [$<2.0\%$] of the merchant market of coil rolled on wide mills, there is no risk of foreclosure on this market as a consequence of the transaction. It is, therefore, not necessary to decide whether wide and narrow strip constitute a separate relevant market or whether, owing to the high degree of flexibility in production, they belong to a single product or a reduced number of larger product markets.
13. **Hot-dipped galvanising** is one of the processes for coating strip (that is made by cold rolling hot-rolled flat strip) to provide special characteristics related to the intended end-use. Such coatings include zinc and other metals, which may be applied by “hot dip” or electrolytical processes, and organic coatings, normally applied on a metallic coating.
14. In case IV/ECSC. 1310 – British Steel/Hoogovens the Commission proposed that each type of coating could constitute a separate market, however the definition was left open.
15. The market investigation has largely confirmed that each type of coating constitutes a separate market. However, the market definition can be left open as even on the smallest possible market, that of hot-dipped galvanised strip, there are no competition concerns as a consequence of this operation.

B. RELEVANT GEOGRAPHIC MARKET

16. The parties consider, in line with previous cases², that the relevant geographic market is at least Community wide for hot-rolled wide strip and Community-wide for all coated cold-rolled sheets (including hot-dipped galvanised strip) owing to high inter-Community trade and the low level of transport costs. This has been confirmed by the market investigation undertaken in this case.

C. IMPACT OF THE MERGER

1) Hot-rolled wide strip

17. In 1998, Corus accounted, according to the parties, for [10-20%] of third party sales of hot-rolled coil rolled on wide mills ([10-20%] of overall production). Wuppermann is not at present active in the manufacture of hot-rolled coil. The captive purchases by the JV (from Corus) account for only [$<2.0\%$] of the estimated merchant market. The removal of this small tonnage from the market is unlikely to cause any supply problems for the buyers on the merchant market. Therefore, the proposed transaction will not give rise to a competition concern on this market.

2) Hot-dipped galvanised strip

18. The parties estimate that the hot-dipped galvanised sheet merchant market accounts for some 10,997 kt in 1997 and 12,153 kt in 1998. On this basis, the parties estimate that Corus market share in 1997 and 1998 was respectively [10-20%] and [10-20%]. With regard to Wuppermann, the estimated market share is [$<2.0\%$], respectively

² See Case IV/ECSC.1310 – *British Steel/Hoogovens*.

[<2.0%]. The parties estimate their main competitors 1998 market share to be [25-35%] for Usinor, [10-20%] for Thyssen/Krupp and [0-10%] for Arbed.

19. The market investigation carried out by the Commission revealed that the statistics, provided by the parties, include intra-group sales and, hence, are not totally representative for the merchant market. Adjusting for intra-group sales (as provided during the investigation), Usinor is the market leader with a market share of the 1999 merchant market of 20% to 30%. Corus, Thyssen/Krupp and Arbed all have market shares of 10% to 20% and Wuppermann's share is below 1%.
20. In assessing the impact of the notified operation on the market, the Commission has noted that Corus is active in other JVs with Usinor and Arbed. Some of these JVs will be terminated by 1st April 2002 (the production JVs Galtec 1 and Galtec 2 with Sidmar/Arbed), and one (Segal) is a mere production JV with all the production being sold to the respective parents (Corus, Sidmar and Phenix Works). The SN Planos JV, now called Lusosider Acos Planos, between Usinor and Corus located in Portugal has a capacity of only [...] kt of hot-dipped galvanised strip. It can be noted that the capacity of this JV accounts for [less than 5%] of Usinor's European capacity and [0-10%] of Corus' capacity.
21. Wuppermann's only current activity is the two hot-dipped galvanised strip facilities in Austria with a capacity of some [...] kt. These facilities operate close to full capacity, but around [>50%] of the output is consumed internally by Wuppermann. Voest-Alpine, another competitor with an overall merchant market share of less than 10%, has a 30% financial interest that does not, according to the Form CO, confer joint control to Voest-Alpine. However, other documents submitted by the parties cast doubts on the issue of non-control by Voest-Alpine.
22. The notified operation creates a structural link between a number of producers accounting for 40% to 50% of the merchant market. However, the Commission considers that, in the particular circumstances of the market, this does not lead to a competition concern. This conclusion is reached upon factors that relate to the nature and extent of the structural links (the relatively minor nature of the Portuguese link between Corus and Usinor and the limited impact of Wuppermann's Austrian facilities on the merchant market) and, even more so, on the overall market situation as described below.
23. Demand for hot-dipped galvanised strip is growing. The parties estimate that the 1999 demand will increase by some 10% by 2003, which is resulting in substantial new investment. The market investigation confirmed that more than ten new production facilities will be created from now until 2002 with a total capacity of some 4000 ktpa (including the WSN facility). This accounts for some 25% of the current installed production capacity. In addition, there are new entrants on the market. Marcegaglia, an Italian company, which entered the market in 1999 with a 300 ktpa plant, is planning further expansion. According to the parties another new entrant is scheduled to commission this year.. On this basis, and in view of the fact that no concerns have been expressed by customers during the market investigation, the Commission considers that effective competition will continue in the hot-dipped galvanised strip market.

IV. CONCLUSION

24. On the basis of the above, the proposed operation will not give the parties 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-rolled wide strip or hot-dipped galvanised strip 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.

25. In as much as the requirements of Article 66(2) of the ECSC Treaty are thus fulfilled, the notified transaction may be authorised,

HAS ADOPTED THIS DECISION:

Article 1

The acquisition of 30% of the shares and joint control of Wuppermann Staal Nederland B.V. by Corus Group plc is authorised under Article 66(2) of the ECSC Treaty.

Article 2

This Decision is addressed to:

The notifying parties

Done at Brussels, 02.10.2000

For the Commission,

Mario MONTI
Member of the Commission