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## COMMISSION OF THE EUROPEAN COMMUNITIES

### Commission Decision of 15/07/1999

#### authorizing the merger between British Steel and Hoogovens (Case IV/ECSC.1310 – British Steel/Hoogovens)

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 made by the parties on 15 June 1999 and to the information communicated subsequently,

Whereas:

1. The undertaking British Steel plc, (“British Steel”) and Koninklijke Hoogovens NV (“Hoogovens”) jointly notified on 15 June 1999 pursuant to Article 66(1) of the ECSC Treaty<sup>1</sup> their proposal to merge in order to form a new group, initially to be called “BSKH”.
2. After examining the notification, the Commission has come to the conclusion that the proposal falls within the scope of Article 66, read in conjunction with Article 80, of the ECSC Treaty. In so far as the proposal concerns products or markets which do not fall within the scope of the ECSC Treaty (tailored blanks, profiles, sandwich panels, steel tubes), Council Regulation (EEC) No 4064/89<sup>2</sup> applies (cf. IV/M.1595 – British Steel/Hoogovens). The present Decision concerns only those parts of the proposed operation which fall within the scope of the ECSC Treaty.

#### **I. THE PARTIES**

3. British Steel was formed in 1988 by vesting the assets of the British Steel Corporation into British Steel plc under the British Steel Act. Its main activities are the production and distribution of ECSC and EEC steel products. British Steel is divided into business units which are grouped together into three manufacturing business portfolios and a single distribution portfolio which distributes steel products world-wide. British Steel also has certain other activities and interests, including investments. British Steel achieved in 1998 a worldwide aggregate turnover of EUR 10,257 million.

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<sup>1</sup> Treaty establishing the European Coal and Steel Community of 18 April 1952.

<sup>2</sup> OJ No L 395, 30.12.1989, p. 1; corrigendum: OJ No L 257, 21.9.1990, p. 13.

4. Hoogovens is an integrated producer of iron and steel and also produces aluminium. Furthermore, this company is active in several areas connected with the two main activities previously mentioned i.e. the distribution and transformation of steel and aluminium products and technical services. Hoogovens achieved a worldwide aggregate turnover in 1998 of EUR 4,870 million.

## **II. THE PROPOSED TRANSACTION**

5. The merger will be implemented by acquisition of British Steel by BSKH, a holding company specifically formed for the purpose, pursuant to a scheme of arrangement under which all of British Steel's issued ordinary share capital will be cancelled and re-issued to BSKH, and a public offer by BSKH for the Hoogovens ordinary shares. These operations will be completed simultaneously and are conditional upon each other. Shares in BSKH will be issued to both sets of shareholders simultaneously. On completion of the merger, British Steel shareholders will hold approximately 60% of BSKH and Hoogovens shareholders the remaining 40%.
6. The notified transaction constitutes a concentration within the meaning of Article 66(1) of the ECSC Treaty.

## **III. ASSESSMENT UNDER ARTICLE 66(2)**

### **A. RELEVANT PRODUCT MARKET**

7. The parties' activities overlap on the following markets : semi finished products, hot rolled flat coils, uncoated cold rolled sheets, coated cold rolled sheets and tinplate. The parties are also active in steel distribution.
8. In its previous decisions, the Commission has made the following distinctions (see for example decisions ECSC 1243 Thyssen/Krupp and 1268 Usinor/Cockerill Sambre):
  - products made of non-alloy and other alloy steel are a separate market from products made of stainless steel,
  - flat steel products are a separate product market from long steel products,
  - hot-rolled and cold-rolled flat steel products are separate product markets,
  - cold-rolled flat steel products, coated and uncoated, are separate product markets,
  - the coated steel products may be divided in hot dipped galvanised sheets, electro-galvanised sheets, organically coated sheets and sheets for packaging (tinplate/ECCS sheets).
9. The investigation confirmed that these distinctions are still relevant for the assessment of the present case.

#### *1) Semi finished products*

10. Before molten steel can be rolled into finished products such as plates, sheets, strip, beams, tubes or sections, it has to solidify into standard basic shapes such as blooms (used predominantly in the manufacture of sections, rails and other heavy long products), billets (used in the production of wire rod; reinforcement, merchant and special quality bars) and slabs (normally used in the manufacture of plate and strip). Almost all steel is processed into semi finished products using the continuous casting process in which the molten metal is poured direct into a casting machines to produce

billets, blooms or slabs. Most of the semi finished steel produced in the Community is further processed into finished products in integrated rolling mills belonging to the steel producer. A small amount is, however, sold on the market.

11. British Steel and Hoogovens' sales to third parties are of in slabs and billets which can be differentiated between billets for re-rolling and billets for forging. The impact of the operation will thus be examined for these products.

#### *2) Hot-rolled flat products*

12. Hot-rolled flat products comprise hot-rolled wide strip, narrow strip including slit strip, plate, quarto plate and universal plate. Hot-rolled wide strip is strip more than 600 mm in width produced from slabs in automated hot strip mills and delivered in coils. Hot-rolled narrow strip is produced either directly in widths of less than 600 mm or by slitting hot-rolled wide strip. Plates (known according to their thickness as heavy plates or medium plates) are rolled square or rectangular pieces made by cutting hot-rolled wide strip. Quarto plate is plate made on special quarto plate mills with four rolls (four high mills) which, because of its thickness, cannot be coiled. Universal plates are hot-rolled flat products cut into pieces between 150 and 1 250 mm wide and more than 4 mm thick.
13. The question whether the above-mentioned products constitute a separate relevant product markets 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 can in the last analysis be left open in the present case because, even taking as a basis of the narrowest possible product markets, the proposed merger raises no doubts from a competition point of view. The parties' activities for third parties' sales only overlap in hot rolled wide strip. The impact of the operation will thus be examined on this market.

#### *3) Uncoated cold-rolled strip*

14. Uncoated flat products (in sheets or coils) are made by cold rolling hot-rolled flat products. They constitute a separate relevant product market because they differ from hot-rolled flat products and coated flat products in terms of both product uses and price. The market for uncoated cold rolled strip includes blackplate which is a very thin uncoated cold rolled strip used exclusively in the production of tinplate. While most blackplate is manufactured on dedicated mills, these mills can supply other grades of cold rolled strip and conversely, other cold rolling mills can usually produce blackplate. For the purpose of the present decision, it is not necessary to decide whether there is a separate market for blackplate as whichever product market definition is used, the concentration would not lead to serious competition concerns.

#### *4) Coated cold rolled sheets*

15. Approximately half of all cold-rolled flat products (excluding packaging strip) produced in the Community is subsequently coated. The coatings provide special characteristics related to the intended end-use of the product. 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. The different product characteristics of hot-dip galvanized sheet, electrogalvanized sheet and organically coated sheet, together with the price differences noted, suggest that each coated flat product forms a separate relevant product market. However, the precise definition of the relevant product markets can in the last analysis be left open in the present case

because, even taking as a basis the narrowest possible product markets, the proposed merger raises no doubts from a competition point of view.

#### *5) Sheets for packaging*

16. Sheets for packaging are cold rolled steel sheets generally less than 0.5 mm thick and coated on both sides with a thin film of tin (tinplate) or chromium (ECCS). The main applications of tinplate/ECCS are food cans (c. 50% of total market), general lines (c. 25%), beverage cans (c. 15%), aerosols and closures (bottle tops).
17. It may be possible to distinguish between tinplate for beverage cans and tinplate for other applications. The deep drawing process used in the manufacture of beverage cans requires steel with a very low percentage of carbon. This is obtained by vacuum degasification of molten steel. Moreover, the high speed can production processes require very high dimensional tolerances. However, the question of whether there is a separate relevant product market for tinplate for beverage cans can be left open in the present case because, even taking as a basis the narrowest possible product market definition, the proposed merger raises no doubts from a competition point of view.

#### *6) Distribution of flat steel products*

18. The Commission has decided on a number of occasions that trade in steel products constitutes a separate relevant market distinct from the production of such products.<sup>3</sup> The distribution sector comprises stockholders and steel service centres (“SSCs”). SSCs perform mainly distribution functions, but they also provide additional services such as the custom-cutting of steel sheets. As the parties’ activities only overlap in the sector of SSCs, the impact of the operation will be assessed on this level.

### **B. RELEVANT GEOGRAPHIC MARKET**

#### *1) Semi finished products*

19. The market for semi finished products are characterised by large trade flows relative to Community consumption (c.30%). For example, all the third parties’ consumption of slabs in the UK is accounted for by imports while British Steel exports some slabs. Transport costs within the Community are not significant and the prices are homogeneous in this area. Thus, the relevant geographic market for the production of semi finished products can be considered as at least Community-wide.

#### *2) Hot-rolled flat products*

20. In previous Decisions the Commission found that the relevant geographic market for hot-rolled flat products comprised at least the territory of the Community.<sup>4</sup> The enquiries in the present case have confirmed this view. Transport costs within the Community are not significant and there are few customer preference for these commodity type products. The level of intra-community trade is about 40% of overall consumption.

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<sup>3</sup> See Decision of 21 December 1994, Case IV/M.484 - Krupp/Thyssen/Riva/Falck/Tadfin/AST, point 32.

<sup>4</sup> See Cases IV/ECSC.969 - Fried. Krupp AG/Hoesch AG, 1243 Krupp/Thyssen and 1268 Usinor/Cockerill Sambre.

### *3) Uncoated cold-rolled thin sheet*

21. In previous Decisions the Commission found that the relevant geographic market for uncoated cold-rolled flat products was at least the territory of the Community.<sup>5</sup> The enquiries in the present case have confirmed this view. Transport costs within the Community are not significant, there are few customer preference for these commodity type products and the level of intra-community trade is about 40-50% of overall consumption.

### *4) Coated cold-rolled sheets*

22. The relevant geographic market for coated cold-rolled flat products comprises the territory of the Community. This is confirmed by the high level of intra-Community trade (more than 30% of overall consumption), the low level of transport costs (less than 5%) and the replies to the Commission's questionnaires.

### *5) Tinplate*

23. The Commission already considered the market for tinplate as Community-wide. Within the Community, around 40% of consumption is imported from another Member State and transport costs are relatively low (3-4%).
24. In response to the Commission's questionnaires, one customer has suggested that the relevant geographic market for tinplate could be national. However, this is not supported by the facts: for example, in 1997, around 43% of the United Kingdom consumption was imported and 49% of production was exported. Furthermore, there are no significant price differences between the various Member States. The investigation has confirmed that the relevant geographic market is the Community.

### *6) Steel distribution*

25. Stockholders and SSCs 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. The Commission has already stated (e.g. in its decision N° IV/ECSC 1207 Klöckner/Arus) that the activities of steel distributors were generally confined to one Member State with cross-border transactions being the exception. These considerations are applicable to the present case for the markets concerned by the decision. The parties to the merger are active in steel distribution particularly in the United Kingdom and the Netherlands and also in France and Germany. The impact of the proposed merger would therefore be felt in those Member States.

## C. IMPACT OF THE MERGER

### *1) Semi finished products*

26. As already mentioned, most semi finished products are manufactured for in-house consumption. Third party trade in bloom is negligible, very limited as regards slabs and only billets appears to be an established third party market. British Steel and Hoogovens only make third party sales of slabs and billets. The respective combined

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<sup>5</sup> See Cases IV/ECSC.969 - Fried. Krupp AG/Hoesch AG, 1243 Krupp/Thyssen and 1268 Usinor/Cockerill Sambre.

shares of the new entity on these markets will be of [5-15%] for slabs (British Steel [...] and Hoogovens [...]) and [15-25%] for re-rolling billets (British Steel [...] and Hoogovens [...]). For each of these two products the parties will face effective competition from a number of financially strong steel producers in the Community, notably Usinor, Riva, Arbed/Aceralia and Ispat. As regards forging billets, the combined market share of the new entity will be of [10-20%] (British Steel [...] and Hoogovens [...]). The parties will have to face competition of other strong suppliers such as Ispat, Lucchini, Aicher and Saarlöhne.

#### *2) Hot-rolled wide strip*

27. In 1998, the total sales of hot-rolled wide strip in the EU accounted for approximately 27,7 million tonnes. As a result of the proposed merger, BSKH will have a combined market share of [10-20%]. The possibility that the proposed merger will enable the parties to determine prices or prevent effective competition can therefore be ruled out. The parties to the merger face competition in the Community from a number of financially strong competitors with significant market shares, notably Thyssen-Krupp ([10-20%]), Usinor ([10-20%]) or Arbed/Aceralia ([10-20%]).

#### *3) Uncoated cold-rolled sheet*

28. According to the information in the Commission's possession, in 1998 approximately 13 million tonnes of uncoated cold-rolled strip was sold in the Community. The combined share (in volume terms) of BSKH in supplies to the Community market is [10-20%] (British Steel [...] and Hoogovens [...]). The possibility that the proposed merger will enable the parties to determine prices or prevent effective competition can, however, be ruled out. The parties to the merger face competition in the Community from a number of financially strong competitors with larger or comparable market shares, notably Arbed/Aceralia ([15-25%]), Usinor ([15-25%]) and Thyssen-Krupp ([10-20%]). Besides the integrated steel producers, there are also a number of independent undertakings (so-called cold rollers) which specialise in the further processing of hot-rolled primary products into cold-rolled thin sheet. If blackplate is considered as a separate product, the new entity will have a combined share of [10-20%]. The main competitor in the EU is Thyssen-Krupp with a market share of [40-60%]. Furthermore, British Steel's market share adds [<5%] to Hoogovens' share of [10-20%]. The proposed operation will not therefore give rise to competition concerns in relation to these products.

#### *4) Coated cold-rolled sheet*

29. According to the information in the Commission's possession, in 1998 a total of approximately 18 million tonnes of coated strip was sold in the Community. Of this, hot dipped galvanised sheet accounted for approximately 11 million tonnes, electrolytically coated sheet approximately 4.3 million tonnes and organically coated sheet approximately 2.7 million tonnes.
30. The combined market shares of the parties would be [10-20%] for hot dipped galvanised sheets (British Steel [...] and Hoogovens [...]) and [5-15%] for electrolytically coated sheets (British Steel [...] and Hoogovens [...]). For these products, the operation will not give rise to competition concerns.
31. For Organically Coated Sheets, the combined market shares of the new entity will be of [20-30%] (British Steel [...] and Hoogovens [...]). The combined entity, which would not be the largest producer in the EU would face strong competitors such as

Usinor ([25-35%]), Thyssen ([10-20%]) or Arbed/Aceralia ([5-15%]). In view of this market structure, it can be assumed that the scope for competitive behaviour on the part of BSKH will be limited after the merger. Neither customer nor competitor raised concerns about this aspect of the operation.

#### 5) Tinplate

32. BSKH would have had, in 1998, a share of Community sales of all tinplate products of [25-35%] (British Steel [...] and Hoogovens [...]). The BSKH's largest competitors are Usinor with [15-25%] of the EU market, Thyssen-Krupp ([10-20%]) and Arbed/Aceralia ([10-20%]).
33. The market is characterised by the presence of large and sophisticated purchasers and all tinplate suppliers contacted have stressed the very strong buying power of the customers. For example, British Steel's top [...] customers account for [...] of its total tinplate sales (Hoogovens [...]) with the largest accounting for more than [...] (Hoogovens [...]). Furthermore, there is also a relatively strong pressure exercised by suppliers established outside the EU. Imports, which represented 7% of the total EU consumption in 1995, now represent around 14% of the consumption. Import duties are below 3%. A certain number of customers have indicated during the investigation that they purchase or intend to purchase tinplate from outside the EU. In view of this market structure, the possibility that the proposed merger will enable the parties to determine prices or prevent effective competition can be ruled out.
34. It has been suggested that tinplate for beverage cans, which represents around 15% of the total tinplate consumption, could be considered as a distinct market. In this case the three main competitors would have [>90%] on the EU market and approximately equal shares (BSKH [...], Usinor [...] and Thyssen [...]). Therefore, the possible creation of oligopolistic dominance has to be examined. However, the buying power of the customers, the pressure exercised by other materials and the potential competition of other tinplate suppliers inside and outside Europe, are sufficient to eliminate the possibility of oligopolistic dominance.
35. There are only 4 [steel] can beverage makers operating in the EU. These customers have very significant buying power. For example, more than [...] of British Steel's sales of tinplate for beverage cans are to two customers ([...]) and for Hoogovens, the top [...] beverage tinplate customers account for [...] of its sales of this product.
36. Furthermore, other materials exercise a strong pressure on tinplate for beverage applications. Aluminium is considered by most of the customers as a direct substitute for tinplate and major European can manufacturers are able to make beverage cans out of both tinplate or aluminium. In 1997, there were a total of 83 beverage can making liners in Europe of which 41 were steel and 42 aluminium. Furthermore, recent developments in tinplate beverage can technology (based on air handling rather than magnetic handling equipment) have meant that beverage can manufacturers can now, with limited investment, easily switch between tinplate and aluminium in the short term (less than a week)<sup>6</sup>. It also appears that certain can makers are investing in PET bottles as an alternative to metal cans.

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<sup>6</sup> For example, [ ] recently converted its [ ] line from tinplate to aluminium.

37. Finally, there is in addition two other alternative sources of tinplate for beverage cans: other EU producers (Arbed/Aceralia, Ilva or Hellenic Steel) who could either increase their output or begin production of this quality and third country producers such as Posco who already have the capability of producing beverage can quality tinplate.
38. On this basis, the operation would not create oligopolistic dominance on the tinplate for beverage can sector.

#### 6) *Steel distribution*

39. The operation will have no significant effect in France and Germany where the combined market share of below 10% in each case and will face competition strong competition from, *inter alia*, Usinor, Klöckner and Stinnes.
40. In the UK, Hoogovens is active through two Steel Service Centres for flat carbon steel products. The combined market share of the new entity post transaction on this market would be [25-35%] (British Steel [...] + Hoogovens [...]). The main competitors are Perry ([5-15%]), RW ([<10%]), WM King ([<10%]), Sebden ([<10%]) as well as a large number of local strip processors.
41. The possibility that the proposed merger will enable the parties to determine prices or prevent effective competition can be ruled out. First, the aggregation resulting from the operation is comparatively small, Hoogovens adding only [<5%] to British Steel' share of [25-35%]. Secondly, steel distribution is not a capital intensive business nor does it require high levels of expertise. Finally, there is little possibility that BSKH would be able to foreclose the market for the supply of strip products to competing Steel Service Centres as continental and other suppliers are able or willing to supply the commodity type products distributed. In fact, imports provided a substantial part of independent distributors sales.
42. Following the sale of its stockholding business to Klöckner<sup>7</sup>, Hoogovens's only distribution activities in the Netherlands are through its Service Centre at Moerdijk and through its 49% non-controlling interest in Laura Metall. Both Steel Service Centres process coiled plates. The combined market share of the new entity on the Dutch market for coiled plate distribution will be of [10-20%] (British Steel [...] and Hoogovens [...]) and [25-35%] if Laura Metall's activities are included. Other strong competitors are active on this market such as MCB ([10-20%]), Vogten ([5-15%]) or Dikema. Furthermore, a number of competitors have suggested in their replies that distributors in the Netherlands may also face competition from depots in the geographic areas bordering this Member state such as north western Germany and Belgium.
43. Thus, although the new entity will be the largest coiled plate processor in the Netherlands and the leader in strip processing in the UK, it seems unlikely that the operation would raise serious competitive concerns in these markets.

#### **IV. CONCLUSION**

44. For the above reasons it must be concluded that the notified transaction will not give the parties the power to hinder effective competition or to evade the rules of competition instituted under the ECSC Treaty.

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<sup>7</sup> See Case N° IV/M.918 and ECSC 1244 - Klöckner/ODS



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

HAS ADOPTED THIS DECISION:

Article 1

The notified concentration between British Steel and Hoogovens is authorized under Article 66(2) of the ECSC Treaty.

Article 2

This Decision is addressed to:

The notifying parties

Done at Brussels, 15.07.1999

For the Commission