

**COMMISSION DECISION**

of 24 January 1975

**authorizing the establishment by SOLLAC, USINOR and August Thyssen-Hütte AG of joint control over MARCOKE**

(Only the French and German texts are authentic)

(75/157/ECSC)

**THE COMMISSION OF THE EUROPEAN COMMUNITIES,**

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

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

Having regard to the applications made by SOLLAC and USINOR on 29 January 1974 and by August Thyssen-Hütte AG on 11 February 1974;

Having obtained the comments of the Governments of the French Republic and of the Federal Republic of Germany;

Whereas :

Société Lorraine de Laminage Continu SA (SOLLAC), Paris, Union Sidérurgique du Nord et de l'Est de la France SA (USINOR), Paris, and August Thyssen-Hütte AG (ATH), Duisburg-Hamborn, which are steel-producing undertakings within the meaning of Article 80, exercise joint control within the meaning of Decision No 24/54 over the steel-producing undertaking Société Lorraine et Méridionale de Laminage Continu SA (SOLMER), Paris. Consequently, SOLMER is concentrated within the meaning of Article 66 (1) with each of the undertakings SOLLAC, USINOR and ATH.

On 13 December 1973, SOLLAC, USINOR and ATH (hereinafter called the 'members') initialled an agreement concerning the coal-producing undertaking SA Société Marseillaise de Cokéfaction (MARCOKE), Paris, with a capital of FF 263 000 000 as at 31 December 1976.

ATH is to acquire in the first instance a holding of 5 % in the capital of MARCOKE with an option of increasing its holding to a probable 25 %, the holdings of SOLLAC and USINOR being simultaneously reduced.

The members are to entrust the management and operation of the MARCOKE coking plant to SOLMER.

All matters relating to the application and interpretation of the agreement, including relations between the members themselves and with MARCOKE and relations between MARCOKE and SOLMER are to be examined and settled at the members' meeting of SOLMER. The members meeting must reach its decisions by agreement.

MARCOKE will thus be jointly controlled by the three members. Following the transaction there will therefore be a concentration between MARCOKE SOLLAC, USINOR, and ATH, though there will be no concentration between the members.

MARCOKE is to set up a coking plant with related installations in Fos-sur-Mer. MARCOKE is to provide metallurgical coke supplies for SOLMER. MARCOKE's coking potential in 1978 is estimated at 1 200 000 metric tons of coke (about 3 % of Community production), which it will supply entirely to SOLMER at cost.

MARCOKE, although legally separate, constitutes economically a division of SOLMER and will supply one of the raw materials necessary for SOLMER's pig iron production on terms which can be considered normal for iron and steel companies in the Community.

MARCOKE will neither sell coke on the market nor supply coke to the other works of its members.

MARCOKE will be a new buyer on the Community coke and coking coal market, which is characterized by market interpenetration, high imports and effective competition. In 1973, 34 % of the 11 800 000 metric tons of metallurgical coke used in France was supplied by French steel works' own coke ovens, 37 % was purchased from French collieries and 29 % was imported.

The members are under no other obligation regarding the purchase, production and sale of coke, other than those incumbent upon them for the purposes of the proper operation of the joint company; the joint production of coke for SOLMER can in no way affect the actions taken independently by the three members to secure their own coke supplies.

<sup>(1)</sup> OJ No 9, 11. 5. 1954, p. 345.

Having regard to all these considerations, the proposed transaction will not give the parties 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 coal and steel, 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.

Consequently, the proposed transaction satisfies the conditions for authorization set out in Article 66 (2) and may therefore be authorized,

HAS ADOPTED THIS DECISION :

*Article 1*

The establishment of joint control over SA Société Marseillaise de Cokéfaction (MARCOKE) by Société

Lorraine de Laminage Continu SA (SOLLAC), Union Sidérurgique du Nord et de l'Est de la France SA (USINOR) and August Thyssen-Hütte AG is hereby authorized.

*Article 2*

This Decision is addressed to SOLLAC, Paris, to USINOR, Paris, and to August Thyssen-Hütte AG, Duisburg-Hamborn.

Done at Brussels, 24 January 1975.

*For the Commission*

*The President*

François-Xavier ORTOLI