II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 June 1977

renewing its authorization of an agreement between United Kingdom steelmaking undertakings concerning a joint buying agency for steelmaking materials

(Only the English text is authentic)

(77/437/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 65 thereof,

Having regard to Commission Decision 74/77/ECSC of 22 January 1974 authorizing an agreement between British steelmaking undertakings for the establishment of a joint buying agency for ferrous scrap and other steelmaking materials [1],

Having regard to the application submitted on 24 December 1976 by Steelmaking Supplies Ltd, London,

Whereas :

1. By its Decision 74/77/ECSC of 22 January 1974, the Commission authorized an agreement between certain steelmaking undertakings in the private sector of the United Kingdom steel industry to establish a joint buying and consultative agency for ferrous scrap and other steelmaking materials. The agreement was authorized for an initial period of three years until 1 January 1977.

2. The agency in question was duly established under the name Steelmaking Supplies Ltd (SSL), in London. In a letter dated 24 December 1976, SSL requested, on behalf of the undertakings concerned, the Commission's authorization for the continuation of the agreement over a longer term.

3. The undertakings concerned are the following :

Edgar Allen Balfour Steels Ltd, Sheffield (formerly Balfour Darwins Ltd),

Brymbo Steel Works Ltd, Brymbo (subsidiary of GKN Ltd),

Dunford Hadfields Ltd, Sheffield (incorporating Brown Bayley Steels Ltd),

Duport Steels Ltd, Llanelli,

Firth Brown Ltd, Sheffield (formerly Thos Firth & John Brown Ltd),

GKN South Wales Ltd, Cardiff,

Lloyd Cooper Ltd, Dudley,

Manchester Steel Ltd, Manchester,

The Patent Shaft Steel Works Ltd, Wednesbury,

Round Oak Steel Works Ltd, Brierley Hill,

Sanderson Kayser Ltd, Sheffield,

Sheerness Steel Co. Ltd, Sheerness,

Spartan Redheugh Ltd, Birmingham (formerly Spartan Steel and Alloys Ltd),

Spear & Jackson Ltd, Sheffield,

Wolsingham Steel Co. Ltd, Wolsingham.

[1] OJ No L 52, 23. 2. 1974, p. 22.

4. The principal features of the agreement are :

(i) SSL may be employed by all or some of the parties to make joint purchases of scrap or other steelmaking materials as may be determined on their behalf by the management committee of SSL, when these purchases cannot be more satisfactorily achieved by the parties acting independently ;

(ii) to determine the need for the employment of SSL, the parties regularly exchange information through SSL on the prices paid for scrap or such other steelmaking materials as may be agreed by them from time to time ;

(iii) SSL may also be employed by the parties to further their studies of the direct reduction of iron ore for use as a steelmaking raw material and to make arrangements for the supply of such material ;

(iv) each party to the agreement has the power to appoint a representative to the management committee of SSL.

5. The agreement restricts normal competition within the common market in that the parties agree to allocate products and sources of supply through SSL and to exchange price information for this purpose. The agreement therefore falls within the prohibition in Article 65 (1).

6. The agreement is, however, strictly analogous in nature and effect to a joint buying agreement and can therefore be authorized if it continues to meet the conditions set out in Article 65 (2) (a), (b) and (c).

7. During the initial three-year period of the agreement it was used for the joint buying through SSL of ferro-alloys and other alloying materials which are essential for the production of certain steels. The materials so bought included ferro-silicon, ferro-manganese, silico-manganese and ferro-chrome with a total tonnage of about 40 000 tonnes per year valued at £ 13 million. The existence and employment of SSL for this purpose enabled the parties, whose buying power would otherwise have been fragmented, to obtain improved supply terms from the producers of these alloying materials, with an estimated saving of £ 250 000 per year. These savings could not have been achieved without the agreement. The parties envisage that the value of the alloying materials to be purchased jointly and the amount of savings will increase in the future — probably doubling in 1977.

8. The parties have not so far used SSL for the joint buying of ferrous scrap, because of the low demand for scrap which has prevailed during a large part of the initial three-year period due to the poor state of trade on the steel market. When the steel market recovers, however, and gives rise to a greater pressure of demand for scrap, the parties will wish to have the possibility of employing SSL to undertake joint purchases (including joint imports) of scrap on their behalf. This will help the parties to combat the dominant buying position of the British Steel Corporation (BSC) in the British scrap market.

9. The exchange of information on the prices of scrap and other materials is appropriate in so far as it enables the parties to ascertain whether joint buying would be advantageous.

10. With regard to the direct reduction of iron ore, SSL has already arranged some imports of directly reduced iron. The parties wish that SSL should continue as a possible vehicle for purchasing this material on their behalf in the future.

11. No new restrictions have been introduced into the agreement since it was originally authorized. In particular no restrictions have been introduced into any joint purchasing contract which would compel the parties to buy the materials in question only through SSL.

12. In the circumstances the agreement has already made a substantial improvement in the supply of material for the production of crude steel by the participating companies and these effects can be expected to continue. The agreement is no more restrictive than is necessary for its purpose, and it is essential for the required result — an improvement in supplies of steelmaking materials — taking into consideration the structure of the British market for steelmaking materials.

13. There were 13 parties to the agreement when it was authorized in January 1974. It is now proposed that there should be 15 parties to the agreement. One party has resigned from the agreement, two parties have merged and there are four new parties. Of the latter, one — Brymbo — has a steel works which was in the BSC, but is now in the private sector of the British steel industry, while the other three parties — GKN South Wales, Lloyd Cooper, and Manchester Steel have newly-constructed steel works.

14. In 1975 the parties produced 2·3 million tonnes of steel ingots. This represented 95 % of ingot production in the private sector of the UK steel industry but only 12 % of total ingot production in the UK as the British Steel Corporation produced 17·2 million tonnes of ingots in that year. Taking into account the expansion in production subsequently achieved and that planned for the next few years, it can be expected that the parties will continue to repre-

sent say 12 to 13 % of UK steel production up to and including the early 1980's. The original parties to the agreement represented about 10 % of UK steel production. The present parties will therefore represent a slightly larger share than the original parties of the UK demand for steelmaking materials. Nevertheless, their combined buying strength will remain much smaller than that of the BSC, which is the dominant buyer of steelmaking materials in the United Kingdom. In these circumstances the agreement will still not give the parties the power to determine the prices or to control or restrict the production or marketing of the materials in question within the common market or to shield them against effective competition from other undertakings in the common market.

15. This situation would continue to apply, at least during the next few years, even if all the private sector United Kingdom steel companies were to become parties to the agreement, having regard to the fact that the existing parties already represent about 95 % of UK private sector steel production.

16. In the circumstances the conditions set out in Article 65 (2) (a), (b) and (c) continue to be fulfilled and this situation would not be altered if additional companies in the private sector of the UK steel industry were admitted into membership. After a reasonable lapse of time, however, the Commission must be in a position to check the position in the light of the benefits achieved by the agreement and of structural and economic developments in the UK steel industry. Accordingly the Commission considers it necessary to limit the extension of its authorization of the agreement to the period ending on 30 June 1982.

17. Accordingly the agreement continues to meet the requirements for an authorization under Article 65 (2) of the Treaty and may be authorized,

HAS ADOPTED THIS DECISION :

Article 1

The duration of the validity of Decision 74/77/ECSC of 22 January 1974 authorizing an agreement between certain United Kingdom steelmaking undertakings for the joint buying of steelmaking materials, is hereby extended until 30 June 1982.

Article 2

The following undertakings may be parties to the agreement :

Edgar Allen Balfour Steels Ltd, Sheffield,
Brymbo Steel Works Ltd, Brymbo,
Dunford Hadfields Ltd, Sheffield,
Duport Steels Ltd, Llanelli,
Firth Brown Ltd, Sheffield,
GKN South Wales Ltd, Cardiff,
Lloyd Cooper Ltd, Dudley,
Manchester Steel Ltd, Manchester,
The Patent Shaft Steel Works Ltd, Wednesbury,
Round Oak Steel Works Ltd, Brierley Hill,
Sanderson Kayser Ltd, Sheffield,
Sheerness Steel Ltd, Sheerness,
Spartan Redheugh Ltd, Birmingham,
Spear & Jackson Ltd, Sheffield,
Wolsingham Steel Co. Ltd, Wolsingham,

and any other undertaking engaged in steel production in the United Kingdom, other than the British Steel Corporation. The admission of any such new parties to the agreement should be reported to the Commission immediately by Steelmaking Supplies Ltd.

Article 3

This Decision is effective as from 1 January 1977 and is addressed to Steelmaking Supplies Ltd, 5 Cromwell Road, London SW7.

Done at Brussels, 17 June 1977.

For the Commission

Raymond VOUEL

Member of the Commission