II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 2 April 1982

authorizing the concentration between the Usinor, Sacilor and Normandie steel undertakings

(Only the French text is authentic)

(82/317/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 Decision No 24-54 of the High Authority 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 draft amending Finance Bill for 1981 concerning Usinor and Sacilor, notified to the Commission by letter dated 9 October 1981,

Having regard to the application dated 17 December 1981 from Usinor, Sacilor and Société Métallurgique et Navale Dunkerque Normandie,

I

1. Union Sidérurgique du Nord et de l'Est de la France (Usinor), Paris, a limited liability company with a capital of FF 1 979 million, is an iron and steel-producing undertaking within the meaning of Article 80 of the Treaty;

2. Usinor itself or its holding companies exercise, alone or with others, control within the meaning of Decision No 24-54, over the following steel-producing undertakings:

[1] Official Journal of the ECSC, 11. 5. 1954, p. 345.

Undertaking	Activity	Capital (in FF 1 000)	Usinor shareholding (%)
Société Métallurgique de l'Escaut SA	Steelmaking	56 668	95·50
Société Métallurgique de Bréville SA	Re-rolled products	19 228	99·43
Aciéries et Laminoirs de Paris (ALPA) SA	Steelmaking	80 000	100
Aciérie Electrique d'Isbergues (groupement d'intérêt économique)	Steelmaking	100	63·09
Hauts fourneaux Réunis de Saulnes et Uckange SA	Pig iron	60 000	70·99
SA de Construction et de Galvanisation de Montataire	Galvanized products, slit coils, forming	55 454	99·77
Laminoirs de Strasbourg SA	Cold-rolled products, galvanized products, slit coils, forming	65 000	100
Cie Française des Aciers Spéciaux	Steelmaking	200 000	75
Société des Aciers Spéciaux de la Chiers	Steelmaking	64 540	100
Société Lorraine et Méridionale de Laminage Continu (Solmer) SA	Steelmaking	1 949 000	50

64·6 % of Usinor's shares are held by the holding company Société Financière Usinor-Châtillon. The latter company also holds 25 % of the shares of the tube producer Vallourec, giving it joint control of Vallourec with another undertaking. Vallourec is in a position to control, by itself or together with others, the steel-making undertakings Aciéries d'Anzin and Vincey-Bourget;

The firms controlled by Usinor and Vallourec therefore form, through Société Financière Usinor-Châtillon, a concentration within the meaning of Article 66 (1) and they constitute the Usinor group in the ECSC products sector;

3. Sacilor — Aciéries et Laminoirs de Lorraine, Hayange, a limited liability company with a capital of FF 936 million, is a steel-producing undertaking. Sacilor or its holding companies control, alone or with others, the following iron and steel-producing undertakings:

Undertaking	Activity	Capital (in FF 1 000)	Sacilor holding (%)
Société Lorraine de Laminage Continu (Sollac)	Steelmaking	1 215 000	89·4
Société Nouvelle des Aciéries de Pompey (SNAP)	Special steels	78 000	100
Société des Laminoirs de Villerupt (SLV)	Steelmaking	58 500	60
Ziegler SA	Re-rolled products Galvanized products	24 000	51·1
Trancel SA de Transformation Métallurgique de Saint-Marcel	Re-rolled products	10 000	100
Forges et Aciéries de Dilling	Steelmaking	371 212	33 + 25 (1)
Société Lorraine et Méridionale de Laminage Continu (Solmer) SA	Steelmaking	1 949 000	50

(1) Pending.

The above undertakings therefore constitute a concentration (the Sacilor group);

4. In late 1978, the French Government acquired majority holdings of 64·6 and 76·9 % respectively of the shares of Usinor and Sacilor as part of a rescue and restructuring programme in the steel industry. It assured the Commission that the holdings were of a temporary nature, contingent upon implementation of the restructuring plan, and that each undertaking would be able to run its affairs with complete independence from the Government and from the other undertaking. In view of these assurances, the Commission informed the French Government that it considered that the shareholdings acquired by the French Government did not constitute a concentration between Usinor and Sacilor within the meaning of Article 66 of the ECSC Treaty, but that this view would be taken only so long as the above circumstances obtained and in any event for no longer than required to complete the restructuring.

Under an amending Finance Bill for 1981, adopted by the French National Assembly on 18 November 1981, it is planned to convert Usinor's and Sacilor's debts to the Government into shares, which will bring the direct or indirect State shareholdings in Usinor and Sacilor to 92·6 and 86·7 % respectively and make those holdings permanent. In addition, a coordinating committee is to be set up with appropriate powers, still to be determined, to enable the public authorities to ensure the necessary coordination between the two companies' policies. It follows that the two conditions that were previously imposed, namely the temporary nature of the holdings and preservation of the two groups' independence, are no longer fulfilled and that Usinor and Sacilor must henceforth be regarded as forming a concentration within the meaning of Article 66 (1), as the Usinor/Sacilor group;

5. Société Métallurgique et Navale Dunkerque Normandie (SMNDN), Paris, a limited liability company with a capital of FF 198 million, is an undertaking whose activities include steel production. As part of the restructuring of the French steel industry, it is planned that SMNDN's steelmaking activities be taken over by a company registered under the name of Société Métallurgique de Normandie (Normandie), owned 50 % by Usinor and 50 % by Sacilor. The new company will thus be under the control of the Usinor/Sacilor group, so that the Usinor/Sacilor group and Normandie will form a concentration within the meaning of Article 66 (1), as the USN group;

II

6. In order to assess the effect of the proposed concentration on the steel market, it is necessary to look at the nature and volume of the products manufactured by the undertakings concerned and the effect on the structure of each product market. It is also necessary to consider the current and forecast production capacity of the USN group to obtain an idea of its future development;

7. The firms in question account for around 89 % of French production of finished rolled products. Their output is sold chiefly on the French market, where they face effective competition from steel producers from other Member States and third countries; in 1980, some 36 % of the steel products sold on the French market were imported, 31 % coming from other Community countries. The firms in question also sell a significant proportion of their output outside their principal market area, in other Member States and in third countries; in 1980, 40 % of French steel output was exported, half to other Community countries. The degree of inter-penetration between the national markets in the Community is very high in the steel sector. It is therefore reasonable to take the Community steel market as a single market for the purposes of assessing the effect of the concentration on competition;

8. The table below shows the output of steel products by the Usinor and Sacilor groups and Normandie in 1979 (1):

1979 Production

Product	Usinor	Sacilor	Normandie	Total USN	
	(in 1 000 tonnes)			(in 1 000 tonnes)	Community percentage
Pig iron	10 967	8 557	746	20 270	20·6
Crude steel	11 926	9 781	827	22 534	16·1
Coils (total production)	5 748	4 205	—	9 953	20·3
Finished rolled products	9 150	7 404	647	17 201	16·5
Permanent way material	—	312	—	312	21·1
Sheet-piling	—	146	—	146	17·3
Broad flanged beams	101	172	—	273	11·1
Other heavy sections	358	222	14	594	14·7
Wire rod	941	1 028	454	2 423	20·6
Reinforcing bars	281	236	99	616	6·7
Merchant bars	704	638	80	1 422	11·6
Wide flats	—	30	—	30	5·1
Hot-rolled strip and tube strip	1 148	134	—	1 282	18·1
Plates	1 175	975	—	2 150	17·3
Sheets	2 844	2 482	—	5 326	18·2
Coils (finished products)	1 598	1 029	—	2 627	20·9
End products					
Chromium-coated or chromated sheets	—	100	—	100	41·3
Tinplate and other tinned sheets	145	418	—	563	14·1
Black plate	—	—	—	—	—
Coated sheets	582	237	—	819	13·6
Electrical sheets	102	—	—	102	10·0

9. In terms of *crude steel* production (all qualities), the concentration measures will make USN the leading Community producer with 16·1 % of its total output, followed by nine other groups or companies producing 12·8, 9·8, 9·4, 8·3, 8·2, 5·8, 3·9, 3·4 and 3·1 %. The 10 leading groups will account for 81 % of Community production, with about 200 other producers sharing the remaining 19 %.

(1) The 1980 figures are not used because the picture they give of the respective positions of the main groups was distorted by the long strike at BSC.

10. In *finished rolled products* except for permanent way material and sheet piling, the activities of the Usinor and the Sacilor groups largely overlap. The concentration will therefore strengthen the position of the new group for many types of products. Normandie's activity is confined to long products, which will only marginally strengthen the position of the USN group except of wire rod.

11. For *coils*, USN will be the leading Community producer with 20·3 %, followed by nine makers, accounting for 13·7, 13, 12·9, 11·7, 8·3, 5·3, 4·5, 4·3 and 3·6 % and these will produce 97 % of Community output.

12. In *permanent way material*, with neither Usinor nor Normandie making this category of products, the new USN group will retain Sacilor's previous position as the leading Community producer with 21·1 %, ahead of nine other producers with shares of 16·1, 14, 13·8, 11·8, 11·2, 9·5, 1·2, 0·7 and 0·5 %. In this case these 10 producers account for 100 % of Community output.

13. Sacilor is the only producer of *sheet-piling* in the USN group. USN will rank third in the Community with 17·3 % after two other producers holding 31·6 and 21·2 % and ahead of three further firms with shares of 16·8, 7·4 and 2·1 %, with a number of smaller firms sharing the remaining 3·6 %.

14. As a producer of *broad flanged beams*, USN will rank fourth in the Community with a share of 11·1 %. The top three producers in this sector hold 30·2, 23·2 and 11·7 % and four others 9·3, 7·7, 4·4 and 2·4 %. These eight produce all the Community's output.

15. For *other heavy sections*, USN will rank third with 14·7 % of Community output behind two firms holding 20·9 and 15·1 % and ahead of seven others with 13·8, 6·1, 5·9, 4·6, 4·1, 4 and 2·4 %; the combined output of these 10 accounts for 91 % of Community production.

16. With 20·6 %, USN will be the leading Community producer of wire rod, followed by nine others producing 12·6, 12·3, 10·4, 5·6, 5·1, 3·5, 3, 2·1 and 1·8 %. The 10 leading producers account for some 77 % of Community production, the remaining 23 % being shared between a very large number of other firms, including many mini-mills;

17. For *reinforcing bars*, USN, with 6·7 %, will rank second after one producer with 10·1 % and ahead of eight others with shares of 4·7, 4·6, 4, 3·8, 3·3, 3, 2·5 and 2·5 %. These 10 account for 45 % of total Community output, the remaining 55 % being shared between a very large number of firms, including many mini-mills;

18. For *merchant bars*, USN will be the leading producer in the Community with 11·6 %, the following nine producing 10·1, 10·1, 8·6, 5·9, 5·4, 5·1, 4·6, 4·3 and 4·1 %. The top 10 producers account for some 70 % of Community production of this category of products, the other 30 % being shared between a large number of firms, which include many mini-mills;

19. The only producer of *wide flats* in the USN group is Sacilor, with 5·1 % of Community output. USN ranks sixth in the Community behind five firms holding 24, 23·5, 14·9, 7·6 and 6·8 % and ahead of four others with shares of 3·2, 2·9, 2 and 1·9 %. The 10 leading firms account for 92 % of Community production;

20. USN will retain Usinor's previous position as the leading Community producer of *hot-rolled strip* with 18·1 %, followed by nine producers holding shares of 14·1, 14, 11·7, 8·2, 6·8, 5·3, 4·4, 4·1 and 3·4 %; the 10 leading firms account for 90 % of Community production;

21. With 17·3 % of Community output, USN will be the leading producer of *plates*, followed by nine firms producing 14·4, 12·7, 12·1, 7·1, 6·7, 6, 3·7, 3·5 and 2·6 %; the 10 account for 86 %;

22. With 18·2 %, USN will also be the leading producer of *sheets*, followed by nine firms producing 14, 12·5, 10·8, 8·5, 8·2, 6·2, 3·6, 3·2 and 2·8 %; the output of these 10 totals 88 % of Community production;

23. USN's share of Community production of *end products* will increase, especially for tinplate and coated sheet; chromium-coated and electrical sheet are produced by only one firm in the group;

24. For *chromium-coated or chromated sheets*, USN will retain Sacilor's position as the leading producer with 41·3 % of the total Community production of 242 000 tonnes per year, ahead of the only other two

producers with 30·6 and 28·1 %. This is thus a product that is manufactured by only three producers and is relatively unimportant in quantitative terms;

25. For *coated sheets,* USN, with 13·6 %, will rank fourth after three firms producing 16·7, 16·7 and 16·6 % and ahead of six others producing 8·7, 4·6, 4·2, 3·9, 2·7 and 1·9 %. The top 10 producers account for 90 % of Community output;

26. With 14·1 % of Community production, USN will be the third biggest producer of *tinplate* and other tinned sheets, the two biggest producers having shares of 26 and 19·9 % and seven others with 8·3, 7·3, 6·8, 6·8, 5, 3 and 2·5 %. The top 10 producers account for 99·7 % of Community production;

27. USN, like Usinor before it, will rank fifth for *electrical sheets,* with 10 % of production. The four leading producers hold shares of 18·6, 16·6, 16 and 10·6 % and five others 9·1, 8·7, 6·6, 2 and 1·8 %. These 10 account for the whole of the Community's output of this product;

28. To form a picture of the relative competitive strength of the main Community steel groups, it is necessary to look at the production capacity of their plant as well as at actual production. In this way, chance fluctuations in output can be eliminated and, using the Commission's annual surveys of investment, forecasts of the group's likely development in the coming years can be made. The production capacity of the USN group in 1980 and the estimated capacity for 1984 are shown in the following table:

Relative position of the Usinor/Sacilor/Normandie group based on its maximum possible production (MPP) for 1980 and 1984 (1)

Product	1980			1984		
	MPP		Community position	MPP		Community position
	Million tonnes	Community percentage		Million tonnes	Community percentage	
Pig iron	27·3	19·7	1	24·3	17·9	1
Crude steel	32·3	15·9	1	27·8	14·1	1
Coils (total production)	14·1	19·3	1	14·4	18·8	1
Heavy sections	2·7	14·5	1	2·3	13·5	2
Light sections	2·6	8·6	2	2·5	7·8	2
Wire rod	3·2	16·9	1	3·2	16·2	1
Hot-rolled strip (rolled on specialized mills)	1·2	14·8	2	1·2	18·0	1
Plates and sheets (rolled on specialized mills)	3·4	18·0	1	3·4	18·1	1
Cold-rolled sheets	7·2	16·3	1	7·0	15·5	1

(1) Maximum possible production (MPP) equals the maximum output capable of being achieved from plant taking into account any bottlenecks.

29. Comparison of the USN group's MPP for 1980 and 1984 shows that its overall position in relation to total Community MPP will not be strengthened but for almost all categories of products will decline.

An idea of the relative positions of the major Community steel producers can be gained from the following table showing MPP of the 10 leading producers of crude steel:

Shares of the 10 leading steel-producing groups in total Community MPP of crude steel

Undertaking	MPP as a percentage of Community MPP		
	1979	1980	1984
1 (USN)	17·7	15·9	14·1
2	11·9	11·2	11·0
3	11·8	10·7	10·6
4	11·5	10·6	10·4
5	9·2	8·1	8·1
6	8·5	7·8	6·4
7	6·0	5·5	4·3
8	4·2	3·9	4·0
9	3·9	3·7	3·8
10	3·7	3·5	3·6
Total (1 to 10)	81·4	80·9	76·3
Community total (million tonnes)	203·5	202·5	196·3

30. In spite of the substantial concentration that has taken place in recent years, the shares of the 10 leading Community groups, including that of USN, in the Community's total production capacity for crude steel show a clear downward trend. This trend may be attributed to the considerable growth of mini-mills and to the fact that rationalization and cuts in capacity are easier to carry out in large groups than in the small steel firms which often specialize in a particular product;

31. An analysis of the actual production and MPP of the 10 leading steel producers shows that the USN group, with almost 16 % of Community MPP crude steel in 1980 and in first place for most individual categories of products, will be the leading Community producer, a considerable way ahead of BSC, IRI and Thyssen, each of which has about 11 %. USN's share of the Community's MPP for crude steel will gradually fall to 14 % by 1984, whilst the other groups will retain their respective shares. The aggregate share of the 10 leading Community groups in MPP will remain around the same level: from 76 % in 1980 it will rise to 81 % after the USN concentration but will fall again to 76 % by 1984;

Looking at individual categories of products, USN will occupy a strong relative position for coils and derived products (plates and sheets) and wire rod. These sectors are among those with the most serious overcapacity and thus subject to fierce competition in the Community;

The Community's integrated steel industry will therefore continue to possess an oligopolistic structure, in which a number of firms of roughly equal strength engage in effective competition with one another, and strong pressure from imports will continue;

In these circumstances, having regard to the structure of the market and the position of the undertakings in question on that market, the undertakings concerned will not be in a position to determine prices, control or restrict production or distribution or to hinder effective competition in a substantial part of the market for iron and steel products;

32. Usinor does not have extensive vertical links with firms in the first-stage steel-processing sector. Its subsidiaries in the wire-drawing, cable manufacturing, cold-rolled strip and mechanical engineering sectors can provide it with guaranteed sales of the order of 700 000 tonnes of crude steel equivalent per year. The steel requirements of Vallourec and its subsidiaries, mainly for the production of tubes and drawn sheet products, are approximately 2 million tonnes per year. The Usinor group's own consumption of crude steel is about 15 % of its total MPP;

The degree of vertical integration with first-stage steel processing firms is also low in Sacilor's case. Own consumption of its subsidiaries in the wire-drawing, structural and mechanical engineering and tube sectors is estimated at 800 000 tonnes per year, which represents 6 % of the group's MPP of crude steel;

The proposed measures are therefore unlikely to increase significantly the USN group's level of consumption of its own steel and in any case will certainly not enable its member undertakings to evade the rules of competition laid down by the Treaty by establishing an artificially privileged position involving a substantial advantage in access to supplies or markets;

III

33. To preserve effective competition in a market in which the number of producers is constantly decreasing, the Commission must take care that

those remaining on the market do not establish links with other producers which are liable to prejudice their independence and to restrict the competition between them;

34. The existence of personal links between the management of the undertakings belonging to the new USN group and that of other steel undertakings could be prejudicial to competition in the steel market. The Commission's authorization must therefore be made subject to the condition that USN does not allow personal links to persist or be newly formed between production and distribution undertakings belonging to the USN group and to competing undertakings. However, the Commission should be able to allow exceptions from this ban where special circumstances are adduced warranting such an exception;

35. In view of its size, position on the steel market and diversified product range, new shareholdings (even non-controlling ones), by the USN group in steel-producing or trading firms or in steel-processing firms consuming large quantities of steel could create new restrictions on competition by giving USN an artificially-privileged position involving a substantial advantage in access to supplies or markets. Acquisitions of 10 % or more of the shares of such undertakings or undertakings not falling within Article 80 of the Treaty with steel consumption exceeding 50 000 tonnes a year should therefore be subject to prior authorization so that the Commission can assess their effect on competition;

36. Having regard to the conditions imposed, the Commission finds that the proposed transaction satisfies the tests of Article 66 (2) and may accordingly be authorized,

HAS ADOPTED THIS DECISION:

Article 1

The concentration between the undertakings Usinor SA, Sacilor SA and Société Métallurgique de Normandie is hereby authorized.

Article 2

This authorization is subject to the following conditions:

1. Members of the supervisory and management boards and senior executives of the iron and steel production and distribution undertakings belonging to the Usinor/Sacilor/Normandie group shall not perform similar functions in outsider undertakings of the same type. If special circumstances so justify, the Commission may, in response to a reasoned request, authorize exemptions from this condition.

2. Any future acquisition by the Usinor/Sacilor/Normandie group of 10 % or more of the shares of steel-producing or distributing undertakings, or of steel-processing undertakings with an annual consumption exceeding 50 000 tonnes, shall be subject to prior authorization by the Commission.

Article 3

This Decision is addressed to the French Republic, SA Usinor, Paris, SA Sacilor, Hayange, and Société Métallurgique et Navale de Dunkerque Normandie, Paris.

Done at Brussels, 2 April 1982.

For the Commission
Frans ANDRIESSEN
Member of the Commission