FINES (STEEL): THE BRITISH STEEL CASE

Subject: Fines

Industry: Steel
(Some implications for other industries)

Parties: (See Table)

Source: Statement by the Court, 14/99, dated 11 March 1999

(Note. In the May 1999 issue, we carried a report on the British Steel case, in which the "Steel Beam Cartel" was involved. Since then we have received the Court statement about the fines imposed on each of the parties to the joined cases; and it is interesting to note the amounts and percentages of the reductions in fines - and to compare them with the reductions in the PVC cases. The text of the Court statement, which is headed "Fines Upheld" - though some of them were reduced by nearly one-third, - follows.)

The Court of First Instance has in the main upheld the Commission decision imposing fines for price-fixing, market-sharing and exchanges of confidential information by steel undertakings, contrary to the ECSC Treaty.

In a decision dated 16 February 1994 the Commission found that seventeen European steel undertakings and their trade association Eurofer had participated in a series of agreements, decisions and concerted practices designed to fix prices, share markets and exchange confidential information on the Community market for steel beams, which are essential components in steel structures. Under that decision the Commission imposed fines on fourteen of those undertakings, the total amount of the fines exceeding 104,000,000 ECUs.

Ten of those undertakings and Eurofer applied to the Court of First Instance for annulment of that decision or, alternatively, for a reduction in the amount of the fines imposed on them. In particular, the applicants submitted that their procedural rights had been infringed and that the Commission had misinterpreted the competition rules under the ECSC Treaty. They also claimed that the Commission had been implicated in the practices in question and that the fines were disproportionate. In the course of the Court's examination of the cases, the Commission lodged a total of some 11,000 documents relating to its decision. This volume of documentation and the complexity of the cases necessitated meticulous examination and made it necessary to adopt special measures of procedural organisation. In particular, the Court ordered the production of certain documents relating to the contacts established between the Commission and the steel industry during the period in question as well as summoning a number of witnesses to appear before it.

In its eleven judgments, the Court of First Instance upheld most of the Commission's findings of fact and their characterisation as infringements of Article 65 of the ECSC Treaty, while annulling a number of minor points in the decision because of insufficient evidence. The Court also rejected as unfounded the accusations that the Commission had been involved in the infringements.

While it took the view that the general level of the fines imposed was justified by reason of the serious nature of the infringements, the Court none the less considered that the Commission had to some extent exaggerated their anti-competitive effect and reduced the fines accordingly. The Court also concluded in three cases that the Commission had misapplied the concept of recidivist conduct, on the ground that the undertakings in question had never been penalised for similar infringements before the events at issue in the present cases.

The amounts of the fines imposed by the Commission and those set by the Court are indicated on the table attached. The Court ordered the applicants to pay their own costs and part of the costs incurred by the Commission.

Applicant	**Original fine (ECU)**	**Revised fine (€)**	**%age change**
NMH Stahlwerke GmbH	150,000	110,000	26.66
ARBED SA	11,200,000	10,000,000	10.71
Cockerill Sambre SA	4,000,000	3,580,000	10.50
Thyssen Stahl AG	6,500,000	4,400,000	32.31
Unimetal SA	12,300,000	8,300,000	32.52
Krupp Hoesch Stahl AG	13,000	9,000	30.77
Preussag-Stahl AG	9,500,000	8,600,000	9.47
Siderurgica Aristrain Madrid SL	10,600,000	7,100,000	33.02
Empresa Nacional Siderurgica SA	4,000,000	3,350,000	16.25
Eurofer ASBL	-	-	-