

COMMISSION DECISION

of 5 March 1975

authorizing the concentration between **Compagnie Lorraine Industrielle et Financière**
and **Marine-Firminy**

(Only the French text is authentic)

(75/448/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 ⁽¹⁾ 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 application made on
6 December 1974 by Compagnie Lorraine Industrielle
et Financière, confirmed in agreement with Marine-
Firminy and Schneider SA by letter dated 14
January 1975, for authorization to take control of
Marine-Firminy by means of a transfer of the assets
of Compagnie Lorraine Industrielle et Financière to
Marine-Firminy;

Having obtained the views of the Government of
the French Republic;

Whereas:

I

1. Compagnie Lorraine Industrielle et Financière (CLIF), Paris, is a holding company with a share capital of FF 355 950 000;
2. Marine-Firminy SA (Marine), Paris, is a holding company with a share capital of FF 273 959 000;
3. CLIF and Marine have shareholdings of 26.9 and 12% respectively in Sacilor SA, a steel undertaking with a share capital of FF 432 361 000 falling within Article 80. Sacilor has direct and indirect shareholdings in the following undertakings:

Undertaking	Main activity	Share capital (million FF)	Shareholding (%)
Sollac SA	Steel	927.0	65.2
SOLMER SA	Steel	1.200.0	47.5
Société des Laminoirs de Villerupt	Steel	50.0	60.0
Daval SA	Steel stockholder	54.1	73.2
Valor SA	Steel stockholder	13.6	99.9
Le Fer Blanc SA	Steel stockholder	6.0	90.4
Le Matériel de Voie	Steel stockholder	2.0	75.0

4. Either alone or together with other parties, CLIF and Marine are in a position to exercise control within the meaning of Decision No 24/54 over the undertakings listed above. There is therefore a concentration within the meaning of Article 66 (1) between CLIF and these undertakings and between Marine and these undertakings, all the undertakings together forming a group (Sacilor group);

⁽¹⁾ OJ of the ECSC No 9, 11. 5. 1954, p. 345/54.

5. Schneider SA, Paris, is a holding company with a share capital of FF 275 384 900; Schneider and Marine share control on a fifty-fifty basis in the Marine-Schneider holding company, which has a share capital of FF 89 277 600 and has direct and indirect shareholdings in the following undertakings, many of which fall within Article 80:

Undertaking	Main activity	Share capital (million FF)	Shareholding (%)
Creusot-Loire (Marine-Schneider subsidiary)	Steel	294.7	51.5
Marrel Frères SA (Creusot-Loire subsidiary)	Steel	29.4	67.5
Decazeville (Creusot-Loire subsidiary)	Steel	9.0	49.9
Forges et Ateliers de Combeplaine (Creusot-Loire subsidiary)	Steel	4.0	95.0
Framatome (Creusot-Loire subsidiary)	Nuclear construction	12.0	51.0

6. Either alone or together with other parties, Schneider and Marine are in a position to exercise control over the undertakings listed above. There is therefore a concentration between Schneider and these undertakings and between Marine and these undertakings, all of which together form the Creusot-Loire group;

7. CLIF alone controls the following undertakings among others:

Undertaking	Main activity	Share capital (million FF)	Direct or indirect shareholding by CLIF (%)
Forges de Gueugnon SA	Steel	103.1	41.29
Ets JJ Carnaud et Forges de Basse-Indre SA	Steel	103.5	32.33
Ets Ziegler SA	Steel	24.0	51.0
Profilés et Tubes de l'Est SA	Steel processing	22.8	54.0
Constructions Métalliques FILLOD	Steel processing	7.5	70.7
Ets Nozal	Steel stockholder	28.8	62.0
Gros et Cie	Steel stockholder	10.0	68.6
Roland-Prosilor SA	Steel stockholder	10.0	96.7
Ugine-Gueugnon	Steel stockholder	20.0	50.0

8. There is therefore a concentration between CLIF and the undertakings listed above, while the control exercised by CLIF over these undertakings and, jointly with Marine, over the undertakings forming the Sacilor group means that all these undertakings together form a group under the influence of CLIF;

9. Either alone, or together with third parties, other than CLIF or Schneider, Marine controls the following undertakings among others:

Undertaking	Main activity	Share capital (million FF)	Direct or indirect shareholding (%)
AG der Dillinger Hüttenwerke	Steel	DM 157.5	25.3
Aciérie de Champagnole	Steel	10.5	64.43
SA des Aciéries et Forges de St-François	Steel	2.0	82.97
Société des Hauts Fourneaux d'Alleward SA	Steel	21.5	86.31
Ferembal	Steel processing	47.6	75.1
Tréfilunion	Steel processing	33.4	21.8
Aciéries de Micheville	Steel stockholder	9.1	14.62
Davum France	Steel stockholder	41.0	33.34

10. There is therefore a concentration between Marine and the undertakings listed above, and the control exercised by Marine over these undertakings, jointly with CLIF over the Sacilor undertakings and jointly with Schneider over the Creusot-Loire undertakings, means that all these undertakings together form a group under the influence of Marine;

11. Either alone or together with other parties, Schneider controls the following steel undertakings among others:

Undertaking	Main activity	Share capital (million FF)	Direct or indirect shareholding (%)
Arbed SA	Steel	Lfrs 6 500.0	13.8
Société Mét. de Normandie	Steel	90.0	38.54
Sté des Aciéries de Montereau SA	Steel	29.3	50.0

12. There is therefore a concentration between Schneider and the undertakings listed above, all the undertakings together forming the Schneider group;

II

13. Early in November 1973 Schneider acquired a 32% shareholding in Marine. Since Marine's shares were dispersed among a large number of small shareholders and in view of the low level of attendance at its general meetings, the acquisition of a 32% holding would have enabled Schneider to control Marine, and an application for authorization was made by Schneider on 16 November 1973;

14. On 26 March 1974, in order to protect itself from control exercisable by Schneider, Marine

requested the Commission to take interim measures of protection under Article 66 (5). By its decision of 5 April 1974, the Commission adopted interim measures to safeguard the interests and independence of the relevant undertakings until such time as it had taken a decision under Article 66 (2) on the concentration between Schneider and Marine. Since then Schneider has thereby been prevented from exercising control over Marine;

15. On 5 December 1974, Denain Nord-Est Longwy (DNEL) launched a public share-exchange takeover bid (hereinafter referred to as the 'bid') for Marine, offering one USINOR share plus FF 45 for each Marine share. Before launching its bid, DNEL applied to the Commission for authorization under Article 66;

16. On 6 December 1974 CLIF made an application for authorization to acquire shares in Marine on the stock exchange; CLIF has succeeded in acquiring a 19.4% shareholding in Marine;

17. On 10 December 1974 Schneider made an application, in the light of the new circumstances, for immediate revocation of the interim measures taken by the Commission on 5 April 1974, whereby it was prohibited from acquiring or disposing of shares in Marine. The reason given for the application was that Schneider feared that another group might acquire an important shareholding in Marine without Schneider being able to react to this situation because of the interim measures which, in the changed circumstances, Schneider considered to be unfair;

18. Having considered these various applications and the developments in the situation, with a view to excluding any sudden change in the power relationships between the various undertakings interested in controlling Marine before decisions were taken on the applications for authorization from the three undertakings, the Commission adopted two interim decisions, concerning DNEL and CLIF, on 21 December 1974. The main points of these decisions were that DNEL was required to suspend its bid and CLIF was required to refrain from any subsequent acquisition on the stock exchange before the Commission had taken a decision on the applications for authorization;

19. On 13 January 1975 Schneider and CLIF, which hold 32 and 19.4% respectively of the shares in Marine, i.e. 51.4% together, signed an agreement whereby CLIF was to transfer to Marine its shareholdings in the undertakings listed in paragraph 7 above. Provisional estimates suggested that the value of the shareholdings involved was broadly equal to Marine's present assets, which would thus be approximately doubled;

20. Following this transaction, CLIF's shareholding in Marine (hereinafter referred to as 'CLIF/Marine') is estimated by those concerned at about 60% while Schneider's holding would be reduced proportionately to about 15%. For a transitional period, until the transaction concerned had been completed, CLIF and Schneider would jointly control Marine;

21. By letter dated 14 January 1975 Schneider stated that it was willing to withdraw its application for authorization to acquire control of Marine provided that the CLIF transaction was approved by the Commission;

22. That transaction would give CLIF, with a 60% shareholding, the power to control the new CLIF/Marine holding company thus entailing a concentration between CLIF, Marine and the undertakings controlled by these two groups separately as listed in paragraphs 5, 7 and 9 above;

III

23. In order to assess the effects of the transaction on the steel market, the nature and volume of production by the relevant undertakings and their share in steel production and the steel products market must be considered;

24. In 1973 the undertakings in the Marine and CLIF groups produced the quantities of steel shown in the tables which follow. The Marine and CLIF columns show production by undertakings controlled separately by each of them. Production by undertakings already under joint control by Marine and CLIF (Sacilor group) are given in the 'Joint undertakings' column:

Total production of ordinary and special steels in 1973

(in 1 000 metric tons)

Product	Production 1973				
	Marine	CLIF	Sub-total	Joint under-takings	Grand total
Crude steel	2 914	42	2 956	8 889	11 845
Wide hot-rolled strip — total	—	—	—	135	3 135
Finished rolled products:					
— permanent way material	—	—	—	299	299
— broad-flanged beams	—	—	—	324	324
— other sections	—	—	—	560	560
— tube rounds	191	—	191	158	349
— wire rod	39	—	39	1 182	1 221
— merchant bars	448	—	448	1 298	1 746
— wide flats	—	—	—	114	114
— hoop and strip	22	—	22	65	87
— heavy and medium plate	1 015	7	1 022	265	1 287
— sheets	41	547	588	2 603	3 191
— coils (finished products)	—	—	—	63	63
End rolled products:					
— tinplate and other tinned sheets	—	270	270	585	855
— black plate	—	2	2	12	14
— coated sheets	—	259	259	65	324
— electrical sheets	41	79	120	—	120

Production of ordinary and special steels in 1973

Product	% of total production in France					% of total production in the Community (Nine)				
	Marine	CLIF	Sub-total	Joint under-takings	Grand total	Marine	CLIF	Sub-total	Joint under-takings	Grand total
Crude steel	11.5	0.2	11.7	35.2	46.9	1.9	0.0	1.9	5.9	7.8
Wide hot-rolled strip — total	—	—	—	41.9	41.9	—	—	—	7.0	7.0
Finished rolled products:										
— permanent way material	—	—	—	99.0	99.0	—	—	—	21.5	21.5
— broad-flanged beams	—	—	—	73.3	73.3	—	—	—	11.6	11.6
— other sections	—	—	—	52.4	52.4	—	—	—	8.9	8.9
— tube rounds	35.6	—	35.6	29.5	65.1	6.7	—	6.7	5.5	12.2
— wire rod	1.4	—	1.4	43.3	44.7	0.3	—	0.3	9.8	10.1
— merchant bars	11.6	—	11.6	33.7	45.3	1.9	—	1.9	5.4	7.3
— wide flats	—	—	—	84.4	84.4	—	—	—	14.0	14.0
— hoop and strip	1.4	—	1.4	4.2	5.6	0.3	—	0.3	0.7	1.0
— heavy and medium plate	55.0	0.4	55.4	14.4	69.8	6.9	0.1	7.0	1.8	8.8
— sheets	0.7	8.7	9.4	41.4	50.8	0.1	1.8	1.9	8.8	10.7
— coils (finished products)	—	—	—	14.6	14.6	—	—	—	0.8	0.8
End rolled products:										
— tinplate and other tinned sheets	—	30.8	30.8	66.7	97.5	—	6.6	6.6	14.3	20.9
— black plate	—	14.3	14.3	85.7	100.0	—	1.9	1.9	11.7	13.6
— coated sheets	—	26.6	26.6	6.7	33.3	—	5.2	5.2	1.3	6.5
— electrical sheets	18.0	34.6	52.6	—	52.6	3.5	6.7	10.2	—	10.2

25. Consideration of these tables shows that the bulk of production is carried out by the joint undertakings, while the rest of the production which is not under joint control consists largely of complementary lines;

26. As regards ordinary steels, the groups compete with each other only in sheets and electrical sheets. The CLIF group's production of *heavy and medium plates* is negligible (7 000 metric tons), accounting for only 0.1% of total Community production. With a grand total of 8.8%, the new CLIF-Marine group will be the fifth-largest Community producer of heavy and medium plate, coming behind four undertakings accounting for 16.8, 13.9, 12.2 and 9% respectively. The 10 largest producers together account for some 90 % of Community production, while the remaining 10 % is shared among 26 other producers;

27. As regards *crude steel* of all qualities, the new group, with 7.8% of Community production (1.9% for Marine, 0.8% for CLIF and 5.9% for the Sacilor group) will be the fifth-largest producer, coming behind four undertakings accounting for 15.9, 11, 8.4 and 8.3% respectively. The 10 largest Community

producers of crude steel account for some 77% of total production, the remaining 23% being shared among 113 other producers;

28. As regards *sheets*, the new group, with 10.7% of the market (0.1% for Marine, 1.8% for CLIF, 8.8% for the Sacilor group) will be the fourth-largest Community producer, coming behind three undertakings accounting for 17.4, 13.5 and 12.4% respectively. The 10 largest Community producers account for 88% of total production, the remaining 12% being shared among 24 other producers;

29. As regards *electrical sheets*, the new group, with 10.2% (3.5% for Marine, 6.7% for CLIF) will be the fourth-largest Community producer, coming behind three undertakings accounting for 27.5, 24 and 14.1% respectively, while the five others produce 9.2, 7.9, 3.3, 2.5 and 1.4% respectively. These nine producers account for the entire production of the Community;

30. *Special steels* production by the Marine and CLIF groups in 1973 is set out in the following tables:

(in 1 000 metric tons)

Product	Production in 1973				
	Marine	CLIF	Sub-total	Joint undertakings	Grand total
Special steels — total	1 089	3	1 092	109	1 201
Of which:					
— fine carbon steels	365	2	367	51	418
— alloy steels	724	1	725	58	783
Finished rolled special steel products	605	204	809	73	882
Of which:					
— tube rounds	57	—	57	31	88
— merchant bars	378	—	378	10	388
— wire rod	39	—	39	10	49
— hoop and strip	3	21	24	0	24
— heavy and medium plates	124	27	151	18	169
— sheets	1	156	157	4	161
— other	3	0	3	0	3

Special steels production in 1973

Product	% of production in France					% of production in the Community (Nine) (a)				
	Marine	CLIF	Sub-total	Joint under-takings	Grand total	Marine	CLIF	Sub-total	Joint under-takings	Grand total
Special steels — total	33.2	0.1	33.3	3.3	36.6	6.4	0.0	6.4	0.6	7.0
Of which:										
— fine carbon steels	35.1	0.2	35.3	4.9	40.2	7.1	0.0	7.1	1.0	8.1
— alloy steels	32.3	0.0	32.3	2.6	34.9	6.1	0.0	6.1	0.5	6.6
Finished rolled special steel products	29.8	10.1	39.9	3.6	43.5	8.2	2.7	10.9	1.0	11.9
Of which:										
— tube rounds	45.6	—	45.6	24.8	70.4	7.2	—	7.2	3.9	11.1
— merchant bars	41.3	—	41.3	1.1	42.4	12.7	—	12.7	0.3	13.0
— wire rod	19.9	—	19.9	5.1	25.0	2.3	—	2.3	0.6	2.9
— hoop and strip	2.7	18.6	21.3	0	21.3	0.7	5.0	5.7	0	5.7
— heavy and medium plates	28.5	6.2	34.7	4.1	38.8	15.7	3.4	19.1	2.3	21.4
— sheets	0.5	79.2	79.7	2.0	81.7	0.2	25.2	25.4	0.6	26.0
— other	6.6	0	6.6	0	6.6	2.5	0	2.5	0	2.5

(a) Estimates.

31. It is in respect of *special steels* that the complementary nature of the production of Marine and CLIF is most evident. CLIF's production here amounts to little more than 3 000 metric tons as against Marine's 1 089 000 metric tons. With 7% of the market (6.4% for Marine, 0.6% for the Sacilor group the new group will still be the fifth-largest Community producer, coming behind four undertakings accounting for 13.7, 12.3, 9 and 8.3% respectively. The 10 largest producers in the Community together account for 70% of production, the remaining 30% being shared among 60 other producers;

32. However, CLIF is in business as a reroller of special steel. It produces considerable quantities of sheets, heavy and medium plates and hoop and strip. Here too its production is complementary to that of Marine, except as regards *heavy and medium plates*. In this area the new group, with 21.4% (15.7% for Marine, 3.4% for CLIF, 2.3% for the Sacilor group), will be the second-largest Community producer, coming behind an undertaking accounting for 29%. The 10 largest producers in the Community together account for nearly 95% of production, the remaining 5% being shared among 21 other producers;

33. Examination of the above tables shows clearly the extent to which Marine and CLIF are complementary in their production. The undertakings in the CLIF group are hardly steelmakers but rather are rerollers, in particular of sheets, tinsplate, coated sheets and electrical sheets, whereas the Marine group produces special steels in its Creusot-Loire works and heavy and medium plate in its Dillingen works. By pooling production in the various fields, the undertakings concerned propose to improve the balance of the Lorraine steel industry;

34. The transaction will involve no major changes as regards production of other steel products;

IV

35. In 1973 the Marine group's consumption of steel for conversion into non-EXCS products was 1 470 000 metric tons, of which 900 000 metric tons were special steels; and 112 000 metric tons were tinsplate;

36. In the same year the CLIF group's similar consumption was 1 125 000 metric tons of steel, of which some 200 000 metric tons were special steels and 250 000 metric tons were tinsplate;

37. The total steel internal consumption of the combined Marine and CLIF group will be approximately 2 600 000 metric tons, representing some 22%

of their combined production of 11 845 000 metric tons. Their combined consumption of special steels will be 1 100 000 metric tons, or 91% of their combined production of 1 200 000 metric tons. Their combined consumption of tinsplate will be 362 000 metric tons or 42% of their combined production of 855 000 metric tons;

38. In the Community steel industry the proportion of production for internal consumption is often very high. As compared with other Community groups, the CLIF/Marine group will not have a particularly high degree of vertical integration;

39. The internal consumption rate of 91.5% of special steels is justified by the pre-existing situation. It is caused particularly by the fact that Creusot-Loire processes virtually all the special steel it produces in the manufacture of its various mechanical engineering products. Creusot-Loire even has to purchase special steels from outside the group in order to meet all its needs. Such purchases in 1973 amounted to 20 000 metric tons, of which 15 000 metric tons came from the CLIF group;

40. As regards tinsplate, the internal consumption rate of 42.5% is made up of the internal consumption of Carnaud in the CLIF group and of Ferembal in the Marine group, both of which produce metal containers. It should be stressed that the Marine undertakings listed in paragraph 9 are not tinsplate producers. Ferembal obtains 72% of its requirements from Sollac, which is already combined with CLIF and Marine;

41. The transaction will therefore bring about no major change in supply flows;

V

42. As regards distribution, the Commission Decision of 18 July 1974 authorized the reorganization of the sales networks of CLIF, Marine and Compagnie St Gobain Pont-à-Mousson (SGPM). The result was a concentration between all the undertakings and other bodies acting as distributors in the steel industry which market products of the CLIF, Marine and SGPM joint undertakings. The excep-

tions are Davum France and Aciéries de Micheville, and Marine has already applied to the Commission for authorization *inter alia* to transfer them to SGPM. The transaction will therefore bring about no new concentration in steel distribution;

VI

43. To ensure that effective competition is preserved in oligopolistic markets such as the steel market, the Commission must ensure that the independence of the main groups active in that market is safeguarded;

44. Consequently, it is important that none of these main groups apart from CLIF should have a shareholding in CLIF/Marine which would enable it to exercise an influence over the deliberations or decisions of the management organs in CLIF/Marine;

45. CLIF/Marine and Schneider will henceforth jointly control Creusot-Loire. It is appropriate to limit the links between these two groups to this particular joint control. Accordingly it is necessary to avoid the possibility of Schneider exercising an influence over the management of the future CLIF/Marine. In these circumstances Schneider ought to be obliged to reduce its participation in the capital of CLIF/Marine to the level of 10% maximum within a period of two years;

46. In addition it is appropriate that no personal links should be established between the groups at management level. Accordingly no member of a management organ in the CLIF/Marine group or in the Schneider group ought to exercise like functions in each other's undertakings, with the exception of the joint undertaking Compagnie Financière Creusot-Loire (new name of the former Marine-Schneider holding company). Similarly no member of a management organ in the CLIF/Marine group ought to exercise like functions in third party undertakings or holding companies engaged in the production or the distribution of steel products. Conversely, no member of a management organ of undertakings or holding companies of undertakings within the meaning of Article 80 ought to be invited to participate in the management of the CLIF/Marine group. It is also appropriate, however, to allow for the possibility that the Commission may authorize, in response to a reasoned request, exceptions to these prohibitions, if justified by special circumstances;

47. Because of its size, its position in the steel market, and the diversified structure of its production, significant new shareholdings by the CLIF/Marine group in undertakings engaged in the production, distribution or further processing of steel and consuming large quantities of steel could result in new restrictions of competition, in particular by enabling CLIF/Marine to establish an artificially privileged position involving a substantial advantage in access to supplies or markets. To enable the Commission to assess the effect of such shareholdings on competition, it is important that in future the acquisition of the shares in question should be subject to prior authorization, when they represent 10% or more of the share capital in the undertakings concerned and, in the case of undertakings not falling under Article 80, when their steel consumption exceeds 50 000 metric tons a year;

48. This Decision gives a positive response to CLIF's request for authorization. There is therefore no reason for maintaining the Commission decisions of 5 April and 21 December 1974 in force, and they should accordingly be repealed;

49. In view of the conditions imposed, the Commission finds that the transaction will not give the undertakings concerned 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 steel products, 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;

50. The present authorization is entirely without prejudice to any examination which the Commission may undertake under Article 86 of the EEC Treaty on the concentrations resulting from this transaction in sectors other than the steel industry;

51. The transaction accordingly satisfies the tests for authorization set out in Article 66 (2) and may be authorized,

HAS ADOPTED THIS DECISION:

Article 1

The acquisition by Compagnie Lorraine Industrielle et Financière of the majority of the share capital in

Marine-Firminy in the form which that company will take as a result of applying the agreement of 13 January 1975 is hereby authorized.

Article 2

The authorization is given under the following conditions:

1. Schneider shall dispose of its holding in excess of 10% in the share capital of CLIF/Marine before 31 December 1976;
2. no member of a management organ in the CLIF/Marine group or in the Schneider group shall exercise like functions in the undertakings of the other group; this condition does not apply to the joint control of Creusot-Loire;
3. no member of a management organ in the CLIF/Marine group shall exercise like functions in third party undertakings or holding companies engaged in the production or the distribution of steel products;
4. no member of a management organ of undertakings or holding companies or undertakings within the meaning of Article 80 shall be invited to participate in the management of the CLIF/Marine group;
5. the acquisition in future by the CLIF/Marine group of 10% or more of the share capital of any undertaking engaged in the production or the distribution of steel, or in the further processing of steel with an annual steel consumption ex-

ceeding 50 000 metric tons, shall be subject to prior authorization by the Commission.

Article 3

The Commission may authorize, on receipt of a reasoned request, exceptions to the application of Article 2 (1) to (4).

Article 4

The Commission Decision of 5 April 1974 on interim measures concerning Schneider SA and Marine-Firminy SA is hereby repealed.

Article 5

The Commission Decision of 21 December 1974 on interim measures concerning Compagnie Lorraine Industrielle et Financière is hereby repealed.

Article 6

This Decision is addressed to Compagnie Lorraine Industrielle et Financière, Marine-Firminy SA and Schneider SA, Paris.

Done at Brussels, 5 March 1975.

For the Commission

The President

François-Xavier ORTOLI