MARKET SHARING (STEEL TUBES): THE STEEL TUBE CARTEL CASE

Subject: Market sharing
Fines

Industry: Steel tubes
(Implications for other industries)

Parties: British Steel Limited (United Kingdom)
Dalmine SpA (Italy)
Mannesmannröhren-Werke AG (Germany)
Vallourec SA (France)
Kawasaki Steel Corporation (Japan)
NKK Corporation (Japan)
Nippon Steel Corporation (Japan)
Sumitomo Metal Industries Limited (Japan)

Source: Commission Statement IP/99/957, dated 8 December 1999

(Note. This is a classic case of a number of corporations agreeing to share the markets, in particular by applying restrictions to the trading carried out by firms in the four European countries in which other firms were established. The fines imposed were heavy, but moderated both by the special circumstances of the European steel industry and by the cooperation afforded to the Commission by Vallourec and Dalmine.)

The Commission's Decision

On 8 December, the Commission adopted a decision under Article 81 of the EC Treaty which imposed fines totalling € 99 million on eight producers of seamless steel. The producers colluded until 1995 over the observance of their respective domestic markets for certain seamless tubes used in oil and gas prospecting and transportation. "The decision concerns the straightforward sharing of markets in basic products," the Commissioner for Competition said. "The infringement, which is the first cross-border cartel case I have handled, is a very serious breach of the principles of competition and calls for a really dissuasive penalty. It must remain an example of what should be studiously avoided."

The Products and Parties concerned

The products in which there was a cartel are standard steel borehole pipes (commonly known as "oil country tubular goods", or OCTG) and project transportation pipes (commonly known as "line pipe"); both varieties are used in the exploration and transport of oil and gas. The four European

Community and four Japanese firms are among the largest producers of seamless tubes in the world.

Operation of the cartel

To coordinate their behaviour on the standard OCTG and project line pipe markets, the European and Japanese producers set up a cartel, which they called the Europe–Japan Club. The cartel restricted competition in the common market by requiring that the domestic markets of the different producers (that is, the German, French, Italian, British and Japanese markets) should be respected: the supply of seamless tubes to Member States of the Community where a national producer was established was limited by the other producers party to the agreement refraining from delivering tubes to those markets. Other parts of the cartel agreement, which related to certain other markets, were not covered by the decision, since the Commission could not provide evidence of a restrictive effect within the European Union. As regards duration, the Commission decided that the infringement lasted from 1990 to 1995 (except in the case of British Steel, which ceased producing the pipes in 1994).

Fines

In fixing the amounts of the fines, the Commission took account of the fact that, by definition, an agreement aimed at the observance of the domestic markets of the participating firms constitutes a very serious infringement of Community law, since it undermines the proper functioning of the single market. Moreover, the four Member States in question account for most of the consumption of seamless OCTG and line pipe in the EC and hence constitute an extensive geographic market. However, the Commission also considered that the standard OCTG and project line pipe sold in the Community by the firms to which the decision is addressed account for only about 19% of Community consumption of seamless OCTG and line pipe. Lastly, the sales of these products in the four Member States in question by the firms to which the decision is addressed were only about € 73 million a year during the period 1990-95. As a result, in practice, the infringement has had only a limited impact on the market. Attenuating circumstances were that the sector was in a long-term crisis and that its position had deteriorated since 1991; coupled with the increasing flow of imports, these factors have resulted in capacity reductions and plant closures. Pursuant to the Commission's Notice on the non-imposition or reduction of fines in cartel cases, the fines on Vallourec and Dalmine were reduced, since the firms had cooperated with the Commission in the establishment of the facts. The fines imposed were as follows (in €): Mannesmannröhren-Werke (13,500,000); Vallourec (8,100,000); British Steel (12,600,000); Dalmine (10,800,000); Sumitomo Metal Industries (13,500,000); Nippon Steel Corporation (13,500,000); Kawasaki Steel Corporation (13,500,000); NKK Corporation (13,500,000). ■