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FOREIGN SERVICE DESPATCH

FROM : Embassy, BONN

1402  
DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

March 17, 1959  
DATE

REF : GERP Section D - VII-A-2 and J

For Dept. Use Only	ACTION	DEPT.
	REC'D	OTHER

SUBJECT: Authorization by the High Authority of the Merger of Huetten- und Bergwerke Rheinhausen AG and the Bochumer Verein fuer Gusstahlfabrikation AG

There is enclosed translated copies of (a) the Federal Ministry for Foreign Affairs' Aide Memoire No. 200-85.05/29/59, (b) estimates of the costs for selected items of capital equipment used in the German steel industry, and (c) the Decision of the High Authority authorizing the acquisition of shares of Bochumer Verein fuer Gusstahlfabrikation AG by Huetten- und Bergwerke Rheinhausen AG.

The Foreign Office advises us that the enclosed material was received from the firm of Fried. Krupp for the exclusive information of the Governments of the United States, France, and Great Britain. The Foreign Office transmitted the information only after receiving the approval of the High Authority.

For the Charge d'Affaires ad interim:

*William C. Oakey*  
William C. Oakey  
Counselor of Embassy  
for Economic Affairs

Enclosures: 3 e/s

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Enclosure No. 1  
Leipzich No. 1402  
from BORN  
March 17, 1959

**FEDERAL MINISTRY**

**FOR**

**FOREIGN AFFAIRS**

**200-85.05/29/59**

**Aide-Memoire**

The High Authority has authorized the merger of the Hatten- und Bergwerke Rheinhausen AG. and the Bochumer Verein fuer Guetehlfabrikation AG.

The text of the authorization is submitted in the enclosure with the consent of the firm Friedr. Krupp, Essen. It is requested to treat this matter strictly confidentially in view of the detailed information submitted by the firms concerned. The Federal Ministry for Foreign Affairs has obligated itself to the firm Fried. Krupp, Essen, as well as to the High Authority that this information will be passed on exclusively to the Governments of France, Great Britain and the United States of America.

Supplementary to the authorization of the High Authority, a list has been added in the enclosure from which the funds required for the customary investments of a steelworks become evident.

Bonn, February 23, 1959

(S E A L)

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Enclosure No. 2  
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From BGMW  
March 17, 1959

One blast furnace with a capacity of 1,000 tons per day with burden installation would run to about	DM 19 millions
The establishment of a sintering plant inclusive of dust arrest would cost	DM 20 millions
The construction of a 180-ton Siemens-Martin furnace would cost	DM 18 millions
The construction of a 130-ton electric furnace would cost	DM 12 millions
The construction of a continuous semifinishing mill train requires	DM 37 millions
and the contemplated extension of the 850-roll train for IFB light sections would require	DM 35 millions
The completion of the Thoms steel plant in Rheinhausen consisting of another 2 converters, halls and cranes, inclusive of the pulling down of the old Thoms steel plant, would require	DM 38 millions
and the replacement of the 525-three-high rolling-mill train by a new heavy-duty intermediate rolling mill	DM 70 millions
An eventually contemplated modernization of the old blast furnace plant (installation of improved mixture of ores, construction of ore mixing beds, modernization of the sintering plant) would require	DM 125 millions
The completion of the reconstruction of the Thoms steel plant begun in 1944 inclusive of the shifting of the Thoms slag mill, of the modernization of the SM plants and of the construction of dust arrester installations will require about	DM 113 millions
a reconstruction, respectively modernization of the breaking-down, intermediate and small section mill trains requires funds in the amount of	DM 250 millions

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It emerges from this list that all large-scale projects require funds far in excess of the DM 20-million limit mentioned in the condition, and that they are therefore subject to authorization.

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From BONN  
March 17, 1959

EUROPEAN COAL AND STEEL COMMUNITY  
HIGH AUTHORITY  
Secretariate

Luxemburg

**D E C I S I O N**  
of Jan 26, 1959,

authorising acquisition by the Huetten- und Bergwerke Rheinhausen Aktiengesellschaft in Essen of shares of the Bochumer Verein fuer Guusstahlfabrikation Aktiengesellschaft in Bochum of a par value of DM 37,385,000.--.

This decision is based

on Articles 15,66 and 80 of the Treaty,

on Decision No. 24/54 of May 6, 1954, concerning an Ordinance on the Legal Characteristics of the Control of an Enterprise within the meaning of Article 66 of the Treaty (Community's Official Gazette of May 11, 1954, p. 345),

on the application by the Huetten- und Bergwerke Rheinhausen Aktiengesellschaft in Essen of Sep 23, 1957, for an authorisation of the acquisition of shares of the Bochumer Verein fuer Guusstahlfabrikation Aktiengesellschaft in Bochum of a par value of DM 37,385,000.00,

and on the following considerations:

The Bochumer Verein fuer Guusstahlfabrikation AG is a steel-producing enterprise within the meaning of Article 80 of the Treaty with a capital stock of DM 69,000,000.--.

The Bochumer V. fuer G. AG, inter alia, holds shares of the following enterprises, of which the enterprises ad (3 to 5) are coal-producing enterprises within the meaning of Article 80 of the Treaty:

<u>Name and Domicile of Enterprise</u>	<u>Capital Stock</u> DM	<u>Extent of Holdings of</u> <u>Bochumer Verein</u> %
1. WUEAG, Eisen- und Stahlwerke AG, Hohenlimburg	5,000,000	100
2. Gewerkschaft Christine, Essen-Kupferdreh	2,550,000	100
3. Bergbau AG Constantin der Grosse, Bochum	37,575,000	51
4. Carolinenglueck, Bergbau AG, Bochum	13,000,000	50
5. Graf Moltke Bergbau AG, Gelsenkirchen	12,000,000	50

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The rest of the shares of the Carolinenglueck Bergbau AG and of the Graf Moltke Bergbau AG are held by enterprises whose shares in turn are fully owned by the Gelsenkirchener Bergwerks-AG.

The Bochumer Verein fuer Gusstahlfabrikation AG and the enterprises whose shares are owned by the Gelsenkirchener Bergwerks-AG have the possibility, on the strength of fundamental agreements made with respect to the administrative and technical management of the Carolinenglueck Bergbau AG and the Graf Moltke Bergbau AG, of jointly controlling these two mining companies.

This enables the Bochumer Verein fuer Gusstahlfabrikation AG to control the enterprises ad 1) to 5) within the meaning of Article 66, Paragraph 1, of the Treaty and Article 1, Paragraph 2, of Decision No. 24/54.

Consequently the enterprises ad 1) to 5) and the Bochumer Verein fuer G. AG are concentrated within the meaning of Article 66, Paragraph 1, of the Treaty.

The Huetten- und Bergwerke Rheinhausen AG is a holding company with a capital stock of DM 110,000,000.--,

The Huetten- und Bergwerke Rheinhausen AG, inter alia, owns shares of the following coal and steel-producing enterprises within the meaning of Article 80 of the Treaty:

<u>Name and Domicile of Enterprises</u>	<u>Capital Stock</u> DM	<u>Extent of Holdings</u> <u>of Rheinhausen</u> %
6. Huettenwerk Rheinhausen AG, Rheinhausen	100,000,000	100
7. Bergwerke Essen-Rosentroy AG, Essen	30,000,000	100

Hence, the Huetten- und Bergwerke Rheinhausen AG have the possibility of controlling the enterprises ad 6) and 7) within the meaning of Article 66, Para 1, of the Treaty and of Article 1, Para 2, of Decision No. 24/54.

Consequently the enterprises ad 6) and 7) and the Huetten- und Bergwerke Rheinhausen AG are concentrated within the meaning of Article 66, Para 1, of the Treaty.

The firm of Fried. Krupp in Essen holds all the shares of Huetten- und Bergwerke Rheinhausen AG. Alfred Krupp von Bohlen und Halbach is sole owner of the latter firm's assets.

Furthermore, the firm Friedrich Krupp is proprietor of shares of the following enterprises, of which the enterprise under number 8 is a coal producing enterprise in the meaning of Article 80 of the Treaty:

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Name and location of Enterprise	Stock or basic Capital DM	Direct & Indirect Participation of Fried. Krupp in percent
8. Steinkohlenbergwerk Hannover-Hannibal AG, Bochum-Mordal	35,000,000	100
9. Krupp Kohlenchemie GmbH, Mannes-Rickel	20,000,000	100
10. Fried. Krupp Motoren- & Kraftwagenfabriken GmbH, Essen	12,000,000	100
11. Fried. Krupp Dieselmotoren GmbH, Essen	1,000,000	100
12. Dolberg-Glaser & Pflaum GmbH, Essen	6,000,000	100
13. Weser Flugzeugbau GmbH, Bremen	4,000,000	100
14. Bruns & Kappesser GmbH, Essen	500,000	100
15. Maschinenfabrik Futura GmbH, Wuppertal-Elberfeld	250,000	100
16. Harburger Eisen- und Bronzewerke AG, Harburg-Harburg	2,600,000	over 90
17. Bedische Wolframers GmbH, Soellingen	2,500,000	82.6
18. A. G. Weser, Bremen	18,000,000	82
19. Krupp-Ardelt GmbH, Wilhelmshaven	1,200,000	51

In accordance therewith, the firm Fried. Krupp has the possibility to control the enterprises under number 8 - 19 as well as the Huetten- und Bergwerke Rheinhausen A.G. in the meaning of Article 66, Section 1 of the Treaty and of Article 1, number 2 of the Decision No. 24/54.

Thus the enterprises 8 - 19 and the Huetten- und Bergwerke Rheinhausen AG are merged with the firm Fried. Krupp within the meaning of Article 66 para 1 of the Treaty.

In consequence of the acquisition of nominal DM 37,385,000 shares of the Bochumer Verein fuer Gusstahlfabrikation AG, the Huetten- und Bergwerke Rheinhausen AG would become the owner of about 54% of the basic capital of the Bochumer Verein fuer Gusstahlfabrikation AG.

Herewith the firm Fried. Krupp will obtain the opportunity to control the Bochumer Verein fuer Gusstahlfabrikation AG by way of Huetten- und Bergwerke Rheinhausen AG within the meaning of Article 66 para 1 of the Treaty, and Article 1, Nr. 2 of the Decision No. 25/54.

By the intended procedure a merger within the meaning of Article 66 para 1 of the Treaty is effected between the firm Fried. Krupp and the Bochumer Verein fuer Gusstahlfabrikation AG as well as between the enterprises merged with those

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enterprises.

In consequence of this procedure, the enterprises and persons concerned will control the following shares in coal and steel production in the Federal Republic of Germany and in the European Community for Coal and Steel.

Products (1956)	Fried. Krupp 1000 t	Hochemer Verein 1000 t	1000 t	Total in % of Production	
				in the Redban	in the ECSC
Hard coal	3,801	3,707	7,508	5.6	3.0
Coke	1,610	1,699	3,309	7.6	4.4
Crude iron	1,778	708	2,486	14.1	5.7
Crude steel	1,953	1,176	3,129	13.5	5.5
Rolling mill finished products thereof	1,083	373	1,456	9.4	3.7
Permanent way material	213	84	297	46.6	20.1
Heavy profiles	154	—	154	11.2	4.1
Strip steel and sheets (hot band)	—	90	90	6.3	3.0
Seal-finished tube material without ingots	21	69	81	9.6	5.1
Wire rod	273	7	280	19.5	7.5
Bar steel	422	132	554	13.1	4.4

These shares do not suffice to give to the coal and steel enterprises concerned the possibility of fixing prices in an important sector of the market of the products concerned, to control or to limit the production or the distribution or to prevent real competition.

In 1956, the demand in blast-furnace coke of the Huettenwerk Rheinhausen AG and Hochemer Verein fuer Guetstahlfabrikation AG amounted to about 2.5 million t. The production of blast-furnace coke of the enterprises involved in the merger amounted to about 1.8 million t as an estimate. Therefore, the enterprises involved in the merger could cover this part of their demand in blast-furnace coke from the production of the enterprises involved in the merger, while the

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remaining 0.7 million t of blast-furnace coke would have to be supplied from the market.

The firm Fried. Krupp and the enterprises merged with it bought directly from the Hoeschwerk Verein für Eisenhüttenbau AG and the enterprises merged with it about 15,000 t of steel. They sold directly to the Hoeschwerk Verein für Eisenhüttenbau AG and the enterprises merged with it 17,000 t of steel. Mutual direct deliveries of steel amounted to less than 2% of the Hoeschwerk Verein für Eisenhüttenbau AG's steel production and less than 1% of the steel production of Hüttenwerk Reichhausen AG.

The structure and the demand of the enterprises contingent thereon do not give a reason to expect an increase of the mutual deliveries after the merger is effected to an extent which would allow the enterprises concerned to evade the competition rules resulting from the application of the Treaty, especially by establishing an artificially privileged position involving a material advantage with regard to access to sources of supply and to markets.

While thus, according to the present status, the intended procedure corresponds to the conditions to which approval is subject pursuant to Art. 66 para 2, there exists, however, the danger that the participating steel enterprises, by the aid of the considerable financial power of the firm Fried. Krupp, expand their production capacity by investments to such an extent that they obtain the possibility to prevent competition or to evade competition rules in a considerable part of the steel market. The High Authority, therefore, can approve this procedure pursuant to Article 66 para 2, No. 5 only subject to a condition which excludes this danger.

Therefore, the approval is subject to be connected with a condition that enterprises or persons involved in the merger may carry out investment projects in the field of steel production only with prior authorization of the High Authority. In consideration of the purpose, this condition can be limited to such investment projects which presumably will exceed a total expenditure of 5 million EMU accounting units, no matter whether new installations, or the replacement or rebuilding of existing installations are concerned.

The High Authority will deny the approval if it ascertains that the intended investments would give the enterprises or persons involved the opportunity

- to influence prices in a considerable part of the market of these products, to control the production or distribution, or to limit or prevent effective competition;
- to evade the competition rules resulting from the application of the Treaty, especially by establishing an artificially privileged position involving a material advantage with regard to access to the sources of supply and to the markets.

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For these reasons, the High Authority makes the following

**D E C I S I O N**

Article 1

The acquisition is approved of nominal RM 37,385,000 shares of the Beckum-Verein für Gußstahl-fabrikation AG in Beckum by the Huetten- und Bergwerke Rheinhausen AG in Essen subject to the following conditions.

Article 2

(1) The enterprises and persons involved in the merger may carry out investment projects in the field of steel production only with prior authorization of the High Authority, insofar as the total expenditure to be requested will exceed 5 million ERM accounting units, no matter whether new installations or the replacement or rebuilding of existing installations are concerned.

(2) The total expenditure has to comprise all expenses which result directly from the execution of the respective program. They are to be calculated in summing up all items (elements) which constitute an indivisible whole in one and the same program, even if its execution will take place in different sections at different times.

Article 3

The High Authority will not grant permission for such investment projects so far as it ascertains that the intended investment would provide the enterprises or persons concerned with the possibility in a considerable part of the market to influence prices, to control or limit production or distribution, or to prevent effective competition or evade the competition rules resulting from the application of the Treaty, especially by establishing an artificially privileged position involving a material advantage with regard to access to the sources and to the markets.

Article 4

This Decision is served upon the Huetten- und Bergwerke Rheinhausen AG. It becomes effective upon service.

The above decision was deliberated and concluded by the High Authority at its session on January 26, 1959.

For the Authority

The President

sgd: Paul Finet

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