

OPINION

**of the Advisory Committee on Concentrations given at the 50th meeting on 24 October 1997
concerning a preliminary draft decision relating to Case IV/M.942 — VEBA/Degussa**

(98/C 224/04)

(Text with EEA relevance)

1. The Advisory Committee is of the opinion that the operation constitutes a concentration with a Community dimension within the meaning of Article 1 and Article 3(1)(b) of the Merger Regulation.
 2. The Committee agrees with the Commission's definition of the relevant product markets and the geographical markets contained in the draft Decision.
 3. The majority of the committee shares the Commission's view that the concentration as originally notified would have created a joint dominant position of VEBA/Degussa for fumed silica in Europe. A minority is of the opinion that it would have created a sole dominance by VEBA/Degussa, and another minority has doubts concerning the application of the Regulation on joint dominance and thinks that these doubts will remain until the Court of Justice gives its ruling on the case Kali/MDK.
 4. A majority of the committee is of the opinion, that the legal separation between VEBA and the joint venture Cabot/Hüls solves the problem identified in point 3; a minority abstains from giving an opinion.
 5. The majority of the committee agrees that the operation is compatible with the common market and the functioning of the EEA Agreement subject to full compliance with the conditions and obligations set out in the draft Decision; a minority abstains from giving an opinion.
 6. The committee recommends the publication of its opinion.
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