

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 12 December 1978

on a proceeding under Article 85 of the EEC Treaty (IV/29.535 — white lead)

(Only the Dutch, English and German texts are authentic)

(79/90/EEC)

THE COMMISSION OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European  
Economic Community, and in particular Article 85  
thereof,

Having regard to Council Regulation No 17 of 6  
February 1962<sup>(1)</sup>, and in particular Article 3 thereof,

Having regard to the proceedings which the Commis-  
sion opened on its own initiative on 3 February 1978  
in respect of the cooperation in the white lead  
industry between Associated Lead Manufacturers Ltd,  
London, UK, Hondorff, Block & Braet, Schoonhoven,  
Netherlands, and Lindgens & Söhne, Cologne,  
Germany,

Having heard the undertakings concerned in accor-  
dance with Article 19 (1) of Regulation No 17 and  
with Regulation No 99/63/EEC of 25 July 1963<sup>(2)</sup>,

Having regard to the opinion of the Advisory  
Committee on Restrictive Practices and Dominant  
Positions delivered pursuant to Article 10 of Regula-  
tion No 17 on 24 October 1978,

Whereas :

## I. THE FACTS

## (a) The subject matter of the proceeding

- 1 The proceeding concerns cooperation in the  
white lead industry since 1971 between Associ-

ated Lead Manufacturers Ltd (ALM), London,  
Lindgens & Söhne GmbH & Co. (Lindgens),  
Cologne, and BV Chemische Industrie en  
Handelsmaatschappij Wed. Hondorff Block &  
Braet (Hondorff), Schoonhoven, Netherlands.

## (b) The product

- 2 White lead (lead carbonate) is produced by  
directly dissolving metallic lead or dissolving  
lead oxide by the addition of acids. It is a white  
powder used as a white pigment in the manu-  
facture of paints for outdoor use or as a stabi-  
lizing agent in the plastics industry. It is  
supplied either as a powder (dry white lead) or  
as a paste (white lead ground).
- 3 In the paint industry, white lead is used mainly  
in the manufacture of anti-rust and wood  
protection paints. Its use has been declining  
since the fifties, partly because less wood is  
being used in the building industry, or else the  
wood that is used does not require the same  
protection, and partly because of the increasing  
use of substitute products, particularly titanium  
oxide, zine oxide, calcium oxide and barium  
compounds. The disadvantage of paints incorpo-  
rating white lead is the dangerous vapour given  
off as the paint is laid on. The substitutes offer  
the advantage that the paint is both easier to  
handle and cheaper. But white lead mixed with  
minium provides the best protection against  
rust. The use of white lead is consequently

<sup>(1)</sup> OJ No 13, 21. 2. 1962, p. 204/62.

<sup>(2)</sup> OJ No 127, 20. 8. 1963, p. 2268/63.

imposed in, for instance, public contracts awarded by the railway authorities. White lead is also still being used to protect wood against weathering, particularly the wooden components of ships.

Over the last 15 years white lead has been used as a stabilizing agent in the manufacture of plastics (PVC). But here again it has been supplanted by other inorganic substances, in

particular lead-based products like lead sulphate, lead phosphite and lead phthalate and zinc, barium and calcium compounds. The plastics industry now uses white lead almost exclusively (95 % of use) as a stabilizer in the manufacture of cables.

- 4 White lead is sold to the plastics industry (35 %) and the paint industry (65 %). As can be seen from the table below, sales declined sharply from 1971 to 1977.

White lead deliveries by EC manufacturers <sup>(1)</sup>

	(tonnes)						
	1971	1972	1973	1974	1975	1976	1977
Dry white lead and white lead	5 827	5 275	4 788	4 193	2 985	3 252	2 516
Dry white lead	4 632	3 934	3 907	3 381	2 154	2 497	1 958
Of which EC :	2 088	1 981	1 870	1 492	997	1 125	1 045
Non-member countries	2 544	1 953	2 037	1 889	1 157	1 372	913

Source : figures supplied by the undertakings concerned.

<sup>(1)</sup> Including the British manufacturers for years prior to 1973.

Here it should be noted that 1977 was a bad year, not only for the white lead industry in particular but for the paint industry as a whole, and that even sales of substitute products such as titanium oxide, which had earlier experienced a high rate of growth and are now reverting to that trend, fell by 5 %. The table also fails to reflect the fact that the decline in white lead sales is to be attributed not only to increased sales of substitute products by the white lead manufacturers' competitors, but also to the increase in the volume of such products manufactured by the white lead manufacturers themselves.

- 5 No detailed statistics are available for sales of substitute products. The table below gives figures for the most important substitute — titanium dioxide — which is manufactured by National Lead, Du Pont, Tioxide, American Cyanamid, Bayer, Montedison, Laporte and Thann & Mulhouse, to name but a few. Only 67 % of this titanium oxide is used in the paint industry as a whole. However, the purposes for which titanium oxide is used equally well as white lead are more limited. For example, titanium oxide, but not white lead is used for interior paints. The uses in which both are employed are estimated to represent only 7 % of all titanium oxide applications in the paint industry. The use of calcium oxide and barium

compounds is limited enough to be taken as negligible.

Use of titanium dioxide, zinc oxide and white lead

	('000 tonnes)		
	1971	1973	1976
Use of titanium oxide in western Europe <sup>(1)</sup>	540	640	610
Titanium oxide manufacture <sup>(2)</sup>	700	830	800
Use of titanium oxide in the paint industry (67 %) <sup>(1)</sup>	469	556	536
Use of titanium oxide in the white lead industry (7 %) <sup>(3)</sup>	32.7	38.9	37.5
Use of zinc oxide <sup>(3)</sup>	8	4.5	3
White lead sales of the undertakings concerned to the paint industry <sup>(4)</sup>	3.9	2.7	2.1
Total substitute market :	44.6	46.1	42.6

<sup>(1)</sup> Source : AIA Pywell (Laporte), Industrie Journaal (1978).

<sup>(2)</sup> Estimate on the basis of the above source.

<sup>(3)</sup> Estimate from figures supplied by the undertakings concerned.

<sup>(4)</sup> Figures supplied by the undertakings concerned on 11 August 1978, though the breakdown of total sales according to the two fields of use (paints and plastics) is a little dubious.

This summary table shows that in the sub-sector where titanium oxide can be used alongside zinc oxide and white lead, white lead accounted for 8.7 % in 1971, 5.9 % in 1973 and 4.9 % in 1976.

- 6 Western Europe consumption of PVC stabilizers in 1976 was 66 560 tonnes. Of these 39 960 tonnes (=55.5 %) were accounted for by lead compounds. Only a small proportion was for the manufacture of cables, which is the main field of application of white lead. Consumption has not changed substantially since 1971 (61 050) or 1973 (69 000).

#### (c) Prices

- 7 The price of white lead is determined by the high proportion (70 %) of the cost accounted for by the lead itself. The price of lead depends on the quotations on the London Metal Exchange. The current price is higher than the price of titanium oxide, as will be seen from the table below, which shows the trend of prices on the Dutch market. These figures do not take account of the fact that different applications require different quantities of the individual products. Thus, compared with white lead, less titanium oxide is required. The difference in price between white lead and titanium oxide is therefore at the moment wider than the figures in the table indicate; it may be as much as 40 %.

**Trend of prices for titanium oxide, zinc oxide and white lead**

(Fl per 100 kg)

Year	Titanium oxide		Zinc oxide		White lead	
	Price	Index	Price	Index	Price	Index
1964	170	102	135	82	173	101
1965	172	104	135	82	184	107
1966	179	108	135	82	177	103
1967	175	105	132	80	167	97
1968	170	102	158	96	177	103
1969	162	98	155	95	168	98
1970	166	100	164	100	172	100
1971	175	105	175	107	175	102
1972	174	105	187	114	189	109
1973	186	112	201	123	215	125
1974	237	143	270	165	261	152
1975	235	142	283	173	239	140
1976	249	150	289	176	238	138
1977	246	148	292	178	284	165

#### (d) The manufacturers

- 8 In the fifties, there were 32 white lead manufacturers in the Community. Today the parties involved in these proceedings are the only manufacturers in the Community:

- ALM produces lead and lead, zinc and calcium products. Its white lead business accounts for 1 % of its total turnover;
- Mersey White Lead Company Ltd formerly also manufactured white lead, but on 1 January 1976 it was taken over by ALM, which is now the only manufacturer left in the UK; a third UK manufacturer, Novadel, ceased production in 1971;
- Lindgens makes lead and zinc products, paints and plastics products. Its white lead business accounts for about 5 % of its total turnover;
- Hondorff is the only white lead manufacturer in the Netherlands. Its white lead business accounts for about 40 % of its total turnover.

In 1976 the above three undertakings sold 2 089 tonnes of white lead as white pigment and 1 117 tonnes as a stabilizer. But they also manufactured large volumes of products that replace white lead as a white pigment. Their output of products that can be used as substitutes for white lead as stabilizers is equivalent to a substantial proportion of their white lead output.

- 9 The white lead sold in the Community is produced by these three firms. There are only occasional imports from outside the Community. There are a few manufacturers in other countries, but they are all small and supply only their home markets. They include:

- Switzerland: Schock & Co., Burgdorf;
- Portugal: Metal Portuguesa SARL, Lisbon;
- GDR: VEB Ohrdruf

and some fairly small producers in the USA and Japan.

#### 10 (e) Demand

A large number of processing firms of differing size are the manufacturers' customers. Demand is not transparent. The manufacturers often do not know which quantities sold by them are to be used as paint pigment or as stabilizers.

11 (f) **The agreement of 1 January 1971 and the background to it**

In 1970 the Community white lead manufacturers got together to try to reach an accommodation in order to prevent prices falling still further. The objectives of this understanding were protection of home markets, regulation and allotment of export markets by quotas, exchange of information on quantities delivered and observance of prices set by the appropriate price leader in accordance with an agreed scheme. 'There should be established as many monopoly markets as possible in order to avoid a competitive fight specially carried out by the representatives and local dealers being accustomed to take away business one from the other by undercutting prices mutually.'

At the meeting on 16 December 1970, a draft agreement was discussed which provided for quotas of one third each, price leaders and delivery quotas for each export market, including markets in the Community, exchange of delivery figures so that cases where quotas were exceeded or unfilled could be regulated, and the establishment of a price scheme.

The minutes stated that the EEC countries, were to be omitted from the agreement: 'For legal reasons the heading "EEC" is to be taken out of the draft text.' Legal doubts about the inclusion of the EEC countries had already been raised at the meeting of 1 June 1970, but the exchange of delivery figures was regarded as unexceptionable.

- 12 Accordingly the revised draft agreement of 20 January 1971, which was finally adopted on 15 April 1971 and took effect from 1 January 1971, contained no express reference to the designation of price leaders in the then EEC countries or to quotas for particular Member States. But the obligation to provide details of all exports, including exports to EEC countries, was not removed. All that was removed was the explicit reference to the purpose of these figures, namely to establish cases where quotas were exceeded or unfilled.

The most important provisions of the agreement were :

- the fixing of overall export quotas of one third each for Lindgens, Hondorff and the two British parties ALM and Mersey ;

- the allocation of subquotas and designation of price leaders for each export market outside the then Member States ;
- the establishment of the 'schedule price', based on the price quoted on the London Metal Exchange ;
- quota balancing arrangements : a party who had not fulfilled his one third quota was entitled to export corresponding quantities, mainly to 'regulator countries' such as Eastern bloc countries, the USA and Brazil ; to make this possible the price leader in the relevant export market would himself quote prices £ 5 higher ; where quotas were exceeded or unfilled, balances could be carried over to the following calendar year ;
- monthly notification of all export deliveries, broken down by country, the information to be distributed by a central office.

- 13 From the beginning of 1971 onwards, the parties sent exact details of their exports and in return were notified of total deliveries, stating who had exceeded or fallen short of his subquota and his overall export quota of one third.

EEC markets (except home markets) could not be omitted from these figures, 'as otherwise a proper calculation would be impossible' (letter from Lindgens dated 8 January 1971).

(g) **Parties' behaviour after their agreement**

- 14 With the entry of the three new Member States approaching, the parties decided at their 31 October 1972 meeting to end the agreement on 31 December and substitute a new one. The new agreement could be distinguished from the old one ; the preamble stated :

'The purpose of this agreement is to arrange quotas and prices for markets outside the EEC. For the avoidance of doubt it is hereby declared that this agreement does not relate to markets within the EEC.'

After discussions, the agreement was not notified to the Commission on the ground that an agreement which formally excluded the common market from its operation might appear suspicious from the anti-trust viewpoint. The agreement was not signed by the parties.

- 15 It has, however, been established that the parties continued to inform their central office of their deliveries, providing a breakdown into countries of delivery, including their own and other common market countries. The central office prepared surveys of deliveries by all the parties, also broken down into home and export markets. These statistics are much more detailed and up to date than the official statistics and have consequently been considered indispensable by the parties.

Variations from quotas were calculated on the basis of these statistics. The difference between total sales and home sales was divided by three and this figure was compared with the individual partners' export figures. At the end of each year that year's results were consolidated with those of the previous year.

- 16 This calculation of variations from quota was continued all through 1977. The disparities were considerable: within one year quotas were exceeded or unfilled by as much as 30-40 %, without, according to the Commission's findings, any recourse to compensating deliveries.

- 17 This is similar to the practice of the parties in applying the 1971 agreement. At that time actual deliveries often varied from the quotas without compensatory deliveries taking place. It should be noticed that quotas unfilled or exceeded were discussed by the parties both during and at the end of a year. When actual deliveries varied by too much from the quota the party involved was to 'take all appropriate steps to reach a balance by the end of a year' (Lindgens' letter to Hondorff of 22 July 1971).

From Hondorff's letter to the central office of 26 February 1974 it is clear that unfilled or exceeded quotas have continued to be discussed and that the repeated excesses of one party had led to consideration of the 'reallocation' of certain third countries. This has, however, not taken place.

- 18 It is also clear that, even subsequent to the application of the agreement, the large excesses of one party were reduced over a short period

by a reduction of that party's deliveries with an increase in the deliveries of the others even to the extent of their exceeding their own quotas.

#### 19 (h) Changes proposed

Following the receipt of the Commission's statement of objections by the parties they maintained that an infringement of Article 85 (1) had not been proved, in that there was no evidence of cooperation to restrict competition and that in any case there was no appreciable restriction of competition. At the same time, they agreed to a 'slight' alteration in their practice of cooperation by limiting the exchange of information to one monthly figure for deliveries in EEC and EFTA countries and by omitting the calculation on quota variation. However, it has been established that the previous form and that figures broken down for countries in the EEC and EFTA have been sent to the still-existing central office. The calculations relating to unfilled or exceeded quotas are, on the other hand, no longer made.

## II. APPLICABILITY OF ARTICLE 85 (1)

- 20 Article 85 (1) prohibits as incompatible with the common market all agreements between undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market.

#### (a) Agreement and concerted practices

- 21 The cooperation between ALM, Hondorff and Lindgens is embodied in the written agreement of 1971, which, although formally terminated in 1972, continued to operate in practice. This cooperation after 1972 amounted at the very least to a concerted practice. After 1972 the system of notifying quantities delivered has continued to be jointly applied by the parties in the same way as under the 1971 agreement, that is, applied in the Community Member

States. The parties themselves had earlier recognized and admitted that a notification system which did not cover deliveries within the common market would be useless. The purpose of the cooperation was to coordinate their market conduct in order to limit the fall in returns on selling prices (the return being understood to be the difference between the sale price and the price of lead as a fixed cost component). Such parallelism could not be confined to outside markets, where they were selling about half of their production. Sales on the Community markets, which are just as important to the overall price and return situation, had to be included.

- 22 These notifications of sales results are used to calculate the extent to which the export quota of one third has been exceeded or unfilled. Deliveries on the home markets are excluded from the outset, since each producer has always been so strongly placed on his home market that he has no need to fear that it will be disrupted by deliveries from the others.
- 23 There was general agreement also on the scheme for balancing the quotas by means of compensating deliveries. The scheme comes into play, however, only when the firms involved find from the monthly delivery figures that a balance is not emerging in the normal course of things — through an increase in the deliveries of one and a reduction in those of another. The fact that compensating deliveries were not made does not, therefore, refute the existence of a concerted practice.

**(b) Restriction of competition within the common market**

- 24 The **object and effect** of this cooperation was the restriction of competition within the common market in various respects.
- 25 The parties exchange monthly statements of their deliveries of white lead, broken down by country, including EEC countries, through a central office. In this way they reduce or even remove the risks which would arise if they were not aware of each other's market policy and the amounts they delivered through the absence of

reliable statistics and the lack of knowledge of demand in the two different sectors of paints and plastic material. The information provided on deliveries during the previous month is very precise. It makes it possible to recognize another party's intentions in good time, where he plans for instance to begin supplying a market which he has hitherto supplied only occasionally if at all, or to raise the quantities sold, which on a shrinking market would sooner or later lead to price cuts and thus increase the danger of a general collapse in prices, which was exactly what cooperation was intended to prevent.

- 26 This exchange of information cannot be explained by appealing to the need for more exact statistics or for greater knowledge of market conditions, of which the benefit is in any case reserved to the manufacturers; the supplier is identified, so that the information would normally constitute a trade secret not to be made available to competitors. The parties have explicitly classified similar statistics on production and deliveries of substitute products as trade secrets not to be divulged to competitors. The systematic knowledge of such accurate market data restricts the scope for competition between the parties.
- 27 This exchange of information in itself restricts competition, but the fact that it is complemented by a system of delivery quotas produces another anti-competitive effect. To fix delivery quotas in this way is to limit or control markets in the sense of Article 85 (1) (b). This is still true even if the quotas are not always meticulously observed, for a quota agreement conflicts with this provision even if it has the limitation or control of markets merely as its object. A quota agreement cannot be judged differently under competition law depending on whether the parties have spread their deliveries in accordance with the quota by constant observation of each other's actions (made possible through the exchange of information) or whether one or other party has attempted to exceed his quota on the assumption that at any rate this will not elicit any immediate reaction from the other, particularly in the form of economic counter-measures (e.g. deliveries to the home market of the party who has exceeded the quota). An agreement does not cease to be anti-competitive simply because it is temporarily or even repeatedly circumvented by one of the parties to it.



28 The quota arrangement was intended to extend to all exports; this is quite clear from the preliminary negotiations and is implicit in the manner in which the agreement has been applied. The quota arrangement and the exchange of information on deliveries made sense only if they applied to all exports, and not merely to exports outside the Community, which make up about half of total sales. The parties' own national markets were excluded from the quota arrangement, but only because these were reserved for their respective national manufacturers. A manufacturer who finds his sales falling further and further, and therefore feels compelled to cooperate with his competitors on export markets in order to keep prices from falling, is hardly likely to ruin the prices on his own domestic market, which he has dominated for years, by engaging in an ill-advised marketing policy. On condition, therefore, that these markets are respected by the parties to the agreement, they can safely be excluded from the quota system. This consideration does not, however, apply to markets on which several parties are operating at the same time; here there is a need for coordination, and the instruments for achieving it were set out in the 1971 agreement. For this reason ALM has allowed certain continental markets to be protected as this would, according to it, entail no alteration to its commercial policy. The exchange of information allowed it to control deliveries on these markets.

29 In the present case, however, the quota system agreed by the parties had not only the object but also, to some extent at least, the effect of limiting or controlling markets. Variations from quotas were calculated from the inception of the agreement until the end of 1977 and were carried forward from one year to the next without interruption. Even if a balancing operation is not carried out every year, the fact that the amount by which each party to the agreement has exceeded or fallen short of his quota is calculated each month contains an express or implied invitation to the parties to conduct the balancing operation which is the basis of the quota system. The reduction of variations which are discussed jointly and established as too large shows the restrictive effects of the quota system. Deliveries do not have to be turned down to reduce the variation. Merely a policy of not looking for orders will reduce the quantities delivered in favour of the other parties. This, however, constitutes a restriction on competition.

### (c) Effect on trade between Member States

30 Since 1 January 1973 the restrictions on competition described above have been such as to affect trade between Member States because manufacturers from different Member States are involved in them and their cooperation has made it impossible for them to bid against one another not only in non-Community countries but within the Community as well; thus cooperation has stood in the way of free movement of goods between States.

31 The form of cooperation pursued in 1971 and 1972 was such as to affect trade between Member States, because the parties were prevented from offering white lead in free competition with one another on the markets of the then six Member States. This applies not only to the market behaviour of the German and Dutch manufacturers but also to the anti-competitive protection which the British manufacturers afforded their partners in the Community.

32 Contrary to what ALM argues, Article 85 is applicable equally to its behaviour. In its judgment of 25 November 1971 in Case 22/71, *Béguelin*, the Court of Justice ruled that: 'The fact that one of the undertakings which are parties to the Agreement is situated in a third country does not prevent application of that provision since the Agreement is operative on the territory of the common market' ((1971) ECR 949, 959). The notification and quota system extended to the whole territory of the common market and ALM collaborated in setting up and operating it.

### 33 (d) Appreciability of the effect

Contrary to what is contended by the parties, their cooperation has appreciably restricted competition and affected trade between Member States.

34 In 1976, the parties produced 2 089 tonnes of white lead pigment for the paint industry. In the same year, Western European consumption of the principal substitute, titanium oxide, amounted, if one considers only those paints for which titanium oxide and white lead come into competition, to 37 520 tonnes. Sales of zinc white amounted to about 3 000 tonnes; the market share of white lead in 1976 was thus 4.9 %. A parallel evaluation of the market as described in paragraph 5 hereof for 1971 (the

year in which the agreement was concluded) and 1973 (the year in which it was replaced by a concerted practice), reveals higher market shares, namely 8.7 % and 5.9 %.

- 35 The foregoing calculation is, however, incomplete. In fact, it does not take account of the fact that, as the parties have stressed on several occasions, white lead has certain specialized uses, such that, despite its appreciably higher price, it remains an important product for which, indeed, substitutes in certain limited fields of application can only be found with difficulty. The calculation also takes no account of the fact that the white lead producers themselves manufacture or market considerable quantities of substitute products, both for pigment in paint and, especially, for stabilizing agents. This production must not be ignored in evaluating the economic importance of the parties and of their cooperation.
- 36 Furthermore, as the only white lead manufacturers in the Community, the parties were convinced that they could curb the decline in prices through cooperation involving only white lead and not the substitute products which they produce themselves too. Their cooperation in the white lead industry was designed to have a real impact on the market, and indeed it achieved this, though perhaps not to the desired extent.
- 37 These factors lead to a much higher estimation of the economic importance of the white lead market, despite its now smaller turnover, than the one presented by the parties, and to the conclusion that the restriction of competition sought and achieved by the parties must be regarded as appreciable. This is confirmed by the general economic importance of the three parties together, their aggregate sales being far above the threshold of 50 million units of account set by the Commission in its *de minimis* notice of 19 December 1977<sup>(1)</sup>.
- 38 The fact that sales of white lead have been declining over a number of years and that production capacity is far from fully employed offers no reason for ignoring the effects this information and quota system had on the market. Though the cooperation was motivated by a steadily shrinking market, the fact remains that the conditions of Article 85 (1) are fulfilled.

### III. INAPPLICABILITY OF ARTICLE 85 (3)

- 39 Exemption under Article 85 (3) cannot be considered, as the cooperation was not notified

to the Commission and is not within the classes of agreements exempted from notification by Article 4 (2) of Regulation No 17.

### IV. APPLICABILITY OF ARTICLE 3 OF REGULATION No 17

- 40 The Commission has grounds for finding, pursuant to Article 3 of Regulation No 17, that ALM, Hondorff and Lindgens have, since the beginning of 1971, been infringing Article 85 (1) in that, on the basis of an agreement made on 1 January 1971, which continued to operate in practice after its formal termination at the end of 1972, they have exchanged monthly figures concerning deliveries of white lead, broken down by country of destination, including the Community countries, established quotas for export deliveries and, on the basis of the figures exchanged, calculated monthly variations from these quotas.
- 41 The parties have contested the existence of an infringement but have nevertheless abandoned the quota calculations and limited the exchange of information. This limitation, however, has only been partially implemented. It is therefore necessary for the Commission to adopt a Decision finding that the parties have infringed Article 85 (1) and requiring them to put an end to the infringement to the extent that this has not already been done.
- 42 Taking into account the exceptional circumstances of this case it is not appropriate to impose fines on the parties pursuant to Article 15 (2) of Regulation No 17,

HAS ADOPTED THIS DECISION :

#### Article 1

It is hereby found that Associated Lead Manufacturers Ltd, BV Chemische Industrie- en Handelsmaatschappij Wed. Hondorff, Block & Braet and Lindgens & Söhne GmbH & Co. have, since the beginning of 1971, been infringing Article 85 (1) in that, on the basis of an agreement made on 1 January 1971 and continuing to operate in practice after its formal termination at the end of 1972, they have exchanged monthly figures concerning deliveries of white lead, broken down by country of destination, including the Community countries, established quotas for export

<sup>(1)</sup> OJ No C 313, 29. 12. 1977, p. 3.



deliveries, and, on the basis of the figures exchanged, calculated monthly variations from those quotas.

*Article 2*

The undertakings concerned shall terminate forthwith the infringement found in Article 1.

*Article 3*

This Decision is addressed to :

1. Associated Lead Manufacturers Limited  
Clements House  
14 Gresham Street  
London EC2V 7AT  
United Kingdom ;

2. BV Chemische Industrie- en Handelsmaatschappij  
Wed. Hondorff, Block & Braet  
Schoonhoven  
The Netherlands ;

3. Lindgens & Söhne GmbH & Co.  
Deutz-Mülheimer Straße 173  
5000 Köln 80  
Germany.

Done at Brussels, 12 December 1978.

*For the Commission*

Raymond VOUEL

*Member of the Commission*

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