II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 15 May 1974

relating to proceedings under Article 85 of the EEC Treaty (IV/400 — Agreements between manufacturers of glass containers)

(Only the French, German, Italian and Dutch texts are authentic)

(74/292/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 17/62 [1] of 6 February 1962, and in particular Articles 1, 3 and 5 thereof;

Having regard to the notifications submitted on 30 October 1962 in conformity with Article 5 (1) of Regulation No 17/62 by Dr A. E. Rüdell for the International Fair Trade Practice Rules Administration (IFTRA) at Vaduz (Liechtenstein), concerning a 'standard contract' on 'fair trading rules' or 'IFTRA rules' applied by European manufacturers of glass containers;

Having undertaken investigations under Article 14 of Regulation No 17/62 and having heard those concerned in accordance with Article 19 (1) of Regulation 17/62 and with Regulation No 99/63/EEC [2], of 25 July 1963;

Having regard to the Opinion of the Advisory Committee on Restrictive Practices and Dominant Positions, obtained pursuant to Article 10 of Regulation No 17/62 on 27 March 1974;

Whereas

I. THE FACTS

The essential facts concerning (A.) the agreements made for the implementation of the 'IFTRA rules', (B.) connected agreements entered into by the parties to the IFTRA rules, and (C.) the structure of the industry concerned, are as follows:

A. AGREEMENTS RELATING TO THE 'IFTRA RULES'

1. The 'standard contract' for the IFTRA rules was notified in the original German version and in a French version which was eventually adopted by the French partners. This agreement contains the provisions set out below. The items in square brackets appear solely in the German (D) or in the French (F) version of the rules.

'Group A

The rules in Group A cover trade practices which, under existing laws, are [F.: considered to be] unfair and contrary to free competition.

A.1. Sales below cost and destructive competition

(a) Sales below cost are unfair if made in order to jeopardize or destroy a competitor.

[1] OJ No 13, 21. 2. 1962, p. 204/62.
[2] OJ No 127, 20. 8. 1963, p. 2268/63.

(b) It is unfair for an undertaking to use its financial strength in order to offer or sell goods below cost with the object or effect of obtaining a monopoly on the market.

(c) It is unfair to systematically undercult a competitor's prices or systematically to match his offers in order to jeopardize or destroy the competitor. [F.: This does not imply any obligation on an undertaking to align its prices with those of a competitor.]

A.2. Discrimination

(a) It is unfair to offer or grant differing prices, discounts or other conditions to customers of equivalent economic status for services of the same nature and quality, thereby injuring both customers and competitors. Differences in prices, discounts and other conditions which correspond to differences in the position and function of customers at the same economic level or to differences in quantities purchased, do not fall within this definition.

The undertaking is free to choose its customers at its own discretion [F.: in accordance with commercial practice and possibilities of delivery], provided that the choice is not exercised with the object or effect of obtaining a monopoly.

(b) It is unfair to grant special conditions to customers — such as premiums, or the presenting of the goods concerned as a gift allied to the supply of other goods, supplementary services, commissions of any kind, credits [F.: without appropriate interest], the acceptance of unwarranted claims or the invoicing of second-rate goods — advantages which are in effect price reductions and which are not similarly granted to all [F.: comparable] customers.

(c) It is unfair to grant discounts for bulk purchase, discounts or any other deduction depending on a quantity purchased before that quantity [F.: specified in the conditions of sale of the producer in accordance with commercial practice] has been reached, or tacitly to allow such deductions.

(d) It is unfair to grant to a third party, in connection with the conclusion of a business transaction, compensation of any kind or any other benefits which are not legally due and which represent, in view of their object or effect, unjustified compensation.

A.3. Tying contracts

It is unfair to tie the supply of scarce goods to the purchase of products of which there is an excess supply.

A.4. Imitations

It is unfair to imitate trademarks, trade names or other distinguishing features of competitors with the aim of misleading customers.

A.5. Misleading use of loss leaders

(a) It is unfair to sell goods below cost in order to create the impression that the normal price level of the undertaking is particularly low.

(b) It is unfair in particular to sell goods below cost in order to promote the sale of other goods and thereby offset the loss sustained on loss leaders, with the object or effect of deceiving customers.

A.6. Misrepresentation towards customers and competitors

(a) It is unfair to offer prices, rebates, discounts or other special conditions if there is no real intention, or if it is [D.: clearly] impossible from the outset, to fulfil the contract on such terms.

It is unfair misrepresentation for an undertaking secretly to deviate from its [D.: published] offers [D.: especially those published in price lists/F.: or from its price lists] in order to obtain commercial advantages through the exploitation and abuse of the confidence which customers and competitors have in the validity of its published prices.

(b) It is unfair [D.: deliberately] to make out false invoices or supporting documents [D.: in such a way that the commercial substance of transactions e.g., prices, deductions or extra charges, charges for supplementary services, etc. are recorded] erroneously by including false statements or omitting important details.

Unfair misrepresentation will be presumed if invoices do not correspond to acknowledgments of orders, even where only minor differences in quantity are involved but which may nevertheless affect the final price.

(c) It is unfair, in offering or selling goods, to make untrue statements as to their origin, manufacture, [D.: nature and quality/F.: composition] or use.

A.7. Presumptions and rebuttals

In case of dispute an unfair trade practice will be presumed if an undertaking is shown to apply prices, deductions or conditions which are discriminatory or which deviate from the published price lists.

The undertaking may rebut the presumption by producing conclusive evidence, e.g. that the price reductions were made because of a particular [D.: and purely temporary] necessity that the goods be sold (for instance, compulsory sales in the case of insolvency or liquidation).

The undertaking may adduce evidence to show that the lower price, higher discount or special advantage was granted to individual customers only in order to meet effectively a competitor's new price measures.

Such evidence as aforesaid must, however, show that the undertaking has not done more than was necessary to defend its own interests, e.g. that it has merely adjusted its prices to those of its competitor on the relevant geographical market without undercutting such a competitor.

Group B

Group B contains rules and principles which are regarded as customary in the trade and whose observance [D. may be /F.: is] important as regards fairness of trade practices.

B.1. Fulfilment of contracts

Contracts, whether concluded in writing or orally, are business obligations which must be performed according to their letter and spirit.

B.2. Price lists

The publication and distribution of separate lists of gross prices including discounts is normal practice in the glass industry in view of the great number of items manufactured.

B.3. Predatory pricing

Prices shall be calculated in such a way as to cover costs as determined according to customary rules, and so as to enable the supplier to perform his obligations towards the State and towards his employees, creditors and suppliers.

Therefore, as a matter of principle, all cost factors which are customarily considered essential components of the price should be included in the calculation of total cost.

B.4. Files relating to costing and complaints

Each manufacturer shall open and keep files relating to costing.

Each manufacturer shall keep files relating to complaints.

B.5. Status of customer

The supplier shall duly check [F.: in accordance with commercial practice] the status of his customer before granting discounts or other terms which are normal in the trade in order to avoid unjustified discrimination.

B.6. Quality

[D.: Manufacturers shall supply only goods of the highest quality]. Defective goods shall not be exported.

B.7. Contents

[F.: It is considered unfair to operate in the lower half of the tolerances prescribed in weights and measures laws].

If a standard has been laid down, it shall be observed as a matter of normal practice.

Group C: Misrepresentation of prices

[F.: Subject to the legal provisions applicable] any person who promises his competitors information on his own pricing in order to eliminate falsehood in competition is acting unfairly if he then [D.: fails to inform his competitors, fails to inform them immediately, or gives them false information, about price reductions/F.: charges different prices without disclosing the fact or while misrepresenting his prices].

Group D: Cessation and damages

Any signatory to these Rules may require any person who acts in a manner which under these Rules is unfair and anti-competitive to cease such action and, further, may claim damages from such person.

Signature of these Rules implies acceptance of the obligation in particular to make compensation for damage caused to other signatories through violation of the provisions in Group C. Such damage shall be presumed to be equivalent to at least 30 % of the turnover involved in the action for misrepresentation. Payment shall be made to all other signatories and the amount distributed according to the number of firms. An injured party may always claim a higher award of damages.

Group E: Procedure

The following provisions provide procedure for the objective establishment of facts, assessment by arbitration and ruling by a court of arbitration.

I. Assessment by arbitration

1. Requests for fact finding and assessment by arbitration through the International Fair Trade Practice Rules Administration-IFTRA-in Vaduz, should be forwarded with a copy to be communicated to the other party for his reply. Any reply must be served together with a copy within two weeks.

2. Parties to the procedure are to provide IFTRA with any information or documents necessary for an objective clarification of the facts.

3. IFTRA is authorized to use the commercial and operational data coming to its knowledge only for the purpose of the procedure, and is in all other respects bound to secrecy.

. . . . . .

6. An assessment by arbitration mentioning the names of the parties, may be sent on request to all signatories to the Rules.

. . . . . .

II. Court of Arbitration

If one of the parties refuses to accept or be bound by the assessment by arbitration, the other party may apply for a ruling by an international Court of Arbitration . . .

III. Law to be applied

Assessments by arbitration and rulings by a Court of Arbitration are to be based on these fair trading rules and on equity within the limits set by the national laws of the defendant on restrictions of competition. . . .'

2. The products concerned by the IFTRA are containers in hollow glass which may be white, semi-white or of various colours, viz.

(a) bottles for containing beverages (wine, spirits, water, beer, soft drinks, fruit juice), food products (oil, vinegar, milk, yoghurt), chemical products, cleaning materials, toilet preparations etc.;

(b) jars and pots for containing industrial or household preserved products;

(c) flasks for containing pharmaceutical, cosmetic and similar products.

3. The investigations undertaken by the Commission show that the following undertakings or their predecessors, being manufacturers of bottles (b), or jars (j) or of flasks (f) acceded on the date shown to the 'IFTRA rules' governing bottles for containing beverages (column 1) or for glass jars and flasks (column 2).

1	2	b	j	f	GERMANY
1955	1965	x	x	x	AG der Gerresheimer Glashüttenwerke (*'Gerresheim'*), *Düsseldorf*-Gerresheim, and subsidiaries
1955	1965	x	x		— Glashütte Achern GmbH, Achern
1955		x			— Amberger Flaschenhütten GmbH, Amberg
1955	1965	x	x		— Glashütte Budenheim GmbH, Budenheim
1955	1965	x	x	x	— Oldenburgische Glashütte GmbH, Oldenburg
1955		x			— Glashütte Heilbronn, Heilbronn

1	2	b	j	f	
1955	1965	x	x	x	Veba-Glas AG (*'Ruhrglas'*), Essen-Karnap
1955	1965	x	x	x	H. Heye Glasfabrik 'Schauenstein' (*'Heye'*), Obernkirchen/Hanover
1955		x			Nienburger Glas, Himly, Holscher & Co. (*'Nienburg'*), Nienburg/Weser
1955		x			Bayerische Flaschen-Glashüttenwerke Wiegand & Söhne GmbH, Steinbach am Wald/Ofr.
1955	1965	x	x	x	Carl. Aug. Heinz Glashüttenwerke, Kleintettau and Schleiden
1955	1965	x	x	x	Lüner Glashüttenwerke GmbH, Altlünen, Post Lünen/Westfalia
	1965	x	x	x	Glashüttenwerke Ernst W. Müller GmbH, Kipfenberg/Bavaria
	1965		x		Noelle & von Campe Glashütte GmbH, Boffzen/Weser über Höxter
	1965	x	x		Oberland-Glas, Bad Wurzach/Allgäu
1955	1965	x	x	x	Spessarter Hohlglaswerke GmbH, Lohr am Main
1955	1965	x	x	x	Tettauer Glashüttenwerke AG, Tettau/Oberfranken
	1965		x		Weck Glaswerk GmbH, Bonn-Duisdorf
					BELGIUM
	1955		x	x	Verlica-Momignies S.A. (*'Verlica'*), Brussels
1955		x			Bouteilleries Belges Réunies S.A. (*'BBR'*), Jumet
1955/72	1955/72	x	x	x	Verreries de Fauquez S.A. (1), Virginal-Fauquez
					NETHERLANDS
1955	1955	x	x	x	N.V. Vereenigde Glasfabrieken (*'Schiedam'*), Schiedam
					FRANCE
1960		x	x	x	Boussois-Souchon-Neuvesel S.A. (*'BSN'*), Paris
1960		x	x		St-Gobain Emballage S.A. (*'St-Gobain'*), Neuilly s/Seine
1960/72		x			Verreries de Blanc-Misseron S.A. (*'Misseron'*), Valenciennes
1960		x			Verrerie Ouvrière d'Albi S.A., Albi
1960		x			Verreries du Puy-de-Dôme S.A., Paris
					ITALY
1961/71		x	x	x	Bordoni-Miva Vetrerie Riunite SpA (*'Bordoni'*), Milan
1961/71		x			A.V.I.R. — Aziende Vetrarie Italiane Ricciardi SpA (*'Ricciardi'*), Naples
1961/71		x			Vetreria Italiana Vetr. I SpA, Carcare (Savona) } (*'Vetri'*)
1961/71		x			Ve.Tri — Vetreria Triveneta SpA, Vicenza } (*'Vetri'*)

(1) In liquidation since 1 February 1972.

4. In March 1955, after preliminary discussions between Gerresheim, Ruhrglas, Heye, Schiedam and the two Belgian joint agencies which preceded BBR and Verlica, the IFTRA rules were adopted by the German, Belgian and Dutch manufacturers listed above for bottles and also made applicable to the Belgian and Dutch markets for jars and flasks.

In April 1960 the IFTRA rules for bottles were signed by five French manufacturers in a form modified for submission to the French authorities (minutes of the IFTRA meeting of 28 April 1960); from which circumstance arise the differences between the German and French versions.

5. In 1961, the Italian producers, after establishing tariffs for their domestic market for green and semi-white bottles, signed the IFTRA rules in respect of these products only. Independently of the fact that the products concerned represented a smaller sector for Italy than for the other countries, participation by Italian bottlers remained sporadic and diffident and ceased at the end of 1971.

In 1965, most German manufacturers of flasks signed the IFTRA rules in respect of their domestic market.

At the beginning of 1971, the French bottle producers who had signed the IFTRA rules agreed to extend them to all glass container production. However this agreement was never applied in practice. Misseron left the IFTRA in May 1972, with effect from 31 December 1972.

6. In geographical terms the markets covered by IFTRA are or were,

(a) for all white and coloured bottles, Germany, Belgium, Luxembourg and the Netherlands, since 1955, and France since 1960;

(b) for semi-white and green bottles only, the Italian market from 1962 to 1971;

(c) for jars and flasks of all colours:

— the Benelux market from 1955,

— the German market from 1965.

7. The investigations carried out by the Commission show that the implementation of the IFTRA agreement was considered, within a structured organization, at the meetings

(a) of a restricted committee of 'representatives of the IFTRA signatories', made up of executives of the following undertakings:

— from 1955: Gerresheim, Ruhrglas, Schiedam, BBR,

— from 1958: Verlica,

— from 1960: St-Gobain, BSN, Misseron,

— from 1962 to 1971: Bordoni (St-Gobain Group),

— from 1966 to 1971: Ricciardi and VETRI,

— from 1966: Heye,

— from 1969: Nienburg; and

(b) of the annual general meeting of the IFTRA signatories.

8. Costs for administering the IFTRA agreement and for the advice of a lawyer, Dr Rüdell, are covered by fees paid by the parties, which initially amounted to 0·02 % of their turnover of the preceding year in the products concerned. Since 1963 a fixed total fee is apportioned between each country and collected on a turnover basis by each national federation from its members who are parties to the IFTRA agreement.

In 1972 the total annual fee of Sfrs 100 000 was broken down as follows:

German signatories	42·00 %,
Belgian signatories	5·68 %,
French signatories	37·00 %,
Italian signatories	9·64 %,
Dutch signatory	5·68 %.

9. Since 29 January 1960, meetings of the 'representatives of the IFTRA signatories' have been held regularly three times a year, one meeting being held immediately prior to the annual general meeting. IFTRA meetings of the last three years have been held on:

4 February 1970	in Brussels,
12 June 1970	in Ajaccio (general meeting),
28 October 1970	in Rome,
25 January 1971	in Amsterdam,
25 June 1971	in Hamburg (general meeting),
21 October 1971	in Brussels,
2 February 1972	in Paris,
8 June 1972	in Brussels,
18 November 1972	in Brussels.

At the February 1972, meeting, a report was made on investigations carried out by the Commission in the preceding months. The last two 1972 meetings considered the question of adopting an amended text of the IFTRA rules.

10. Minutes of the IFTRA meetings indicate that the problems considered concerned in particular the practical implementation of the agreement with regard to

(a) fixing export prices on the basis of the parties' domestic prices in the country of destination (paragraphs 11 and 12 below),

and

(b) information on the prices charged by the various parties by means of exchange of price lists, discounts, terms and of any changes or derogations (paragraphs 13 to 18).

(a) **Fixing of export prices**

11. With regard to the fixing of export prices on the basis of the parties' domestic prices in the country of destination, the measures taken by the parties concerned were based on the following considerations summarized from the minutes of the IFTRA representatives meetings of 27 January 1959, 18 to 19 January 1961, 29 March 1966 and general meetings of 24 June 1966 and 30 May 1967:

Reductions in domestic prices to counteract foreign undercutting are more costly to the national producer than to the foreign producer; since the former holds the largest share of the market his loss of profit increases with larger quantities. The producer who dominates the market ('natural price leader') determines freely his prices on that market and informs the other producers. The latter fix their export prices for his country on the basis of such information since they will never be able to sell at a price higher than that of the producer who dominates the market, and cannot hope to win the market by charging lower prices since the national producer will follow suit, resulting in a general drop in selling prices. Since wages and other costs are increasing continually, all producers are compelled to make successive increases. The producer who first raises his prices is the price leader if he is followed by the others.

12. The actual application of the above-defined principle is illustrated by actual cases investigated at IFTRA meetings held after the notification of the rules. (The dates in brackets refer to the minutes of such meetings; the letters GM refer to a general meeting.)

(i) Gerresheim regretted that French and Italian flask producers had not yet signed the IFTRA rules, because a French producer and an Italian producer were quoting prices in Germany below the domestic German price and which were apparently based on an insufficient knowledge of the market (24 January 1963, point 8).

(ii) On an enquiry by Schiedam as to the granting by a Belgian member of the group which preceded BBR, of advantages not in accordance with its contract of sale, it was revealed that a discount of 2 % had been granted to Coca Cola, for payment within eight days. The discount was made in order to match the price quoted by a Dutch producer (24 January 1963, point 7; 21 May 1963, point 7).

(iii) BBR reported that, following an increase of sale prices in Germany, German brewers were requesting deliveries at the Belgian domestic price. Dr Rüdell advised that there was no obligation, in the case of an export sale, to sell at the price charged in the country of manufacture and that the request could not be supported by the prohibition of discrimination between trading partners contained in Article 85 (1) d, since export deliveries during the transitional period of the establishment of the common market were not the equivalent of internal deliveries, and that the unequal conditions imposed no competitive disadvantage on prospective purchasers (24 January 1963, points 3 and 4; 21 May 1963, points 3 and 4).

(iv) Italian delegates asked whether the quotation in Italy, by German bottle manufacturers, of Italian prices, which were 50 % lower than those in Germany, amounted to dumping prohibited by the rules. Dr Rüdell replied that it did not. (21 May 1963, point 5).

(v) Gerresheim was experiencing difficulties with the Bundeskartellamt following a complaint from a German wine exporter that his bottle supplier, an Antwerp wholesaler, had raised his prices to an unacceptable level as a result of an agreement between Gerresheim and BBR. Gerresheim had explained that it had not requested an alignment of Belgian prices with its own, but had simply indicated to BBR in the course of a discussion on technical standards, that the price of bottles sold in Germany by this particular wholesaler did not correspond to the Belgian price list for exports to Germany. (18 January 1965 point 2b); GM 29 April 1965, point 1a).

(vi) The Belgian industry had regained its position in the market for preserve jars due to the

introduction of a new design which had enabled it to raise its prices by 10 %. This fact had been communicated to producers in Germany who were selling in Belgium at prices lower than those in Germany in order to protect the Belgian market from imports from the East. The fact that the quota of imports from the East was being observed appeared to make any loss of profit unnecessary. (18 January 1965, point 2c).

(vii) Ruhrglas reported that a bottle purchasing cooperative, to which it had refused a wholesaler's discount because of inadequate service and failure to keep an adequate stock, had received such a discount from an Italian manufacturer (GM 24 June 1966, point IV.1) in respect of yellow bottles, which were not covered by the IFTRA rules to which the Italians were signatories (26 October 1966, point 3).

(viii) In 1961, during the course of an action concerning the export of jars for preserved products by the German firm of Weck, it became apparent that Schiedam could not prove the prices charged by Weck in the Netherlands, because Weck had never disclosed its export prices. The proof of such facts would be facilitated if producers, besides circulating their internal tariffs, also established and circulated their export price lists. (26 October 1966, point 6; GM 30 May 1967, point IV. 3).

(ix) Ruhrglas would have wished to ask the Italian representatives (who were absent) whether it was a signatory to the IFTRA rules who had undercut by 20 to 30 % the German prices for delivery of several million 1/2 litre brown Euro-bottles to a German brewery. However, the identity of the producer would be discovered when the bottles were put into circulation after filling. If an IFTRA signatory were involved, then the question of commencing an objective fact-finding procedure would arise. (28 October 1970, point 4c).

(b) **Exchange of information on prices**

13. Since the fixing of export prices was based on knowledge of the parties' domestic prices in the country of destination, the problem of communicating price lists, discounts, sales terms and exceptions either directly from producer to producer or through national offices or a European central office, was frequently considered by the IFTRA signatories.

14. After the Italian bottle manufacturers joined the system at the end of 1961, one or more undertakings per country were made responsible for pooling information on prices, discounts, and sales terms of national producers and for communicating them to their foreign counterparts.

Any change in price lists, discounts and sales terms was to be notified. In addition, information was to be supplied on request concerning changes in individual cases, while each participant was entitled to obtain information where a customer claimed a more favourable quotation (minutes of the representatives' meeting of 12 October 1961, 12 January 1962 and 4 May 1962, letter from Dr Rüdell to the participants dated 6 November 1962).

15. Subsequently, national price information offices were set up in Paris in 1962 for flasks and in Bonn (later in Düsseldorf) for bottles and at the end of 1963 in Brussels for hollow glass in general, and were placed at the disposal of IFTRA signatories for information concerning the respective markets. The Brussels and Paris offices were closed at the end of 1969.

16. Much time was devoted to the question of exchange of information at the general meeting of the IFTRA signatories in Naples on 30 May 1967. The summary hereunder is based on items IV.3 and IV.5 of the minutes of the meeting:

'National producers exchanged their price lists and promised to inform the other partners whenever they engaged in price-cutting. The exporting producer would also find it worthwhile to draw up a list of export prices and to communicate it to the national producer. Initially he should also report the prices for exports not made on a regular basis'.

'Experience had shown that it was preferable to exchange information at the national level acting through a neutral office which would file information on exceptional quotations without distributing it to all the parties, who would be entitled to ask for information only when they wished to check customers' allegations. Thus the German, Belgian and French producers opened their price information offices to the other IFTRA signatories and the Italian and Dutch producers were recommended to do the same. The promise to exchange information on prices did not form part of the IFTRA rules, which simply took account of the implications of such a promise in group C. Experience had shown that it was useful to replace a mere undertaking given outside the rules by a detailed contract for a price information exchange office.'

17. Early in 1970, following the closure of the French and Belgian offices, it was decided that information would continue to be exchanged

between the producers directly, 'but suspicions should not be aroused that such a direct exchange of information would result in an agreement on the prices to be offered to individual customers' (meeting of 4 February 1970, item 5).

18. From a number of instances in which it can be proved that information was sent by Schiedam, BBR and Saint Gobain to other IFTRA signatories, especially to the other 'representatives' of the signatories, the latest of which date from 11 August, 28 September and 29 October 1971, for Schiedam, 22 October and 31 December 1971 for BBR and 22 January 1971, for Saint Gobain, it can be concluded that the exchange of information concerned new price schedules and the dates of their application, changes in these schedules, and names of undertakings to which special prices were granted.

B. CONNECTED AGREEMENTS

The IFTRA signatories also dealt with connected aspects which did not directly result from the rules, especially

(a) harmonization of prices at common market level by applying a standard calculation scheme (paragraphs 19 and 20) and

(b) the general adoption of a delivered-price system (paragraphs 21 and 22).

(a) **Common method of calculating prices**

19. As differences in selling prices between producers and between national markets were caused by differences between methods of calculating costs — based in some countries on the weight of the product, in others on the complexity of its manufacture — it was decided to establish a single calculation method 'so that the progressive dismantling of customs barriers would not lead customers and wholesalers to take advantage of differences between national calculation methods to the detriment of producers' (minutes of general meetings of 24 June 1966, 30 May 1967 and 6 June 1969).

20. The scheme established in January 1970 consisted of a list and definition of the various factors to be taken into account, assessed either by weight, by machine time (or by both of these on a 50/50 basis), or by product. This method enables its users to reach similar if not identical cost curves. It is 'to be used for sales pricing and not for purposes of internal management. Companies will work out their costs according to the traditional method, but they must subsequently compare them with costs established under the IFTRA method in order to avoid serious mistakes' (minutes of the meeting of costs experts of 12 January 1971). The system is uniformly applied in bottle production by IFTRA signatories. Certain producers (Ruhrglas, Schiedam, St-Gobain) also apply it to flask production. Studies on the feasibility of adjusting the scheme to make it generally applicable to flask production were begun in 1972.

(b) **Adoption of a delivered-price system**

21. Since users and retailers compare not only prices but also sales terms, in 1960 the IFTRA signatories adopted the system of pricing free at customer's railhead or warehouse.

At the IFTRA general meeting in June 1966 BBR stated that major bottlers of a like product located in different countries of Europe were beginning to concentrate their buying operations in countries where prices were lowest. The importance of the free delivered price, which was already being applied, was reiterated at that meeting (item IV.3 of the minutes) and, again at the general meeting of May 1967: 'The free delivered price is the price of the goods plus average transport costs. This system makes it easier to sell products at a long distance since it precludes unfavourable comparisons of the low prices of nearby plants with the higher prices of distant plants and provides a normal and commercial restriction to the area of distribution. Thus distribution areas defined by calculating the free delivered price could replace national frontiers thereby resulting in economies' (item III.3 of the minutes).

A Ruhrglas internal memorandum dated 17 May 1968, concerning a request from the Heineken brewery, Rotterdam, for an 'ex-works' quotation instead of a free delivered price, stated that this 'raises a question of principle in connection with the IFTRA rules. A unilateral decision on our part should therefore *not* be taken before we have spoken to all Western suppliers (Gerresheim, BBR, Schiedam and Dr Rüdell)'.

Furthermore, at the IFTRA general meetings of June 1966, June 1969 and June 1970, it was pointed out that an American multinational company, using hollow glass and having production units in France and in Germany, had noted that prices were lower in

Germany and therefore wished to buy products in that country and have them delivered direct to its French factory. The German manufacturer refused, arguing that he quoted only free delivered prices.

22. The sales managers of the IFTRA signatories had noted that all countries used the free at customer's railhead or warehouse price including a standard packing charge. As the latter differed from country to country, this question was examined by a group of experts. Palettized packing with base trays in heat-retracting plastic covers was considered to be the most suitable form of packing and was therefore adopted as standard packing to be incorporated in the free delivered price with an index of 100 for calculating the appropriate surcharges and discounts (minutes of the general meeting of 6 June 1969, item 3).

C. STRUCTURE OF THE GLASS CONTAINERS INDUSTRY

23. The glass containers industry comprises two major sectors in which the products are mainly homogeneous

(a) Bottles and carboys,

(b) Flasks of all kinds and preserves jars.

These sectors comprise a relatively small number of undertakings

24. *In Germany*

— Gerresheim, a 75 % subsidiary of Owens Illinois, has about 40 % of the glass containers market in which it had a turnover of DM 434·6 million in 1969 to 1971.

— Veba-Glas (Ruhrglas) covers about 24 % of the market, with a turnover in 1971 of about DM 400 million, including DM 50 million in glass for preserves.

— Heye has about 10 to 12 % of the market in bottles for beverages, in which it has an annual turnover of about DM 100 million.

The rest of the market is covered by Nienburg and a number of small undertakings, almost all of which are signatories to the IFTRA rules.

The four undertakings, Gerresheim, Veba-Glas, Heye and Nienburg, together account for some 88 % of the German market in glass bottles.

25. *In Belgium* there are at present only two undertakings, BBR producing bottles and Verlica producing jars and flasks, which achieved a turnover of approximately Bfrs 1 200 million in 1970, and which are linked together and with the French St-Gobain group by financial participations and interlocking directorates.

26. *In the Netherlands* there is one large undertaking, Schiedam (60 % controlled by BSN since January 1973), which achieved a turnover of Fl 133 million in 1971. This *de facto* monopoly is mitigated by the activities of Glasindustrie Dongen N.V., which manufactures mainly jars for preserves and bottles for the soft drink industries, and by imports from Germany and Belgium, which represent the biggest flow of trade in glass containers in the common market. One of Schiedam's main concerns, expressed at the various IFTRA meetings, has been to try to stem this flow, which was threatening its position.

27. *In France* two powerful groups dominate the bottle and flask market, and part of the user industries' market as well:

— BSN has over 50 % of the French market in glass bottles, 50 % of the market in preserves jars and 25 % of the flasks market, in which it achieved turnovers of, respectively, FF 420, 41 and 66 million in 1971. On the user side BSN covers 45 % of the beer market, 30 % of the mineral waters and soft drinks market, and 70 % of the baby food market, which guarantees it important outlets.

— Saint-Gobain Emballage has about 40 % of the French market in bottles and preserves jars, while Saint-Gobain Desjonquères has about 75 % of the flasks market.

Alongside these two groups there are still two medium-sized undertakings, Verrerie Cristallerie d'Arques J. G. Durand & Cie controlled by Saint-Gobain, Verreries Mécaniques Champenoises in which BSN has a minority interest, and four small undertakings including three IFTRA signatories, which cover only a small part of the French market for glass containers.

Of the latter, the Verreries de Blanc-Misseron covers about 1·5 % of the French bottle market.

28. *In Italy*, the Saint-Gobain (Bordoni-Miva) group, the Ricciardi group (in which St-Gobain has a 25 % interest) and the Vetri group, which all belong to the COVIR marketing agency and were IFTRA signatories until the end of 1971, account for about 40 % of total bottle production.

29. *In the United Kingdom,* the three principal glass manufacturers, United Glass Ltd, Beatson Clark and Co. and Rockware Glass Ltd, make about 70 to 80 % of all glass used for packaging. These undertakings are not IFTRA signatories. Imports of hollow glass from the United Kingdom to the market of the Six, which varied between 5 793 metric tons in 1961 and 4 248 metric tons in 1965, fell to 1 649 metric tons in 1966, and since then have fluctuated around that figure (1971: 1 655 metric tons).

30. *In Denmark,* Kastrup-Holmegaard Glasvärker has a share of approximately 80 % in the market for glass containers. This undertaking did not sign the IFTRA rules.

31. In that part of the common market (Germany, Benelux and France) where the IFTRA rules still apply, the European glass containers industry is composed of eight very large undertakings and a score of small undertakings which manufacture mainly homogeneous products.

Demand in this field has expanded considerably in the past few years, mainly because of the shift from returnable to non-returnable glass containers and the development of the market in glass containers for packing such products as medicines, cosmetics and food.

As a result of the abovementioned development, many producers of glass containers have occasionally found themselves with insufficient capacity. The remarkable increase in intracommunity trade in glass containers is thus due to the fact that such undertakings have themselves called upon foreign competitors to supply some of their customers, or that the latter have sought new sources of supply.

II. APPLICABILITY OF ARTICLE 85 (1) OF THE EEC TREATY

A. AGREEMENTS BETWEEN UNDERTAKINGS

32. The present case is characterized by a series of agreements originating in the accession by the undertakings concerned to common rules known as 'fair trading rules' or IFTRA rules (cf. paragraphs 1 to 12), and developed by arrangements made by the representatives of such undertakings and recorded in the minutes of IFTRA meetings. Such arrangements amplify the rules and facilitate their application by an exchange of information on the prices respectively practised (paragraphs 13 to 18), the development and application of a common method of calculating prices (paragraphs 19 and 20) and the adoption of a delivered-price system (paragraphs 21 and 22).

B. RESTRICTIONS OF COMPETITION

(a) IFTRA rules

33. Since there are differences, and occasionally great disparities, between the legislation of Member States both for the suppression of unfair competition and the protection of consumers, the selection of certain rules with a view to their adoption in common by undertakings in several Member States is necessarily arbitrary. An agreement to observe such rules may thus lead the undertakings which are party to such an agreement to apply in their own country, or in the countries to which they export, rules more stringent than those in force in such countries. In the present decision, the Commission takes no view on the question whether the adoption, by national legislation or otherwise, of some of the rules set out under paragraph 1 is desirable or not.

34. The mere labelling of an agreement between undertakings as 'fair trading rules' does not suffice to remove the agreement from the ambit of Article 85 (1) of the EEC Treaty. In the present case, the agreement in question contains several clauses, which, although presented as intended to prevent unfair trading, in fact give the parties the opportunity to take joint action against normal methods of competition. Consequently, these clauses have as their real and principal object the restriction of competition between the parties to the detriment of users of glass containers.

35. The latter aspect is particularly apparent in clauses A.1.(c), and A.7. Clause A.1.(c) defines as unfair the practice of systematically offering lower prices than those of a competitor, in order to jeopardize or destroy his existence even if the undercutting is not made at prices below cost. The last sentence of clause A.7 allows only the matching, and not the undercutting, of a competitor's prices.

Such provisions thus tend to prevent competitive behaviour, such as the practice of the most efficient and viable undertaking offering lower prices than those of its competitors, or applying special prices and discounts to achieve penetration of the market.

Within the common market such provisions ensure that a producer of glass containers who is a party to the agreement will not, on delivering goods in the territory of another party, disturb the price-level in that market, nor apply prices which are lower than those of the IFTRA partner who is considered the local or national price-leader (paragraph 11). The said clauses therefore have as their object the prevention of price competition between the parties.

Although it is not directly expressed in the text of the clauses itself, due to their drafting, this purpose becomes abundantly clear from particular cases dealt with at IFTRA meetings and from the practical application of the agreement (paragraph 12).

36. The other clauses of the agreement relating to prices discounts and terms of trade, i.e. clause A.2.(a) (prohibiting discriminatory prices, discounts and conditions) clause A.6.(a), second paragraph (prohibiting any secret departure from published offers or price lists) and clause A.7., first paragraph (which deems it an unfair practice to depart, whether secretly or not, from price lists), have the similar object in this case of suppressing normal competitive behaviour and especially of restricting competition in prices, discounts and terms of trade between the undertakings which are parties to the agreement.

This aim of preventing competition is all the more apparent if it is considered in conjunction with the agreements made between the parties for the exchange of respective price lists, discounts and terms of trade (paragraphs 14 to 17 and 40 to 45).

37. Among the 'rules and principles normal in the industry' included in group B of the agreement, clause B.2 relating to the publication of individual price lists and discounts has the object of enabling the application and enforcement of the abovementioned clauses of group A relating to prices and discounts. Clause B.6 which prohibits the export of defective products, in the present case bottles of imperfect colouring, also has the object of complementing the clauses of group A, since the export of such products, at a reduced price, would have the same competitive effect on an export market as an undercutting of the prices of the undertaking which is the price-leader in that market.

Although the clauses of group B are not expressed to be obligatory, they can have no other object than to reinforce the practical effect of the restrictions of competition; so much is clear from the context in which these clauses have been placed, and from the fact that the parties to the agreement could hardly have adopted such clauses with no intention of applying them.

38. According to the parties, clause C prescribes as being unfair 'only the breach of a promise, where made to supply information, since price information which is incorrect, or not given, or supplied too late has the effect of misleading a competitor who may have acted on the faith of such a promise to supply information'. It was also maintained that clause C did not have 'as its object or effect that such a promise and the corresponding price information be given, but only presupposed that such would be provided'.

The reasoning is particularly specious in seeking to distinguish between a promise made, apparently outside the IFTRA agreement, by a manufacturer to supply information on prices to one or more of his competitors, and the obligation undertaken by the same manufacturer within the framework of the IFTRA agreement, to supply such information with speed, accuracy and candour. Whenever undertakings of the importance and renown as those presently concerned take the decision to supply such information to competitors, it is self evident that such information will be correct and complete. Consequently, clause C in fact seeks to establish the elaborate system of exchange of price information, examined at paragraphs 40 to 45 hereof, between all the parties to the IFTRA agreement.

39. Enforcement of the restrictions of competition referred to above is ensured

(i) by the first paragraph of clause D, relating to the opportunity afforded to each party to claim 'damages' from another party competing in a manner described as unfair under the IFTRA agreement,

(ii) by the second paragraph of clause D obliging the parties to compensate other parties for loss suffered through 'not communicating or not communicating in time, or inadequately, any reduction in prices' (per the German version) or applying prices different from those communicated (per the French version).

The latter provision represents not compensation, but an excessive contractual penalty — at least 30 % of the turnover involved — which is distributed among all the other parties to the agreement, and which is a sanction to prevent breaches of the agreements next discussed, concerning the exchange of information on prices.

(b) **Exchange of information on prices**

40. The restrictive nature of the IFTRA provisions examined above is reinforced and supplemented by various agreements reached against the background of the IFTRA meetings, and concerning the direct or

indirect exchange between competitors of information on prices, discounts and terms of trade including any individual modifications, to, or derogations from the latter (paragraphs 14 to 18).

41. The parties have advanced the following arguments:

(i) that the adoption of the IFTRA rules does not compel a producer to state that he will give information on prices. However, the enforcement of fair trading rules presupposes that a signatory to the rules is prepared to supply information on prices, as 'declarations of normal price policy' made to the market, including competitors; otherwise Article A.2.(a) (prohibiting discriminatory prices, discounts and conditions) and Article A.6.(a) second sentence (prohibiting any secret departure from the terms of tenders or from price lists) could not be applied.

(ii) that prices were not communicated to competitors before their disclosure to the 'market' — that is to say to representatives, retailers and customers of the firm concerned — by means of circulars, price lists, tenders or concluded agreements. Such communication was later than, or at least simultaneous with, information given to the 'market', and was designed to prevent competitors from receiving distorted information from customers.

42. The above arguments are without foundation for the following reasons:

(i) The exchange of price information between competitors is inherent in the IFTRA agreement, because it is indispensable to the enforcement of clauses A.1.(c) and the last sentence of A.7 which prohibit the undercutting of a competitor (cf. paragraph 35). Furthermore clause C specifically provides for the communication of price information to competitors.

(ii) In the present case, it is of little relevance whether price information is communicated to competitors before or after it is communicated to the 'market'. In reality, any price variations in the glass containers industry are communicated sufficiently soon before being enforced to enable users to take them into account in fixing the price of their products after bottling or packaging. Consequently, if a producer, after informing his customers in his own country of the prices, discounts and terms of trade he will apply from a specified date, gives the same information to those of his foreign competitors who are parties to the IFTRA agreement, the latter are in a position to align their export prices for that producer's country with his prices. Furthermore, as long as a producer has not modified his lists of prices, discounts and terms of trade, they remain valid for future action.

43. It is contrary to the provisions of Article 85 (1) of the EEC Treaty for a producer to communicate to his competitors the essential elements of his price policy such as price lists, the discounts and terms of trade he applies, the rates and date of any change to them and the special exceptions he grants to specific customers.

An undertaking which informs its competitors of such elements of its price policy will only do so when certain that, in accordance with the agreement entered into with such competitors in pursuance of the IFTRA rules, they will pursue a similar price policy for deliveries to the market where the undertaking is a price-leader. By such means the possibility of unforeseen or unforeseeable reactions by competitors is sought to be eliminated, thus removing a large element of the risk normally attaching to any individual action in the market.

44. An undertaking which is informed by its competitors of the prices imposed by the latter, including special prices and discounts granted to particular customers in respect of certain goods, is placed in a position of precise knowledge of the current and future policy of its competitors in their respective markets, and consequently may adapt its own price policy for exports to such markets.

45. Considering the data already at their disposal, the information exchanged between the undertakings in question is of decisive importance for determining the price policy of each individual undertaking for exports to the other Member States concerned.

Therefore, the agreement to exchange information on prices has the object of restricting or distorting competition between the parties within the common market.

(c) **Calculation system**

46. The implementation by these undertakings of a common system of calculating costs in order to determine sales prices (paragraphs 19 and 20) has as its purpose the completion of the agreements on the

IFTRA rules and on the exchange of price information. It has a direct effect on the process of determining price of each undertaking in question, since it enables the latter to more easily compare their respective prices and thus to coordinate their action on the market.

47. In its communication [1] concerning cooperation between enterprises, the Commission indicated at II.1.(d) that it took the view that agreements having as their sole object the joint preparation of calculation models do not restrict competition provided they do not contain specified rates of calculations.

The communication, however, cannot apply to the present case, since the agreement in question does not have as its sole object the joint preparation of calculation models but constitutes only one part of a series of agreements which seek to restrict competition as to prices, discounts and terms of trade.

(d) **Delivered price system**

48. The system of prices free at ultimate destination (paragraph 21) applied by the IFTRA parties to the exclusion of any other price system, consists in applying, within a determined area, uniform delivered prices which in providing for an averaged freight charge do not reflect the actual cost of transport of goods from place of origin to destination. This system — further refined by the common standardization of packing costs (paragraph 22) — has the object of nullifying any competitive advantage which a producer of glass containers might gain from the proximity to his customers. It favours distant customers at the expense of those who are near; as the price is identical for both, the nearer customer pays for costs of delivery higher than those actually incurred by the seller, while the distant customer benefits from a discount on the actual freight costs. The system being of exclusive application, the sale of the products concerned is automatically tied to the user accepting their delivery to his location, a supplementary obligation which has no necessary connection with the sale of the goods, since users of glass containers most often have their own means of transport. The collective use by the undertakings in question of such a system of uniform delivered prices free at ultimate destination, to the exclusion of any other pricing system, consequently distorts competition between these undertakings and between the users of glass containers.

49. In conclusion, the coordinated and coherent system, equipped with sanctions, which results from the agreements relating to (a) the IFTRA rules arraigned above, (b) the exchange of information on prices between the IFTRA parties, (c) the common scheme of calculation of prices, and (d) the system of delivered prices, has as its real and principal object not the protection of fairness in competition but the restriction of competition especially as to prices, discounts and terms of trade between the undertakings concerned in respect of the products in question.

50. The agreements restrain competition considerably, in view of

(i) the nature of the products in question; bottles, jars and flasks embraced by these agreements being articles used mainly for packing foodstuffs, pharmaceutical and cosmetic products of large scale consumption (paragraph 2),

(ii) the largely homogeneous nature of the said articles,

(iii) the relatively small number and the importance of the undertakings engaged in the manufacture of such products and which are parties to these agreements, as well as the volume of business involved (paragraphs 24 to 28),

(iv) the fact that practically the only competition there can be in this sector of industry is one as to prices, discounts and sales conditions.

C. EFFECT ON INTRACOMMUNITY TRADE

51. The above agreements concern the trade in glass containers within the common market. They have a direct influence on the level of prices of such products exported by undertakings which are party to these agreements and, consequently, on the pattern of trade between Member States. They are likely to partition the market between those undertakings which are the price leaders in the industry and are party to these agreements, and thus to prevent the attainment and functioning of a common market

[1] OJ No C 75, 29. 7. 1968, p. 3, amended by OJ No C 84, 28. 8. 1968, p. 14.

between states. Therefore, the agreements in question may affect trade between Member States.

The conditions for the application of Article 85 (1) are therefore fulfilled.

III. INAPPLICABILITY OF ARTICLE 85 (3)

52. Only the agreement relating to the IFTRA rules was notified to the Commission as a 'standard contract'. It is actually a collective agreement between the undertakings concerned. The erroneous description of the agreement does not however affect the validity of the notification.

53. At the time of the notification, the parties advanced the following arguments as to the four conditions imposed by Article 85 (3):

(a) 'Product distribution free of unfair practices promotes open and effective competition ("Leistungswettbewerb") and meets the needs of industrial mass-production'.

(b) 'Users in the industrialized States of the EEC are injured by unfair competition but benefit from open and effective competition'.

(c) 'Given that the parties wish to promote open and effective competition and to prevent unfair competition, they need to establish fair trading rules'.

(d) 'Competition is not restricted by the parties'.

At the subsequent hearing, the parties concerned directed all their arguments to maintaining that Article 85 (1) was inapplicable to the agreement notified and made no further submissions of any kind in support of their case under Article 85 (3).

54. The agreement relating to the clauses examined in paragraphs 35 to 39 in the present case, does not, in any event, allow consumers a fair share of the resulting possible benefit; on the contrary, the fact that the most viable undertakings, when delivering to a high-price area, have to align their prices on to those of the national or regional price-leader, results in disadvantages for the consumers of glass containers in the country or region concerned.

The clauses relating to prices, discounts and terms of trade eliminate the only form of competition which might have existed in the sector in question; an agreement of this nature, whose sole beneficiaries are the producing parties, is not capable of allowing consumers a share of its benefit.

55. These clauses afford the participating undertakings the possibility of eliminating competition in respect of a substantial part of the products in question. In view of the structure of the glass container market within the common market (paragraphs 24 to 31), the position enjoyed by the participating undertakings in that market lends considerable gravity to any anti-competitive measure adopted by the latter. The restriction or distortion of competition as to prices, discounts and terms of trade between such undertakings leads to the elimination of competition within the common market in respect of a substantial part of the products in question.

For the above reasons, Article 85 (3) cannot be applied to the notified agreement relating to 'IFTRA rules'.

56. The agreement relating to the exchange of information on prices and derogations therefrom, which was entered into the year preceding notification (paragraph 14) was not mentioned therein. None of the subsequent agreements relating to this exchange of information, to the establishment of a common method for calculating prices and to the adoption of a delivered price system was notified or communicated as a supplement to the notification of October 1962. It therefore follows that these agreements, prohibited under Article 85 (1) and automatically void, cannot be exempted under Article 85 (3) since they have not been notified.

57. However, these agreements could not be exempted under these provisions, even if they had been notified. The exchange of price information benefits only parties to the IFTRA agreement. Consumers, in particular, have knowledge only of the prices charged by the producers who supply them. Neither producers outside the agreement, nor retailers, nor end users have any access to the documents exchanged under the agreement. The other two agreements which were not notified have the declared object of preventing, in the case of the price calculation system, 'customers and wholesalers from taking advantage of differences between national calculation methods to the detriment of producers' (paragraph 19), and in the case of the delivered price system, 'unfavourable comparisons of the low prices of nearby plants with the higher prices of distant plants' (paragraph 21). Therefore users are afforded no opportunity of sharing any benefit capable of arising from such restrictive agreements.

Moreover, for the reasons already set out in paragraph 55 these agreements cannot fulfil the condition imposed by Article 85 (3) (b).

IV. APPLICATION OF ARTICLE 3 (1) OF REGULATION No 17/62

58. At the hearing, the parties maintained that although the IFTRA agreement had not been generally rescinded, it had not been used for many years; similarly the exchange of information on prices, although the subject of much discussion at IFTRA meetings, was never embodied in formal international agreements.

However, at the end of 1971, when investigations were being made by the Commission, IFTRA meetings were still being held regularly (paragraph 9), and the system of exchanging information was still in operation (paragraph 18).

At the end of 1971 all the Italian members formally renounced the IFTRA agreement; Verreries de Blanc-Misseron S.A. similarly renounced the agreement at the end of 1972 (paragraph 5). Since that time other members — in particular the German undertakings Gerresheim, Veba-Glass, Heye and Nienburg — have withdrawn from the IFTRA agreement with effect from 31 December 1973.

It is therefore necessary to enjoin those undertakings still party to these agreements to take the necessary steps to put an immediate end to the infringements which have been established,

HAS ADOPTED THIS DECISION:

Article 1

The following constitute infringements of the provisions of Article 85 (1) of the Treaty establishing the European Economic Community:

(a) the following provisions of the agreement described as fair trading rules made between the manufacturers of glass containers set out in Article 4:

A.1.(c) relating to the systematic undercutting of a competitor,

A.2.(a) relating to discriminatory prices, discounts and terms granted to purchasers,

A.6.(a) second sentence, concerning secret departure from the terms of offers and price lists,

A.7. which presumes to be unfair the departure, whether secret or otherwise, from published price lists, and permits only the matching, and not the undercutting of a competitor's prices, when such a competitor introduces new price measures,

B.2. relating to the publication of individual price and discount lists,

B.6. concerning the prohibition on exporting defective products,

and

C. relating to misleading price information,

(b) the agreements made by the undertakings in question relating to the exchange of information on their respective prices, discounts and terms of trade;

(c) the agreement relating to the application of a price calculation system;

(d) the agreement relating to the collective and exclusive application of a free at destination delivered price system.

Article 2

The request for exemption under Article 85 (3) of the EEC Treaty in respect of the agreement referred to in Article 1 (a) above is rejected.

Article 3

Those undertakings which are party to the agreements referred to in Article 1 are required to bring the infringements established to an immediate end.

Article 4

This Decision is addressed to the following undertakings:

1. Gerresheimer Glas Aktiengesellschaft
   D 4000 Düsseldorf-Gerresheim
   Heyestraße 99

2. Veba-Glas AG
   D 4300 Essen 12
   Ruhrglasstraße 50

3. H. Heye Glasfabrik 'Schauenstein'
D 4962 Obernkirchen/Hannover

4. Himly, Holscher & Co KG
Glasfabrik Wilhelmshütte
D 3070 Nienburg/Weser
Gr. Drakenburger Straße 132

5. Bayerische Flaschen-Glashüttenwerke
Wiegand & Söhne GmbH
D 8641 Steinbach am Wald/Ofr.

6. Carl. Aug. Heinz Glashüttenwerke
D 8641 Kleintettau/Ofr.

7. Lüner Glashüttenwerke GmbH
D 4628 Altlünen/Post Lünen/West.
Döttelbeckstraße 89

8. Glashüttenwerke Ernst W. Müller GmbH
D 8831 Kipfenberg/Bayern

9. Noelle & von Campe Glashütte GmbH
D 3474 Boffzen/Weser über Höxter
Sollingstraße 14

10. Oberland-Glas GmbH
Glasfabrik Dr. Harry Wiegand
D 7954 Bad Wurzach/Allgäu

11. Spessarter Hohlglaswerke GmbH
D 8770 Lohr am Main
Rodenbacher Straße 38

12. Tettauer Glashüttenwerke AG
D 8641 Tettau/Oberfranken

13. Weck Glaswerk GmbH
D 5300 Bonn-Duisdorf

14. Verlica-Momignies S.A.
avenue de l'Astronomie 23
B 1030 Bruxelles

15. Bouteilleries Belges Réunies S.A.
rue Wauters 59
B 6040 Jumet

16. N.V. Vereenigde Glasfabrieken (United Glass-work)
Buitenhavenweg 114-116
NL Schiedam

17. Boussois-Souchon-Neuvesel (BSN) S.A.
22, boulevard Malesherbes
F 75008 Paris

18. Saint-Gobain Emballage S.A.
63, rue de Villiers
F 92209 Neuilly-sur-Seine

19. Verreries de Blanc-Misseron S.A.
26, rue de Mons
F 59 300 Valenciennes

20. Verrerie Ouvrière d'Albi S.A.
146, avenue Dembourg
F 81003 Albi

21. Verreries du Puy-de-Dôme S.A.
25, rue du Général Foy
F 75008 Paris

22. Bordoni Miva Vetrerie Riunite SpA
Palazzo Saint-Gobain
Via E. Romagnoli 6
I 20 146 Milano

23. Aziende Vetrarie Italiane Ricciardi AVIR SpA
Largo Vasto a Chiaia 82
I 80 121 Napoli

24. Vetreria Italiana VETR.I. SpA
Via Garibaldi 101
I 17 043 Carcare (Savona)

Done at Brussels, 15 May 1974.

For the Commission

The President

François-Xavier ORTOLI