COMMISSION DECISION

of 8 December 1977

concerning an investigation to be made at the Vereinigung deutscher Freiformschmieden, Düsseldorf, pursuant to Article 14 (3) of Council Regulation No 17

(Case IV AF 356)

(Only the German text is authentic)

(78/24/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 [1], and in particular Article 14 (3) thereof,

Having consulted the Federal Cartel Office, Berlin, being the competent authority for the purpose of Article 14 (4) of Regulation No 17,

Whereas :

There are sufficient grounds for suspecting that agreements for the maintenance of local prices and for restricting interpenetration are being applied on the common market for heavy forgings weighing over four tonnes. Such agreements and restrictions are contrary to Article 85 of the EEC Treaty, as is the contract-sharing which is also suspected.

In order to ascertain the facts the Director-General for Competition gave orders on 14 January 1977 that investigations should be made at several undertakings and associations of undertakings pursuant to Article 14 of Regulation No 17.

The checks which were due to be carried out on 18 January 1977 at the Vereinigung deutscher Freiformschmieden (hereinafter called 'the Union'), in the presence of a representative of the competent German authorities, could not be carried out because the Union refused to submit to the investigation unless they were authorized by a Decision of the Commission of the European Communities.

A Decision must therefore be adopted requiring the Union to submit to the investigation and in particular to allow the requisite business records to be examined.

Articles 15 (1) (c) and 16 (1) (d) of Regulation No 17, the full texts of which are annexed to this Decision, empower the Commission by decision to take action against undertakings by :

(a) imposing fines where undertakings intentionally or negligently produce the required books or other business records in incomplete form during investigations under Article 14, or refuse to submit to an investigation ordered by decision pursuant to Article 14 (3) ;

(b) imposing periodic penalty payments calculated daily from the day appointed by the Decision, in order to compel them to submit to an investigation which it has ordered by decision pursuant to Article 14 (3),

HAS ADOPTED THIS DECISION :

Article 1

(1) The Vereinigung deutscher Freiformschmieden is hereby required to allow an investigation to be made in its business premises in Düsseldorf. In particular, it is required to allow the Commission's officials authorized for the purpose of this investigation to enter its premises during normal office hours and to produce the requisite business records for examination by those officials.

2. In particular it shall produce all records of the Union :

(a) concerning its relations with other associations of undertakings in the Community ;

(b) of meetings with member companies and meetings of working groups and sales management personnel ;

(c) concerning the joint office in Zurich, including details of any payments made to that office.

Article 2

The investigation shall be carried out in the business premises of the Union in Düsseldorf and shall begin on 13 December 1977.

[1] OJ No 13, 21. 2. 1962, p. 204/62.

Article 3

This Decision is addressed to the Vereinigung deutscher Freiformschmieden, Düsseldorf. It shall be notified by being handed over personally to a representative of the Union by the Commission's officials authorized for the purpose of the investigation immediately before the investigation is to begin.

Article 4

Proceedings against this Decision may be instituted in the Court of Justice of the European Communities in Luxembourg in accordance with Article 173 of the EEC Treaty. Pursuant to Article 185 of the EEC Treaty, such proceedings shall not have suspensory effect.

Done at Brussels, 8 December 1977.

For the Commission

Raymond VOUEL

Member of the Commission

ANNEX

to Commission Decision of 8 December 1977

Article 15 (1)

1. The Commission may by decision impose on undertakings or associations of undertakings fines of from 100 to 5 000 units of account where, intentionally or negligently :

(a) .....

(b) .....

(c) they produce the required books or other business records in incomplete form during investigations under Article 13 or 14, or refuse to submit to an investigation ordered by decision issued in implementation of Article 14 (3).

Article 16 (1)

1. The Commission may by decision impose on undertakings or associations of undertakings periodic penalty payments of from 50 to 1 000 units of account per day, calculated from the date appointed by the Decision, in order to compel them :

(a) .....

(b) .....

(c) .....

(d) to submit to an investigation which it has ordered by decision taken pursuant to Article 14 (3).