II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 October 1983

relating to a proceeding under Article 85 of the EEC Treaty (IV/30.064 – Cast iron and steel rolls)

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

(83/546/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962: first Regulation implementing Articles 85 and 86 of the Treaty [1], as last amended by the Act of Accession of Greece, and in particular Articles 3 and 15 thereof,

Having regard to the Decision taken by the Commission on 25 May 1982 to open a proceeding on its own initiative under Article 3 of Regulation No 17,

Having given the parties concerned the opportunity, in accordance with Article 19 of Regulation No 17 and with Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Articles 19 (1) and (2) of Council Regulation No 17 [2], of making known their views on the matters to which the Commission has taken objection,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions on 22 March 1983 in accordance with Article 10 of Regulation No 17,

Whereas:

I. THE FACTS

The relevant products

(1) The products which are the subject of this Decision are cast iron and cast steel rolls (including 'steel base' rolls), which are used to form materials (usually steel) into a shape, profile or dimension by rolling. Most of these rolls (over 90% of production) are used by the steel industry for incorporation in rolling mills. Some rolls, however, are used for the rolling of other metals or in industries such as the paper and board, food and rubber industries. Forged rolls are not covered by this Decision, accordingly references to rolls in this Decision are to be read as references to cast rolls.

Summary of the facts

(2) The Commission obtained information:

(a) on 21/22 February 1980, in application of Article 11 (1) of Regulation No 17, from the Bundeskartellamt of the Federal Republic of Germany (B Kart A); and

(b) on 26/27 June 1980, through officials of the Commission who carried out investigations under the Commission Decision of 24 June 1980 and pursuant to Article 14 (3) of Regulation No 17, at the offices of several manufacturers of cast rolls situated in Belgium, Italy and the United Kingdom and at the office of the relevant French association of undertakings.

(3) On the basis of this information it is evident that price agreements and concerted practices on prices existed in various forms between western European manufacturers of rolls for a period of at least 12 years between 1968 and 1980. The object of these agreements and practices was to protect home or traditional markets by restricting price competition. The parties developed a system of

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

prior consultation on prices before making quotations in each others' home markets. They also agreed certain general price increases and, for six months, an allocation system. There was also a separate market-sharing agreement between the French producers covering markets in France and the Saar.

The parties

(4) The parties who were involved in one or more of the agreements or concerted practices concerned are the following undertakings and associations of undertakings:

Belgium

(1) SA Fonderies de Chênée, Chênée [closed in 1979, subsidiary of (3) below].

(2) N. V. Griffin SA, Merksem.

(3) SA des Fonderies J. Marichal, Ketin, Sclessin-Ougrée [subsidiary of (9) since 1972].

(4) SAFAK SA, Sclessin-Ougrée.

Federal Republic of Germany

(5) Achenbach Buschhütten GmbH, Kreuztal-Buschhütten.

(6) Eduard Breitenbach GmbH, Siegen.

(7) Leonard Breitenbach Walzengießerei und Dreherei, Siegen.

(8) Karl Buch Walzengießerei, Siegen.

(9) Gontermann-Peipers GmbH, Siegen.

(10) Walzen Irle GmbH, Netphen-Deuz.

(11) Fried. Krupp GmbH, Essen.

(12) Walzengießerei Roland GmbH, Siegen.

(13) Thyssen Gießerei AG, Mülheim/Ruhr (formerly Rheinstahl Gießerei AG).

(14) Thyssen Gießerei AG Düsseldorf-Oberkassel (formerly Rheinstahl-Gießerei AG).

(15) Fachgemeinschaft Walzengießereien, Siegen.

(16) Concordia, Hameln [absorbed by (9) in 1972].

France

(17) Chambre Syndicale des Fabricants de Cylindres en Fonte, Paris (Fabricyl).

(18) Chavanne-Delattre, Frouard
and

(19) Chavanne-Brun, Saint-Chamond
[now merged in Société Chavanne-Delattre which has become a subsidiary of (22)].

(20) Société Française des Cylindres de Laminoirs J. Marichal, Ketin et Cie, Berlaimont.

(21) Forges de Saulnes et Gorcy, Paris (later Société Fonderie de Gorcy, and now SARL Ateliers et Fonderies de Gorcy).

(22) Usinor SA, Paris.

Italy

(23) Innocenti Santeustacchio SpA, Brescia.

(24) Fonderie officine meccaniche Sant'Agostino SpA, Legnano.

(25) Fonderia officina San Gregorio SAS, San Macario (Varese).

(26) Fonderie San Zeno, Brescia.

United Kingdom

(27) Davy Roll Company Ltd, Sheffield.

(28) Midland Rollmakers Ltd, Crewe [subsidiary of (33)].

(29) R. B. Tennent Ltd, Coatbridge [subsidiary of (33)].

(30) C. Akrill Ltd, Crewe.

(31) Thomas Perry Ltd, Bilston
and

(32) Johnson's Rolls Ltd, West Bromwich
[now non-trading subsidiaries of (28)].

(33) British Rollmakers' Corporation Ltd, Crewe [non-trading holding company, parent of (28) and (29)].

(34) Roll Export Association of Great Britain, Birmingham.

Austria

(35) Eisenwerk Sulzau-Werfen, R & E Weinberger GmbH, Vienna.

Sweden

(36) AB Åkers Styckebruk (later AB Bofors-Åkers).

The parties include virtually the whole of the Community roll-making industry, together with the Austrian and Swedish roll-makers. The parties are referred to hereafter in Parts I to IV by the reference numbers given above.

Details of the arrangements made by the parties are set out in the paragraphs which follow.

A. INTERNATIONAL PRICE COLLABORATION

The preliminary developments in international price consultation and price fixing – up to May 1971

(5) At least from January 1968 an agreement existed between Belgian, French, German, Italian and

Austrian roll-makers to undertake mutual prior consultation regarding quotations in respect of specific enquiries from customers for iron rolls in their respective national markets. At this stage British and Swedish roll-makers only accepted subsequent consultation regarding their quotations. In addition, parallel with the consultation system, Belgian, French, German, Italian, United Kingdom, Austrian and Swedish roll-makers began, in May 1969, to agree upon identical percentage increases in their quotation prices for iron rolls and steel base rolls (the latter from June 1969). The consultation system was proving 'quite efficient' at this time. The developments described in this paragraph are evidenced by the following extracts from a note of an international meeting held in Rome on 9 May 1969:

'Points 1 and 2

. . . all the European product manufacturers decide as follows:

— from 21 May 1969 a quotation price increase amounting to 8 % calculated on the price of last orders, will be applied to all offers, while a further 2 % increase will be applied as from 1 October 1969. This refers to all the quotations submitted in Europe, also to those countries where the products are not manufactured. With regard to the internal markets of France, Germany, Belgium, Austria and Italy the mutual consultation system will continue.
Great Britain and Sweden accept only the subsequent consultation.'

'Point 3 – "Inclusion of . . . steel base product manufacturers . . . in our Club . . .

The German delegation will ask four firms (Gontermann-Peipers, Irle, Breitenbach and Rheinstahl) whether ready to apply the increase agreed today also to the steel base products and in the affirmative cast the other European producers will apply the increase from 1 June 1969.'

(Last paragraph of note.)

'On 18 June 1969 the German delegation confirms that the steel base product manufacturers have accepted the club's agreement and will apply it.'

'Point 4 – System of consultation and information

All agree that the present method of consultation and information between the countries, who accepted it, is quite efficient and does not need to be changed.

The British and Swedish confirm that their position of January 1968 is not changed.'

Representatives of the following companies attended the above meeting: (2), (3), (4), (20), (23), (35), (36) together with representatives of the relevant German, French, and United Kingdom associations: (15), (17) and (34).

(6) For a period, representatives of various parties tended to meet about twice a year in order to reach mutual agreement on general price increases – which could normally be obtained at that time owing to the favourable market conditions. These price increases were linked to an index system under which prices before May 1969 were regarded as equivalent to 100. The following price increases were agreed between May 1969 and October 1970 under this system:

Place of meeting	Date of meeting	Date of application	Index (1)	Directly represented at meeting
	Before May 1969		100	
Rome	9. 5. 1969	21. 5. 1969	108	(2), (3), (4), (15), (17), (20), (23), (35), (36)
Zürich	2. 9. 1969	5. 9. 1969	113	(2), (3), (4), (15), (17), (23), (34), (35), (36)
Rome	10. 1969	24. 10. 1969	125	Not known
Düsseldorf	10. 4. 1970	17. 4. 1970	130	(2), (3), (4), (15), (17), (23), (27), (33), (35), (36)
Geneva	15. 10. 1970	19. 10. 1970	140	(2), (3), (4), (8), (9), (10), (13), (15), (17), (18), (23), (27), (33), (35), (36)

(1) These increases were subject in some cases to temporary government price freezes or to negotiations with important customers.

(7) By October 1970 steel rolls had also been included in the arrangements. The indexed price increase system was valid for quotations in Europe, specified as the following markets: Sweden, Norway, Denmark, Finland, Benelux, Switzerland, Portugal, Spain, Greece, Turkey, Italy, Austria, with special conditions acknowledged for France, Germany and the United Kingdom.

(8) There were therefore two types of agreement operating in parallel and involving:

(i) prior consultation regarding quotations in respect of specific enquiries or orders;

(ii) agreement on general percentage increases to be applied to prices.

International price collaboration in action 1971 – individual cases

(9) Evidence of the prior consultation system in action is provided by exchanges of telexes during the period March to May 1971 in respect of enquiries from 15 different steel producers. The telexes show that (4), (8), (10), (23), (27), (28) and (36) were each involved in collaboration over the prices to be offered for one or more of these enquiries.

The formation of the International Rolls Manufacturers' Association – May 1971

(10) At meetings of the European roll-makers held on 22 April 1971 in Rome and on 10 May 1971 in Zürich, it was agreed to set up a more elaborate organization for the purpose of coordinating the notification of individual enquiries and the fixing of quotation prices. The agreement, which can be called the first IRMA agreement, since it involved the creation of the International Rolls Manufacturers' Association (IRMA), contained an obligation to notify immediately all enquiries, regardless of origin, for cast rolls of a unit weight over 100 kg to a neutral office in Switzerland, the Allgemeine Treuhand AG (ATAG) in Zürich. It was ATAG's responsibility to notify all interested parties of the other makers who had received the enquiry. The competitors would then contact each other to establish suitable prices, which could not be lower than those of the last similar business and had to respect the price levels reached by the previous indexation agreement – i.e. the index figure of 140 established in Geneva in October 1970 (see point 6 above). The agreement involved virtually the whole of the European cast rolls industry.

(11) These developments in the arrangements and other details, are evidenced by the following extracts from minutes/reports of the meetings of 22 April and 10 May 1971:

(i) *Report on meeting of 22 April 1971*

'After considerable discussion, agreement was reached on a suggestion made by a representative of a German roll-maker that an independent office be established in Switzerland into which all enquiries be channelled. After a period of approximately three days from receipt of the first notification of enquiry, all interested parties would be notified of the other members who had received the enquiry, following which, decisions would be made direct between the interested companies to establish adequate structure of prices. At the suggestion of Gontermann-Peipers, it was felt that, in the first instance, the carbon content of rolls to be reported be limited to 2,3 % minimum. Thus the registration is limited to iron and steel base rolls only.

The Swedish and Austrian representatives claimed that since they were the only roll-makers in their respective countries, it was reasonable to assume that in all instances of enquiries in their home territory, they receive the enquiry and it would not be necessary for them to register Swedish or Austrian enquiries respectively. Other than this the agreement covers enquiries from all countries of the world . . .

The Swiss office will, in the first instance, have no part in establishing prices but will merely advise members of other interested parties in order that common pricing can be carried out by direct approach. This arrangement would be carried out as quickly as possible and would be for an initial trial period of six months.'

(ii) *Minutes by ATAG of meeting of 'International Rolls Manufacturers Association'* (sic) *on 10 May 1971*

'1. It was agreed that each company involved should send at the latest until 19 May 1971 to Allgemeine Treuhand AG . . . hereinafter called ATAG, their telex number, phone number and the name of the person who should be contacted in connection with enquiries for rolls . . .

2. It was agreed that the reporting scheme as approved and accepted at the meeting in Rome on 22 April 1971 should be commenced on 24 May 1971 . . .

3. After three working days, exclusive of the day of first receipt by ATAG, ATAG should inform each of the companies who have reported an enquiry of the name of all the other companies who have reported it, using only reference number, customer's name and telex address . . .

5. The French group reported that, as it consists of five French companies who already report centrally to their own secretariat, they wish to report to ATAG on behalf of their member companies giving the names of the companies involved. This was accepted. In view of this, interested parties were requested to contact the French secretary, Mr – [of (17) (Fabricyl)], and no French roll-makers individually so far as the French market is concerned.

For markets other than France it would be necessary for French roll-makers to be contacted individually.

6. It was agreed that Santeustacchio should be exempted from reporting inquiries for Italsider, it being understood that all inquiries issued by this company were on every occasion issued also to Eustacchio.'

The meeting of 22 April 1971 was attended by representatives of (2), (3), (4), (5), (7), (8), (9), (10), (12), (13), (14), (16), (17), (18), (22), (23), (27), (28), (29), (33), (35) and (36). The meeting of 10 May 1971 was attended by persons from (4), (10), (13), (17), (18), (23), (34) and (36) who were representing the Belgian, British, French, German, Italian and Swedish groups.

(12) At a meeting of IRMA on 2 July 1971 in Zürich, certain minor modifications were made to the scheme:

(a) The French and UK groups were exempted, like the Austrian and Swedish roll-makers, from having to report enquiries from their own national territory.

(b) On receipt of a verbal enquiry from a member country, the recipient henceforth had to contact not only ATAG but also one of the national participants. For this purpose, in the case of enquiries coming from Germany, (13) was nominated as contact for plain (flat product) rolls and (10) for section rolls.

(c) The resignation of Gontermann-Peipers [(9)] from IRMA was announced – although it was also stated that they were continuing to collaborate on individual enquiries from time to time.

(d) As there was some lack of clarity on whether all steel and steel base rolls were included in the scheme, the meeting provided a precise definition of rolls to be reported as follows:

'All qualities of cast rolls will be reported. In spite of the withdrawal of Gontermann-Peipers, all other participants will report' (*source:* ATAG minutes of meeting).

The meeting of 2 July 1971 was attended by persons from (4), (10), (13), (14), (17), (18), (23), (27), (28), (33) and (36), representing the Belgian, British, French, German, Italian and Swedish groups.

(13) On 14/15 October 1971 there was a further IRMA meeting, this time in Copenhagen, and it was reported that the system was working to the satisfaction of all members.

The meeting of 14 October 1971 was attended by representatives of (2), (3), (4), (5), (7), (8), (10), (11), (12), (13), (14), (17), (18), (20), (23), (27), (28), (29), (35) and (36) (*source:* minutes of meeting).

IRMA general regulations

(14) At a meeting of representatives from all seven national groups participating in IRMA, held in Zürich on 14 January 1972, the first 'IRMA general regulations' setting out in a written agreement the details of the reporting procedure were approved for circulation to all participants (*source:* ATAG minutes and general regulations).

(15) At an IRMA meeting held in Zürich on 11 February 1972, it was decided for a trial period of two months to allow participants to opt out of price collaboration, on condition that they reported this to a coordinator within 24 hours after having received the ATAG notification of the names of all the participants interested in the order in question. The non-collaborator had to report to ATAG his reason for not collaborating. Present at the meeting were representatives of (2), (3), (4), (8), (11), (13), (14), (17), (18), (23), (27), (28), (29), (35) and (36) (*source:* ATAG minutes and a report of the meeting).

(16) At an IRMA meeting held in Vienna on 27/28 April 1972 it was announced that a centralized coordination office for the German group had been established in Siegen, to operate from 2 May 1972. The following decision was taken concerning cooperation for 'home markets':

'Every member firm has to cooperate in each case and is not entitled to give a non-collaboration notice; if after direct contacts between the parties involved, and despite a frank and open discussion about the problem in the case in question, a cooperation cannot be reached for important reasons, a partner is entitled to withdraw from cooperation, but only under the condition that he informs the others immediately about the position he is going to take and the conditions he will grant to the customer. In addition he also has to inform ATAG about his non-collaboration and the exact reason(s) for it.'

The meeting also took the following decision:

'It is unanimously decided by all rolls-makers represented here with regard to all the markets for which a coordinator is nominated according to the Zürich and Vienna minutes that for a trial period until the next meeting to be held in autumn 1972, no member of IRMA will try to take in an order by undercutting or conditions dumping [*sic*] or similar means in a mill where it has not yet delivered.'

Regarding Gontermann-Peipers it was reported that the situation had not changed but there often was the possibility of cooperation in specific cases.

Present at the meeting were representatives from (2), (3), (4), (5), (7), (8), (10), (11), (12), (13), (14), (16), (17), (18), (20), (22), (23), (27), (28), (29), (35) and (36) (*source:* ATAG minutes).

(17) At an IRMA meeting held in London on 5/6 October 1972 it was agreed that the coordinator for a particular enquiry should automatically transmit a rock-bottom price to all members who had received an identical enquiry, and notify, as necessary, any changes in the rock-bottom price. It was confirmed that in accordance with the general regulations all members had to report on all qualities of cast rolls with the sole exception of Ed. Breitenbach [No (6)] which was not cooperating for cast steel and base rolls.

Represented at the meeting were (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), (14), (17), (20), (22), (23), (27), (28), (29), (35) and (36) (*source:* ATAG minutes).

(18) At an IRMA meeting in Zürich on 16 January 1973 it was reported that Gontermann-Peipers had rejoined the IRMA agreement and would immediately start reporting all enquiries concerning cast iron rolls (carbon content higher than 2,3 %) as well as high chromium rolls. It was also stated that although Gontermann-Peipers had taken over a majority holding in Marichal, Ketin, France and Belgium [(3) and (20)], 'these two companies remained free as in the past with regard to their participation in IRMA . . . [and would] continue to report in the same manner as previously'. It was uanimously agreed to increase prices immediately by 6 % for iron and steel rolls in Germany, Scandinavia and Italy. Certain increases were agreed, depending on the circumstances, for Great Britain, Austria, France and Benelux.

Represented at this meeting were (2), (3), (4), (5), (8), (9), (10), (13), (14), (17), (20), (22), (23), (27), (28), (29), (35) and (36) (*source:* ATAG minutes).

(19) At an IRMA meeting in Paris on 10/11 May 1973 it was decided as regards price increases that:

'Since it is not possible to generally increase the prices by a certain percentage, the following is decided: It is left to the coordinator to increase the price because he knows his own market best.'

It was also agreed at the meeting that so far as 'home markets were concerned, non-collaboration was only acceptable for steel rolls but not at all as a rule for iron rolls'. It was also reported for the first time that SA Fonderies de Chênée [(1)] was a member (acting as a coordinator). Represented at the meeting were (2), (3), (4), (5), (7), (8), (10), (11), (12), (13), (14), (17), (18), (20), (21), (22), (23), (27), (28), (29), (35) and (36) (*source:* ATAG minutes).

(20) At an IRMA meeting in Berlin on 5/6 October 1973 it was decided that non-collaboration was acceptable only for cast steels rolls and not for cast iron or steel base rolls. It was also decided that 'all delegates will support a price increase of 10 % for deliveries starting on 1 January 1974 (with the exception of the French group, which has, due to their revision formula, a continuous [*sic*] [? regular] price increase'. This meeting also decided upon an alarm system to operate in the event of the German members receiving a sudden inspection by an 'authority'. The ATAG minutes state:

'If a German company receives the unexpected visit of the authority, it will inform ATAG, who will send a neutral message to all other members,

advising them not to send any telex messages to the German members until the situation has improved.

This alarm sentence will be:

"re: IRMA
Attention Mr . . .
The figures from a German company for the next market survey are wrong. They will therefore be distributed at a later date."

The sentence giving the end of the alarm will be:

"re: IRMA
Attention Mr . . .
We have now received the correct figures from the German company. You will receive the market survey in a few days. Thank you for your comprehension."'

A revised draft of the IRMA general regulations, incorporating the various modifications to the system made since the beginning of IRMA in 1971, was circulated to members with these minutes.

Represented at the meeting were (2), (3), (4), (5), (7), (8), (9), (10), (12), (13), (14), (17), (20), (21), (23), (27), (28), (29), (35) and (36) (*source:* ATAG minutes).

(21) An example of the IRMA system in operation at this time is provided by an exchange of telegrams between (2) and (23) in September/October 1973, concerning an enquiry for rolls, which indicates collaboration on the minimum prices to be offered. The ATAG reporting arrangements were duly used in connection with this enquiry.

(22) The British Rollmakers Corporation [(33)] with its subsidiaries (28), (29), (30), (31) and (32), together with Davy Roll Company [(27)] withdrew temporarily from IRMA (between November 1973 and September 1974 inclusive) owing to the reference of a takeover bid to the UK Monopolies Commission. The French group also withdrew temporarily from IRMA (for the period 15 July to October 1974) owing to an investigation of one of their members.

International price collaboration in action 1974 – individual cases

(23) Evidence of the IRMA system in action during the period February to April 1974 is provided by a series of telexes found at (23). These relate to 30 different enquiries in respect of which (2), (3), (4), (5), (8), (13), (18), (19), (22), (23), (27), (35) and (36) were each involved in collaboration on one or more occasions.

(24) The 30 cases referred to above represent only a small sample of all the enquiries dealt with through ATAG in 1974. In total, 2 538 enquiry cases were reported through ATAG during the year 1974, with an average of 3,1 notifications per enquiry case. This excluded the British group until the end of September that year and the French group from 15 July up to the beginning of October.

Further development of the IRMA system 1974 to 1977

(25) At an IRMA meeting held in Palma de Mallorca on 10/11 October 1974, the British and French groups announced that they would again start reporting. In the French case, however, all contact would henceforth have to be via Fabricyl [(17)] who would act as the only coordinator in France. The British group mentioned that in practice they had not stopped collaborating in the meantime. Three small Italian roll-makers were admitted to membership at the meeting – Nos (24), (25) and (26) – and it was agreed that they should report enquiries and be contacted via (23). As from 1 October 1974 the German Association [(15)] ceased its cooperation in IRMA and the German roll-makers started dealing direct with ATAG, German coordinators being nominated by ATAG.

(26) The minutes of the meeting on 10/11 October 1974 contain the following affirmation about the effectiveness of the cooperation through IRMA:

'Our rules should allow us to get the maximum price from the market situation. Thanks to these rules it was possible to double the prices in Italy but the target of bringing them to the European level has not yet been reached.'

(27) Represented at the meeting on 10/11 October 1974 were (1), (2), (3), (4), (5), (7), (8), (9), (10), (13), (14), (17), (19), (21), (23), (24), (25), (26), (27), (28), (29), (35) and (36) (*source:* ATAG minutes – attached to these minutes were – (a) an updated text of the IRMA general regulations; and (b) a revised list of IRMA members – all the companies and associations mentioned in point 4 are included in this list, with the exception of (15), (16), (33) and (34)). The revised general regulations describe the coordinator's function in setting prices as follows:

'The coordinator communicates automatically and as soon as possible the prices and their validity time to the participants. Normally, two prices are given: (a) the quotation price, (b) the rock-bottom-price. If only one price has been

transmitted, it is understood to be the rock-bottom-price. . . . In any case, the first quotation price must be several percent higher than the rock-bottom-price.'

The ATAG covering letter with which were enclosed the revised general regulations states:

'Enclosed please find the minutes of the last International Rollmakers' Conference . . . as well as a new edition of our general regulations containing the *alterations agreed upon at the meeting*.'

(28) The continuation of the IRMA arrangements during 1975 is evidenced by the minutes of IRMA meetings held in Zürich on 23 January 1975, in Stockholm on 5/6 June 1975, and in Geneva on 23/24 October 1975. In June it was stated that: 'the system of IRMA has shown positive results during the last years'. It was also decided that collaboration in 'home markets' should become compulsory for cast steel rolls (as well as steel base and cast iron rolls). Gontermann-Peipers accepted the rule only so far as rolls with a carbon content of 1,8 % and more were concerned.

(29) The IRMA meeting of 23/24 October 1975 approved revised general regulations dated 26 June 1975 and agreed certain additional measures designed to strengthen the IRMA arrangements, which were coming under pressure due to the worsening of the market situation. These measures involved the establishment of three bodies for a trial period of six months:

1. the normal general meeting, to take place every six months, as in the past;

2. an Executive Committee, comprising about 10 executives from the different member countries, meeting every six weeks to discuss current problems and prepare the general meeting;

3. a Technical Committee, meeting every Friday to discuss particular contracts between representatives of companies having received the enquiry in question.

The objective of this three-fold Committee structure is described in the ATAG minutes as being:

'to avoid that the prices go down and even try to increase them, as well as to avoid undercutting, knowing that the total volume of orders cannot be changed by undercutting. Every member must restrict himself to his share (in %) of the market'.

Represented at the October 1975 meeting were (1), (2), (3), (4), (5), (8), (9), (10), (12), (13), (14), (17), (18), (19), (20), (21), (23), (24), (25), (26), (27), (28), (35) and (36).

(30) At a meeting of the Executive Committee held on 12 December 1975, it was decided that each coordinator would try to 'share' at least two orders between the participants who had received orders in the past from the customers concerned. Those who had not previously supplied the customer in question would be asked to quote a higher price and not go down to the minimum price (*source:* ATAG minutes).

(31) At a meeting of the Executive Committee held on 12 February 1976 it was decided, as a precaution in case of cartel investigations, to use a code in place of the abbreviations of members' names hitherto used by ATAG. It was agreed to reduce the frequency of Technical Committee meetings to one in every four weeks (*source:* ATAG minutes).

(32) At an IRMA general meeting held on 20/21 May 1976 in Vienna, it was agreed to use the new code immediately, whereby members' names were replaced by numbers in accordance with a list dated 15 May 1976. It was also agreed to apply an allocation system for 'home market' orders, during a six-month trial period. Under this system:

1. in cases where the coordinator knows the traditional supplier(s) he 'will ask the participants who are not the traditional suppliers to over-quote and renounce the negotiation';

2. 'large inquiries will be shared among the traditional suppliers, trying to make the allotment according to the customer's wishes. Only one participant will negotiate a (some) specific item(s) whereby he will be protected by the others. For other items he will over-quote and protect another participant, and so on. The prices are to be fixed accordingly.'

Represented at the meeting were (1), (2), (3), (4), (5), (8), (10), (12), (13), (14), (17), (18), (19), (20), (21), (23), (24), (27), (29), (35) and (36) (*source:* ATAG minutes, ATAG letter of 25 May 1976 and coded list).

(33) An internal note found at (4) relating to an enquiry

of July 1976 from a steel producer for rolls for its 500 mm mill, contains a reminder:

'Take care not to fix a firm selling price without having referred the matter to Mr – at Fonderies de Ch' (i.e. Chênée – (1)).

(34) An example of a Technical Committee meeting between roll-makers interested in specific enquiries is the meeting held at Brussels airport on 17 September 1976 between representatives of (3), (4), (13), (14), (23), (27) and (28). A note of the meeting states:

'The meeting was convened by the Belgians for the purpose of tabling prices against recent enquiries ... and to impress upon all participants the advisability of maintaining agreed minimum prices.'

(35) At an IRMA general meeting held at Gleneagles, Scotland, on 7 October 1976, it was decided that as the allocation system was not working properly, a small committee should be created to propose another basis for collaboration. This committee, comprising one representative from each of the seven participating countries, met on 29 October 1976 in Zürich and recommended by a majority the adoption of a quota system, based on tonnage shipped in a reference period. The system would apply to 'home markets' and to all types and qualities of rolls (*source:* ATAG minutes of both meeting and notes of the 29 October meeting).

(36) At an IRMA general meeting held in Zürich on 3 March 1977, in the face of a very poor market situation and a deterioration in collaboration, it was decided to modify the arrangements as follows:

'Decision 1

Each inquiry case ... has to be reported to ATAG, each one with the notification of whether collaboration in price is accepted or not. ATAG will forward the full information to the participants. Collaboration will be restricted to those cases where all or most of the participants are willing to do so. Full collaboration will be restored as soon as the market situation has recovered.

Decision 2

During the period when a full collaboration is not possible, informal meetings will take place every two months in order to keep up the personal contacts.'

Represented at the meeting were (2), (4), (5), (8), (10), (13), (14), (17), (23) and (36) (*source:* ATAG minutes).

(37) At a meeting held in Paris on 28/29 April 1977:

'The different groups undertook to communicate and to cooperate on all "home markets" for a period of two months and to follow a policy of "sincere and realistic prices".' (*Source:* minutes.)

Represented at the meeting were (1), (2), (3), (4), (5), (8), (10), (13), (14), (17), (18), (20), (21), (22), (23), (27), (28), (29), (35) and (36).

Withdrawal of ATAG and revised international price collaboration arrangements

(38) In a letter to IRMA members dated 12 May 1977, ATAG announced its wish to give up its activities for their organization and to be released from its functions at the latest by the end of August 1977.

(39) At a meeting of IRMA members held in Brussels on 30 June 1977 it was decided that the system with a neutral organizer (ATAG) should be replaced in favour of a simplified arrangement whereby the coordinators would be designated in advance from among the roll-makers, either by having a known single coordinator for a country or by nominating particular makers as permanent coordinators for particular customers (*source:* notes of meeting).

Represented at the meeting were (1), (2), (3), (4), (5), (6), (8), (9), (10), (12), (13), (14), (17), (18), (20), (21), (22), (23), (27), (28), (35) and (36).

(40) At at meeting held in Munich on 17/19 November 1977 it was formally agreed to continue to report all home market enquiries for all categories of rolls and the definition of 'home markets' was left unchanged. Unless a company clearly stipulated otherwise when reporting, it would be assumed that it was ready to cooperate. Price quoted should be above the minimum price and the latter was in no case to be under-quoted.

International price collaboration in action in 1977 – individual cases

(41) Evidence of the system in action during 1977 is provided by telexes or notes relating to 12 different enquiries. Makers involved in the collaboration on one or more of these cases included (1), (2), (3), (9), (10), (11), (13), (14), (18), (19), (20), (22), (23), (27), (28), (35) and (36).

International price collaboration continues – 1978

(42) At a meeting between roll-makers in Frankfurt on 23 February 1978, at which all seven national

groups were represented, the need for continued cooperation was confirmed. The minutes of the meeting read: 'The participants will endeavour to increase prices by about 5 to 10 % (exception Great Britain, which will nevertheless support the increase in other markets).' All seven national groups were again represented at a meeting in Paris on 24 April 1978 when it was decided that:

'1. all reporting will be 100 %;

2. all participants will cooperate in the first round;

3. prices will be increased by a certain percentage (not determined generally) and this in the same currency and on the basis of the last price quoted. Prices are in no case to be lower.' (*Source:* notes of minutes.)

Present at the February meeting were representatives from (3), (8), (10), (17), (23), (27), (35) and (36). Present at the April meeting were representatives of (4), (8), (10), (17), (18), (19), (23), (27), (28), (35) and (36).

(43) At a meeting in Rome held on 13 October 1978 it was reported that Gontermann-Peipers [(9)] had now resigned from the German group but that (9)'s affiliated companies in Belgium and France were cooperating satisfactorily. It was unanimously decided to continue reporting all enquiries from home markets (western Europe excluding Spain). 'This would at least make bilateral agreements possible, although cooperation was the real objective to be reached.' It was stressed that the coordinator should do his best to assure the broadest possible collaboration (*source:* minutes of meeting).

Present at the meeting were representatives of (2), (5), (6), (7), (8), (10), (11), (12), (13), (14), (17), (18), (21), (22), (23), (24), (25), (26), (27), (28), (29), (35) and (36).

(44) Evidence of the price collaboration system in action during 1978 is provided by telexes or notes relating to 20 different enquiries. Members involved in one or more of these cases included (1), (2), (3), (4), (5), (8), (9), (10), (12), (13), (17), (19), (20), (23), (27), (28), (35) and (36).

Investigation in Germany, 1979

(45) In January 1979 (on 23/24 of that month) inspectors of the B Kart A carried out an investigation in the offices of German participants in IRMA. The Commission is aware of 11 enquiries which were the subject of price collaboration during that month. Makers involved included (2), (3), (4), (7), (8), (10), (20), (22), (23), (24), (27) and (36).

International price collaboration continues in 1979 and 1980 – some individual cases

(46) After the investigation in Germany, there seems to have been a temporary hiatus in the process of price collaboration. However, in due course, a measure of international price collaboration was resumed. The evidence is set out below:

(i) A promise by (23) to (27) dated 23 July 1979 to cooperate on price in the future, following a misunderstanding regarding a particular enquiry.

(ii) An internal note of (28) dated 31 August 1979 which states:

'Mr X of SAFAK [(4)] telephoned today (31 August 1979) . . . as they have just received an enquiry. I gave him our price of £ 9 900 for the Ind. Chill rolls.'

(iii) An internal note of (3) dated 13 September 1979 which states concerning an inquiry:

'The price offered by SSE [(23)] is the Fabricyl minimum – FF 500 . . . He [Mr X of (23)] hopes that the collaboration will be as successful this year as it was last year.'

(iv) Notes and telexes of February 1980 concerning an enquiry for work rolls for a wide-strip mill. From this evidence it emerges that (4) was the coordinator and fixed minimum prices. It was (3)'s task to inform certain competitors.

(v) Notes, letter and telex of May 1980 concerning an enquiry for iron rolls. No (3) fixed the minimum price at Bfrs 50 per kilogram and conveyed it to competitors. A note of 22 May 1980 states: 'MK [(3)] will offer at Bfrs 52, AK [(36)] at Bfrs 53,50, SEE [(23)] at Bfrs 55, –, SA [(4)] at Bfrs 52,50'.

(47) To summarize the position regarding international price collaboration during the period between the B Kart A investigation of 23/24 January 1979 in Germany and the investigation by Commission inspectors on 26/27 June 1980 in Belgium, France, Italy and the United Kingdom, it is clear that such collaboration continued, albeit on a reduced and more *ad hoc* basis, and involved at least the following roll-makers on one or more occasions: (3), (4), (23), (27), (28) and (36).

With regard to Fabricyl (17), it appears from point 46 (iii) that this association was still exercising its role as coordinator for the French group in September 1979.

B. SUPPORTING ACTIVITY ON A NATIONAL LEVEL – FRENCH MAKERS' MARKET SHARING AGREEMENT

(48) In the case of the French makers, the international collaboration on prices was buttressed by an agreement running for the five years from 1 January 1976 to 31 December 1980 and designed to preserve for the participants their traditional market shares in France and the Saar. The agreement is embodied in a document found at (17) and entitled:

> 'Reflections on a mechanism for rationalizing the manufacture of rolls'
>
> ('Réflexions sur un mécanisme de Rationalisation de la Fabrication des Cylindres')

The contracting parties ('Contractants') were put into three groups:

1. the associated companies (18) and (19), now combined in a single company;
2. (20);
3. (21) and (22).

Each of the participants so grouped was allotted an index of $33^1/_3$ % representing its traditional market share in France and the Saar and a fund was established called the 'Mutual Aid Fund' ('Caisse d'Entraide'). As stated in the agreement, which covered all qualities of rolls with a carbon content higher than 1,8 %:

> 'The object of the Mutual Aid Fund is to provide financial support to firms whose actual tonnage of deliveries in a given period is lower than a so-called "indicative tonnage".'

(49) If effective deliveries of a contracting party were higher than his 'indicative tonnage' in a given six-monthly period, he had to pay a contribution ('redevance') to the Mutual Aid Fund. The agreement provided that at the end of the financial year the Mutual Aid Fund should be redistributed to contracting parties whose deliveries had been below their 'indicative tonnages', i.e. quotas, possibly after setting aside a certain part of the Fund for export aid (see the next paragraph).

(50) The market sharing agreement described above contained a clause providing that part of the Mutual Aid Fund could be used to support the exports of the contracting parties. Based on this, the same parties entered into an Export Aid Agreement on 10 June 1977 with retroactive effect from 1 January 1977 and valid for a three-year period, covering the same types of rolls as the market sharing agreement. Provision was made for an Export Aid Fund, which, in addition to any transfers from the Mutual Aid Fund, also received contributions based on a fixed but revisable rate of 2,5 % of the value of the total tonnage delivered the previous year in France. At the end of each year provision was made for distribution of all or part of the Fund to the parties in proportion to their export deliveries.

(51) Proof that the agreements described in points 48 to 50 were actually applied is supplied by further evidence found at (17), which was responsible for managing the two Funds through a manager (Fondé de Pouvoir). This evidence includes the accounts of the Export Aid Fund for 1977, the accounts of the Mutual Aid Fund for 1978 dated 3 July 1979, and proof of payments under the scheme. Moreover at a meeting of the contracting parties held on 10 July 1979 it was agreed:

> 'to maintain for 1980 the same bases for sharing the amounts ("quanta") as in 1979, i.e. until the present agreement expires'.

It was further agreed at the meeting of 10 July 1979 to begin preparations for the introduction of a new agreement to enter into force on 1 January 1981.

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

(52) Article 85 (1) of the EEC Treaty prohibits as incompatible with the common market all agreements between undertakings, decisions by associations of 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.

(53) On the basis of the evidence set out in Part I it is clear that the undertakings and associations referred to in point 4 made and operated agreements and engaged in concerted practices forbidden by Article 85 (1):

(a) At least from January 1968 until May 1971, Belgian, French, German, Italian and Austrian roll-makers engaged in the concerted practice of prior consultation on prices before making quotations in each others' home markets. The

undertakings involved were, at least, (2), (3), (4), (20), (23) and (35) together with the relevant German and French associations (15) and (17) acting on behalf of their members. By March-May 1971 the British undertakings (27) and (28) and the Swedish undertaking (36) were also involved in prior consultation.

From April/May 1971 until the B Kart A intervention in January 1979, Belgian, French, German, Italian, United Kingdom, Austrian and Swedish roll-makers entered into, developed and operated a more detailed agreement – the 'IRMA agreement' – and engaged in the associated concerted practices in order to coordinate the notification of individual enquiries and the fixing of minimum quotation prices. This agreement and its modifications are embodied in the minutes of international meetings of roll-makers and their associations and in the 'IRMA general regulations' in their original and revised texts.

Participants in the IRMA agreement from April/May 1971 were:

— (2), (3), (4) (Belgium),

— (5), (7), (8), (9), (10), (12), (13), (14), (16)
(Federal Republic of Germany),

— (17), (18), (19), (22) (France),

— (23) (Italy),

— (27), (28), (29), (33), (34)
(United Kingdom),

— (35) (Austria),

— (36) (Sweden).

It is clear that by October 1971 and February 1972, respectively, (20) and (11) were also participants and that by October 1972 (6) was a participant for iron rolls. Evidence of May 1973 shows that (1) and (21) were already involved at that time.

Three small Italian makers became members of the agreement in October 1974: these were (24), (25) and (26).

The British association and the German association ceased their involvement in the IRMA agreement respectively in 1972 and in October 1974. By October 1974, (16) was no longer a separate member, having been taken over by (9) in 1972.

A membership list of October 1974, shows that (30), (31) and (32) were also separate members of IRMA and that virtually all the roll-makers of the seven countries concerned together with the French association were participating in IRMA at that time.

A membership list of 15 May 1976 shows that the membership remained unchanged at that date.

Subsequently the only resignation from the agreement before January 1979 was that of (9) in October 1978.

International price collaboration in the form of concerted practices designed to fix minimum prices continued from time to time during the period between the B Kart A and Commission investigations (January 1979 to June 1980). These concerted practices were entered into by at least the following roll-makers on one or more occasions: (3), (4), (23), (27), (28) and (36). In addition the French association (17) was involved as a coordinator on one occasion.

(b) From May 1969 until October 1973, Belgian, French, German, Italian, United Kingdom, Austrian and Swedish roll-makers engaged from time to time in the concerted practice of agreeing index-linked general price increases. This practice was repeated in February and April 1978. The undertakings directly represented at one or more of the meetings at which decisions to increase prices were taken were: (2), (3), (4), (8), (10), (13), (18), (20), (23), (27), (33), (35) and (36); together with the German, French and United Kingdom associations (15), (17) and (34) acting on behalf of their members.

(c) In May 1976, the IRMA arrangements were extended to include an agreement on market-sharing for a trial period of six months; this involved the allocation of orders to traditional suppliers through deliberate over-quoting by non-traditional suppliers. The following companies and association were represented at the meeting which made this agreement: (1), (2), (3), (4), (5), (8), (10), (12), (13), (14), (17), (18), (19), (20), (21), (23), (24), (27), (29), (35) and (36).

(d) The French group entered into and operated, at least from 1 January 1976 to July 1979, a market-sharing agreement for cast iron rolls, with quotas and equalization payments, designed to preserve for the participants their traditional market shares in France and the Saar, together with an export aid agreement for 'general exports' and exports to the Saar from 1 January 1977 until at least July 1979, which

also had the effect of sharing markets (involved were (18), (19), (20), (21) and (22) together with their association (17)).

(54) The agreements and concerted practices described in point 53 (a) to (d) above, by restricting price competition, by seeking to secure maximum possible prices under prevailing market conditions, by artificially supporting over-capacity during market recessions and by discriminatorily supporting certain exports, all in one way or another had as their object or effect the prevention, restriction or distortion of competition within the common market.

(55) The alarm system described in point 20 and the code system described in point 31 make it clear that the parties were fully aware that their conduct constituted infringements of Community competition legislation in addition to national competition legislation where applicable.

(56) The agreements and concerted practices described, clearly affected the free flow of trade between Member States and interfered with the objective of establishing a single market in the Community. In particular:

— the concerted practices and IRMA agreement referred to in point 53 (a) sheltered home markets from international competition, thus inhibiting inter-State penetration,

— the concerted practice referred to in point 53 (b) by coordinating price increases on an international basis also inhibited inter-State penetration,

— the international market-sharing agreement referred to in point 53 (c) had as its object the division of what should be a single market,

— the market-sharing agreement of the French roll-makers referred to in point 53 (d) directly affected trade between France and the Federal Republic of Germany (the Saar) and by seeking to freeze trade patterns in one part of the Community tended to contribute an element of stability within the wider framework of restricting inter-State trade under the IRMA arrangements.

(57) Article 85 (1) of the Treaty accordingly applies to the agreements and concerted practices described.

III. INAPPLICABILITY OF ARTICLE 85 (3) OF THE EEC TREATY

(58) By virtue of Article 85 (3) of the Treaty, the provisions of Article 85 (1) may be declared inapplicable in the case of:

— any agreement or category of agreements between undertakings,

— any decision or category of decisions by associations of undertakings,

— any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

(59) For the exemption under Article 85 (3) be granted, however, such agreements or practices must first have been notified to the Commission in accordance with the provisions of either Article 4 (1) or 5 (1) of Regulation No 17, except where the requirement to make such a notification is waived by the terms of Article 4 (2) or 5 (2) of that Regulation.

(60) In this case none of the agreements or concerted practices concerned was notified to the Commission and none of them falls within the exceptions provided for under Articles 4 (2) and 5 (2) of Regulation No 17.

(61) Even if these agreements or concerted practices had been properly notified, none of them would have qualified for an exemption under Article 85 (3), as they were designed to protect home markets, to share markets and to maintain prices artificially, all of which activities are in conflict with the basic principles of a common market.

IV. APPLICABILITY OF ARTICLE 15 (2) OF REGULATION No 17

(62) Under Article 15 (2) of Regulation No 17 the Commission may, by decision, impose on undertakings or associations of undertakings fines

of from 1 000 to 1 000 000 units of account, or a sum in excess thereof but not exceeding 10 % of the turnover in the preceding business year of each of the undertakings participating in the infringement where, either intentionally or negligently, they infringe Article 85 (1) of the Treaty. In fixing the fine, regard shall be had both to the gravity and to the duration of the infringement.

(63) The undertakings and associations named in point 4 in Part I of this Decision all participated in one or more of the agreements or concerted practices specified in Parts I and II and it is apparent, therefore, that they infringed Article 85 (1) of the Treaty. (3) is held responsible for the actions of its closed subsidiary (1), and (28) and (29) as the two operating members of the British Rollmakers' Corporation group are held responsible (as appropriate) for the actions of that group. Certain participants no longer exist.

(64) All the parties to the agreements and concerted practices which are the subject of this case infringed Article 85 (1) either intentionally, or perhaps in the case of one or two firms in the early stages at least negligently. This is evident from the alarm system described in point 20 and the code system described in point 31.

(65) The Commission has noted that in the United Kingdom action is to be taken by the Director of Fair Trading under the UK Restrictive Practices Act, 1976, to obtain an order from the UK Restrictive Practices Court, restraining the British roll-makers concerned from applying price agreements regarding cast iron and steel rolls. Such an order does not impose fines but any breach of it would constitute a contempt of court rendering the parties liable to fines.

(66) The fact that the Austrian and Swedish participants in the agreements and concerted practices are not themselves EEC undertakings and the fact that the British participants were not EEC undertakings before January 1973 is no obstacle to applying Article 85 to those undertakings as appropriate since the effects of the agreements and concerted practices concerned were perceptible inside the Community.

(67) Under Council Regulation (EEC) No 2988/74 [1], the power of the Commission to impose fines or penalties is subject to a limitation period of five years in the case of infringements such as those dealt with in this Decision. Time begins to run upon the day on which the infringement is committed. However, in the case of continuing or repeated infringements time begins to run on the day on which the infringement ceases.

(68) Under Article 2 of the same Regulation any action taken by the Commission for the purpose of the preliminary investigation or proceedings in respect of an infringement interrupts the limitation period. Each interruption starts time running afresh. In particular, the investigation carried out by the Commission officals on 26 June 1980 on the authority of a Commission Decision ordering the investigation and requesting information interrupted the limitation period in the present case in respect of all infringements committed between 26 June 1975 and 26 June 1980. The infringements referred to in point 53 (a) were continuing or at least repeated infringements extending from January 1968 to June 1980 with the same object of prior consultation of prices before making quotations in each others' home markets. The infringements of 1969 to 1973 referred to in point 53 (b), involving agreed general price increases, were repeated in 1978. The international market-sharing agreement (point 53 (c)) and market-sharing arrangement between the French producers (point 53 (d)) came within or were repeated in the five-year period June 1975 to June 1980. Consequently the only infringements which are time-barred so far as fines are concerned are the individual infringements committed by the German and UK associations ((15) and (34)) which had ceased participation before 1975, and by the undertaking Concordia (16), which was absorbed by (9) in 1972.

(69) As to the gravity and duration of the infringements in their various forms described in point 53, they represented a deliberate effort over a period of at least 12 years in total to frustrate one of the principal aims of the Treaty, namely the creation of a single market, by interfering with the operation of the price mechanism, by restriction of inter-State penetration and by market-sharing. Virtually the

[1] OJ No L 319, 29. 11. 1974, p. 1.

whole of the Community cast-iron and steel rolls industry, together with the Austrian and Swedish makers, was involved in the IRMA arrangements, which tended to make them more effective.

(70) In these circumstances, the Commission considers that the infringements were serious and that fines must be imposed. In determining the amount of those fines, the Commission has first taken into account the economic importance of the industry and of the infringements; the latter has been assessed in the light of the fact that prices were affected throughout the Community for the whole period during which the infringements occurred (although the restrictive practices concerned were less effective in the later years than in the earlier years). Normally, therefore, heavy fines would be justified.

(71) The B Kart A, by a decision made on 30 June 1980 (Ref. B5 – 291000-A-100/78) imposed fines totalling DM 784 500 (approximately 312 000 ECU at the time) on the majority of the parties in this case, including their personal representatives. The B Kart A decision was concerned with enquiries for rolls from customers inside the Federal Republic of Germany, whereas the enquiries used as evidence in the present case came exclusively from customers outside the Federal Republic of Germany. Nevertheless, the infringements found by the B Kart A were committed within the organizational framework of IRMA and during part of the time span of the infringements summarized in point 53 (a). The Commission has therefore taken the B Kart A fines into account in assessing the fines to be imposed in the present case.

(72) The parties have, in general, incurred persistent losses during the last few years, largely owing to the declining market represented by their main customer, the steel industry. Consequently, their financial situation has deteriorated to a considerable extent and is now grave.

(73) The parties are taking steps within the Treaty and in consultation with the Commission to restructure and reduce the size of their operations in an effort to restore their economic health. This process is imposing an additional financial strain on the resources of the companies concerned.

(74) In the Commission's assessment of this special case it has concluded that the Community's objectives would not be promoted by large fines. In arriving at the level which it judges to be appropriate for the fines, the Commission has taken into account its appreciation of the undertakings' financial situation and of their needs in their task of recovery.

(75) With regard to the allocation of the total amount of the fines among the undertakings and association concerned, it is appropriate to take into account duration and degree of participation, products involved and the relative importance of the undertakings.

(76) In the light of the considerations mentioned in points 71 to 75, the Commission deems it appropriate to reduce the fines considerably below the level which would normally be justified and to fix the fines for the individual parties at the levels indicated in Article 3 of this Decision.

V. APPLICABILITY OF ARTICLE 3 (1) OF REGULATION No 17

(77) It is uncertain whether or not the parties have terminated all the infringements established in Part II of this Decision. It is therefore necessary, pursuant to Article 3 of Regulation No 17, to require the parties to the agreements and restrictive practices to bring them to an end forthwith,

HAS ADOPTED THIS DECISION:

Article 1

1. The undertakings and associations listed in Part 1 of the Annex infringed Article 85 (1) of the EEC Treaty by engaging, on one or more occasions during the period 1 January 1968 to 25 June 1980, in one or more of the international agreements and concerted practices whereby they indulged in prior consultation on prices before making quotations in each others' home markets, agreed certain general price increases and agreed on a temporary allocation system.

2. The undertakings and association listed in Part 2 of the Annex infringed Article 85 (1) of the EEC Treaty from 1 January 1976 until 10 July 1979 by engaging in a market-sharing agreement covering the markets in France and the Saar.

Article 2

The parties to the agreements and restrictive practices shall forthwith bring to an end the infringements established in Article 1.

Article 3

1. The following fines are imposed on the following undertakings and association in respect of the infringements found in Article 1 (1):

(a) N. V. Griffin SA, Marksem, a fine of 45 000 (forty-five thousand) ECU or 2 064 749 Belgian francs;

(b) SA des Fonderies J. Marichal, Ketin, Sclessin-Ougrée, on its own behalf and on behalf of SA Fonderies de Chênée, Chênée, a fine of 80 000 (eighty thousand) ECU or 3 670 664 Belgian francs;

(c) SAFAK SA, Sclessin-Ougrée, a fine of 75 000 (seventy-five thousand) ECU or 3 441 248 Belgian francs;

(d) Achenbach Buschhütten GmbH, Kreuztal-Buschhütten, a fine of 27 000 (twenty-seven thousand) ECU or 60 926 German marks;

(e) Eduard Breitenbach GmbH, Siegen, a fine of 16 000 (sixteen thousand) ECU or 36 104 German marks;

(f) Leonard Breitenbach Walzengießerei und Dreherei, Siegen, a fine of 17 000 (seventeen thousand) ECU or 38 361 German marks;

(g) Karl Buch Walzengießerei, Siegen, a fine of 65 000 (sixty-five thousand) ECU or 146 673 German marks;

(h) Gontermann-Peipers GmbH, Siegen, a fine of 26 000 (twenty-six thousand) ECU or 58 669 German marks;

(i) Walzen Irle GmbH, Netphen-Deuz, a fine of 72 000 (seventy-two thousand) ECU or 162 469 German marks;

(j) Fried. Krupp GmbH, Essen, a fine of 9 000 (nine thousand) ECU or 20 309 German marks;

(k) Walzengießerei Roland GmbH, Siegen, a fine of 21 000 (twenty-one thousand) ECU or 47 387 German marks;

(l) Thyssen Gießerei AG, Mülheim-Ruhr, a fine of 42 000 (forty-two thousand) ECU or 94 773 German marks;

(m) Chambre Syndicale des Fabricants de Cylindres en Fonte, Paris, a fine of 29 000 (twenty-nine thousand) ECU or 199 923 French francs;

(n) Société Chavanne-Delattre, Paris la Défense, a fine of 40 000 (forty thousand) ECU or 275 756 French francs;

(o) Société Française des Cylindres de Laminoirs J. Marichal, Ketin et Cie, Berlaimont, a fine of 86 000 (eighty-six thousand) ECU or 592 875 French francs;

(p) SARL Ateliers et Fonderies de Gorcy, Paris, a fine of 13 000 (thirteen thousand) ECU or 89 621 French francs;

(q) Usinor SA, Paris la Défense, a fine of 24 000 (twenty-four thousand) ECU or 165 453 French francs;

(r) Innocenti Santeustacchio SpA, Brescia, a fine of 111 000 (one hundred and eleven thousand) ECU or 152 080 000 Italian lire;

(s) Fonderie officine meccaniche Sant'Agostino SpA, Legnano, a fine of 14 000 (fourteen thousand) ECU or 19 181 000 Italian lire;

(t) Fonderia officina San Gregorio SAS, San Macario (Varese), a fine of 10 000 (ten thousand) ECU or 13 701 000 Italian lire;

(u) Fonderie San Zeno, Brescia, a fine of 8 000 (eight thousand) ECU or 10 961 000 Italian lire;

(v) Davy Roll Company Ltd, Sheffield, a fine of 85 000 (eighty-five thousand) ECU or 48 941 pounds sterling;

(w) Midland Rollmakers Ltd, Crewe, a fine of 63 000 (sixty-three thousand) ECU or 36 274 pounds sterling;

(x) R. B. Tennent Ltd, Coatbridge, a fine of 26 000 (twenty-six thousand) ECU or 14 970 pounds sterling;

(y) Eisenwerk Sulzau-Werfen, R. & E. Weinberger GmbH, a fine of 71 000 (seventy-one thousand) ECU or 1 127 352 Austrian schillings;

(z) AB Bofors Åkers, Styckebruk, a fine of 100 000 (one hundred thousand) ECU or 673 382 Swedish crowns.

2. The following fines are imposed on the following undertakings in respect of the infringements found in Article 1 (2):

(a) Société Chavanne-Delattre, Paris la Défense, a fine of 25 000 (twenty-five thousand) ECU or 172 347 French francs;

(b) Société Française des Cylindres de Laminoirs J. Marichal, Ketin et Cie, Berlaimont, a fine of 25 000 (twenty-five thousand) ECU or 172 347 French francs;

(c) SARL Ateliers et Fonderies de Gorcy Paris, a fine of 12 500 (twelve thousand five hundred) ECU or 86 174 French francs;

(d) Usinor SA, Paris la Défense, a fine of 12 500 (twelve thousand five hundred) ECU or 86 174 French francs.

Article 4

The fines imposed under Article 3 shall be paid to the following Commission accounts within three months following the date of notification of this Decision:

(a) Banque Bruxelles Lambert, B-1040 Bruxelles, Agence Européenne; account No 310-0231000-32 CCE for:
Griffin, Marichal-Ketin (Belge); SAFAK, Sulzau-Werfen; AB Bofors Åkers.

(b) Sal. Oppenheim & Cie, D-5000 Köln 1, Postfach 426, account No 260.00.64910 KEG for:
Achenbach; E. Breitenbach; L. Breitenbach; Karl Buch; Gontermann-Peipers; Irle; Krupp; Roland; Thyssen Gießerei.

(c) Société Générale, Agence Internationale, Direction de l'Etranger, 23, rue de la Paix, F-75002 Paris; account No 5.770.006.5 CCE for:
Fabricyl; Chavanne-Delattre; Marichal-Ketin (France); Gorcy; Usinor.

(d) Cassa di Risparmio delle Provincie Lombarde, via Monte de Pietà, 8, I-20121, Milano; account No 26952-018 CCE for:
Innocenti Santeustacchio; Sant'Agostino; San Gregorio; San Zeno.

(e) Lloyds Bank Ltd, Overseas Department, PO Box 19, 6 Eastcheap, London EC3P 3AB; account No 108.63.41 CEC for:
Davy Roll Co; Midland Rollmakers; R. B. Tennent.

Article 5

This Decision is addressed to the undertakings and associations which are listed in the Annex.

This Decision shall be enforceable in accordance with Article 192 of the EEC Treaty.

Done at Brussels, 17 October 1983.

For the Commission

Frans ANDRIESSEN

Member of the Commission

ANNEX

List of undertakings and associations to whom the Decision is addressed

Case IV/30.064

PART 1

Undertakings and associations which participated in international agreements and concerted practices concerning cast iron and steel rolls

N. V. Griffin SA, Oostkaai, 30, B-2060 Merksem;

SA des Fonderies J. Marichal, Ketin & Cie, Rue Verte Voie, 39, B-4200, Sclessin-Ougrée;

SAFAK SA, Rue de l'Avouerie, 7, B-4200 Sclessin-Ougrée;

Achenbach Buschhütten GmbH, Siegener Straße 152, D-5910 Kreuztal-Buschhütten;

Eduard Breitenbach GmbH, Postfach 21 02 45, D-5900 Siegen 21;

Leonhard Breitenbach Walzengießerei und Dreherei GmbH, Freudenberger Straße 240, D-5900 Siegen 1;

Karl Buch Walzengießerei, Auf den Hütten 7, D-5900 Siegen 21;

Gontermann-Peipers GmbH, Hauptstraße 20, D-5900 Siegen;

Walzen Irle GmbH, Hüttenweg 5, D-5902 Netphen 3;

Fried. Krupp GmbH, Altendorfer Straße 103, Postfach 10 22 52, D-4300 Essen 1;

Walzengießerei Roland GmbH, Marienborner Straße 25, D-5900 Siegen 1;

Thyssen Gießerei AG, Aktienstraße 1-7, D-4330 Mülheim/Ruhr;

Fachgemeinschaft Walzengießereien, Rosterstraße 37, D-5900 Siegen 1;

Chambre syndicale des fabricants de cylindres en fonte, 9, Avenue Matignon, F-75008 Paris;

Société Chavanne-Delattre, immeuble 'Ile-de-France', F-92070 Paris la Défense, Cedex 33;

Société française des cylindres de laminoirs J. Marichal, Ketin & Cie, Boîte postale 26, F-59145 Berlaimont;

SARL Ateliers et fonderies de Gorcy, 8, place Iéna, F-75783 Paris;

Usinor SA, immeuble 'Ile-de-France', F-92070 Paris la Défense, Cedex 33;

Innocenti Santeustacchio SpA, Via Attilio Franchi 20, I-25100 Brescia;

Fonderie officine meccaniche Sant'Agostino SpA, Via Saronnese 141, I-20025 Legnano-Milano;

Fonderia officina San Gregorio SAS, Viale Europa 62, I-21010 San Macario (Varese);

Fonderie San Zeno, Via San Zeno 388, I-25200 Brescia;

The Davy Roll Company Ltd, Stevenson Road, UK-Sheffield S9 3XJ;

Midland Rollmakers Ltd, Weston Road, UK-Crewe CW1 1DB;

R. B. Tennent Ltd, Whifflet Foundry, UK-Coatbridge, ML5 4RR;

Eisenwerk Sulzau-Werfen R. & E. Weinberger GmbH, Schwindgasse 20, A-1040 Wien;

AB Bofors Åkers, S-15031 Åkers Styckebruk, Sverige/Sweden.

PART 2

Undertakings and association (already mentioned in Part 1 above) which participated in national agreement covering France and the Saar

Chambre syndicale des fabricants de cylindres en fonte;

Société Chavanne-Delattre;

Société française des cylindres de laminoirs J. Marichal, Ketin & Cie;

SARL Ateliers et fonderies de Gorcy;

Usinor SA.