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PRESS RELEASE

Results of a Commission communication on an international restrictive agreement in the building materials industry (see Press Release IP (64) 145, 16 September 1964)

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As a result of the first communication made by the Commission in September 1964 pursuant to Council Regulation No. 17, a considerable number of enterprises in the building materials industry in Belgium, the Federal Republic of Germany and the Netherlands have informed the Commission that they have terminated the restrictive practices concerned.

The Commission's communication relied on Article 15(6) of Regulation No. 17, stating that after a preliminary examination the Commission considered that the restrictive practices notified infringed the ban on restrictive agreements contained in Article 85(1) of the Treaty and that they were not eligible for exemption under Article 85(3).

By virtue of this communication the enterprises involved had lost the immunity from fines which their notification of the agreements had previously afforded them.

The "hard core" formed by the agreements was a closed sales system based on reciprocal arrangements for exclusivity in the sales and purchases of specific building materials. A number of producers had formed a grouping within which they had undertaken to deliver merchandise exclusively to the members of corresponding groupings of dealers in Belgium and the Netherlands; the dealers had undertaken to obtain their supplies exclusively from these producers. This agreement was supplemented by an arrangement on the territorial division of markets among the groups of dealers, and by provisions stipulating that the dealers' vehicles should be used exclusively for the transport of the building materials concerned and that appropriate prices should be charged. The collective system was reinforced by a number of bilateral contracts with enterprises also producing the materials concerned but remaining outside the system. On payment to the manufacturers within the system of a given charge per unit sold, they obtained permission to sell merchandise to dealers who were otherwise committed to procuring their supplies only from manufacturers within the system.

A dealer outside the system had lodged a formal complaint with the Commission against the members of a group of dealers.

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The enterprises concerned have informed the Commission that they have dissolved the agreements concerned within the time-limit set or have changed the relevant clauses. This means that the provisions for collective exclusive sales or purchases of the products concerned, the provisions on area protection and market-sharing, the restrictions on the utilization of vehicles and the rules on agreed prices have all been withdrawn.