

information from trade sources. Contacts with industry sources may be made at your discretion.

In view of the timing of the Tariff Commission hearings, posts are requested to extend priority to this request and to forward all material by airpouch no later than May 27 marked for Commerce Garland.

RUSK.

EXHIBIT 4

[Translation]

Federal Cartel Office [Bundeskartellamt]

3rd Division

B3-442100-A-232/67

DECISION

in the proceedings involving fines against

1. _____, Member of the Board
2. _____, Member of the Board
3. the Sales Manager of the _____ company
4. the _____
5. the _____
6. the _____
7. the _____

*

During its session on November 28, 1967, the Third Division of the Federal Cartel Office in Berlin, in the presence of a Director of the Federal Cartel Office, Mr. Hertel, who presided, of the senior civil servant, Dr. Tallner, and of the civil servant, Mr. Bethge, who acted as assessors, has decided:

I. On account of violation of the regulations under paragraph 1, section 1 of article 38, considered together with article 1 GWB, fines between 5,000 and 70,000 DM are levied against _____¹ [Text apparently deleted on breakdown of fines]

II. The defendants listed under 1-7 shall bear the costs of the proceedings (fees and disbursements); said defendants shall be jointly and severally liable for the disbursements.

GROUND S

1. The defendant listed under 1, _____, is a member of the Board of the _____ company; the defendant under 2, _____, is a member of the Board of the _____ company; the defendant under 3, _____, is the manager for dye sales of the _____ company. The defendants listed under 4, 5, 6 and 7 are corporations which manufacture aniline and mineral dyes, among other products. Respecting aniline dyes, their combined share of the German market equals about —%. Since they do not manufacture all dye products themselves but, nevertheless want to offer a most complete assortment to their customers, each of these enterprises sells to other dye manufacturers, sellers and processors as well as to other related enterprises.

Initially, the prices for individual dye products are calculated separately; however, the defendants seek to increase prices at uniform rates despite the fact that, for all aniline dyes and pigment dyes, the portions of the costs of raw materials, wages and related matters are different.

*German press reports suggest that the four German corporations which were defendants 4-7 may have been: Farbenfabriken Bayer AG, in Leverkusen; Farbwerke Hoechst AG, in Frankfurt-am-Main; Badischen Anilin- und Soda-Fabrik (BASF), in Ludwigshafen; and Cassella Farbwerke Mainkur AG, in Frankfurt-am-Main.

¹ Article 38, section 1, paragraph 1 of the German Act Against Restraints on Competition [Gesetz gegen Wettbewerbsbeschränkungen (GWB)] reads as follows:

"A violation is committed by any person who willfully disregards that, by virtue of articles 1, . . . an agreement or decision is ineffective."

Article 1 of the GWB reads as follows:

"(1) Agreements made for a common purpose by enterprises or associations of enterprises and decisions of associations of enterprises are ineffective insofar as, by restraining competition, they may influence production or market conditions with respect to trade in goods or commercial services. This shall not apply to the extent that this Act provides otherwise.

"(2) The term 'decision of an association of enterprises' shall include a decision of a meeting of members of a legal entity, insofar as its members are enterprises."