

IN THE MATTER OF

BASF WYANDOTTE CORPORATION

DISMISSAL ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF
THE CLAYTON ACT

Docket 9125. Complaint, April 5, 1979—Final Order, July 12, 1982

This order upholds the Administrative Law Judge's May 14, 1982 Initial Decision in this matter and effects dismissal of the complaint on July 13, 1982. The complaint charged the wholly-owned American subsidiary of a German chemical corporation with antitrust violations in the organic pigments market.

Appearances

For the Commission: *Glenn M. Fellman, James K. Leonard, Leo J. Asaro and David Marx, Jr.*

For the respondent: *James T. Halverson, Thomas M. Geisler, Jr., Leonard Gross, Bradford Anderson, Prissilla Elliot, Paul E. Francis and John P. Walsh, Shearman & Sterling, New York City.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named Respondent, subject to the jurisdiction of the Commission, has acquired the Pigments Division of Chemetron Corporation, a wholly-owned subsidiary of Allegheny Ludlum Industries, Inc., which acquisition violates Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, pursuant to Section 11 of the Clayton Act, 15 U.S.C. 21, and Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), stating its charges as follows:

Definition

For purposes of this complaint the following definition shall apply:

Organic pigments - insoluble color particles characterized by a chemical composition which includes carbon rings or chains as the basic part of their molecular structure and used to impart color to a variety of materials.

BASF Wyandotte Corporation

1. Respondent BASF Wyandotte Corporation (BWC) is a corporation organized under the laws of the State of Michigan, with its principal place of business at 100 Cherry Hill Road, Parsippany, New Jersey. [2]

2. BWC is a wholly-owned subsidiary of BASF America Corporation which in turn is a wholly-owned subsidiary of BASF Aktiengesellschaft (BASF A.G.), a West German corporation with headquarters in Ludwigshafen, West Germany.

3. BASF A.G. manufactures and sells organic pigments and organic pigment formulations throughout the world.

4. BWC sells organic pigments and organic pigment formulations in the United States.

5. In its fiscal year ended December 31, 1977, BWC had total sales of approximately \$786,000,000 of which domestic sales of organic pigments totaled approximately \$8,000,000.

6. BWC is the thirteenth largest seller of organic pigments in the United States.

The Chemetron Pigments Division

7. Chemetron Corporation (Chemetron) is a corporation organized under the laws of the State of Delaware, with its principal place of business at 111 E. Wacker Drive, Chicago, Illinois.

8. Chemetron is a wholly-owned subsidiary of Allegheny Ludlum Industries (Allegheny), a corporation organized under the laws of the State of Pennsylvania, with its principal place of business at 2700 Two Oliver Plaza, Pittsburgh, Pennsylvania.

9. Prior to its acquisition by BWC, Chemetron's unincorporated Pigments Division (CPD) produced and sold organic pigments throughout the United States.

10. In its fiscal year ended January 1, 1978, CPD's sales of organic pigments were approximately \$35,000,000.

11. CPD is the fourth largest seller of organic pigments in the United States.

Jurisdiction

12. At all times relevant herein BWC has been engaged in the sale of organic pigments in interstate commerce and the assets of CPD have been and are used in interstate commerce, and BWC and CPD are engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and the businesses of BWC and CPD are in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44. [3]

The Acquisition

13. On or about November 18, 1978, BWC and Allegheny entered into a definitive agreement which provided, *inter alia*, for the acquisition by BWC of the assets of Chemetron's Pigment Division.

14. On or about March 23, 1979, BWC acquired the assets, business and property of CPD.

Trade and Commerce

15. The relevant line of commerce is the sale of organic pigments and submarkets thereof.

16. A relevant section of the country or geographic market is the continental United States.

17. The sale of organic pigments is concentrated, with the combined market share of the four largest sellers estimated to be approximately 52%.

18. Barriers to entry into the manufacture and sale of organic pigments are substantial.

Competition

19. Prior to the acquisition, BWC and CPD were and had been for many years actual competitors of each other in the organic pigments market and submarkets thereof and actual competitors of others in the organic pigments market and submarkets thereof throughout the United States.

20. In 1977, BWC accounted for approximately 2.0% of United States sales of organic pigments and CPD accounted for approximately 9.2% thereof.

21. BASF A.G. is a worldwide leader in the production and sale of organic pigments and had manifested a long standing interest in increasing its share of the U.S. organic pigments market.

Effects; Violation Charged

22. Due to various factors, including BASF A.G.'s worldwide sales and production position in organic pigments and its research and development capability, BWC's 2% share understates its competitive strength in the U.S. market.

23. The effects of the acquisition may be to substantially lessen competition or tend to create a monopoly in the relevant market in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the following ways, among others:

(a) actual competition between BWC and CPD in the sale [4]of organic pigments and submarkets thereof will be eliminated;

(b) actual competition between competitors generally in the sale of organic pigments and submarkets thereof may be lessened;

(c) the likelihood of increased participation by BWC and BASF A.G. in the U.S. organic pigments market and submarkets thereof by alternative means will be eliminated;

(d) CPD will be eliminated as an actual substantial independent competitor in the sale of organic pigments and submarkets thereof;

(e) the combined operation will be ranked number three in the organic pigments market thus increasing concentration in the sale of organic pigments and diminishing possibilities for eventual deconcentration; and

(f) mergers or acquisitions between other organic pigment manufacturers may be fostered, thus causing a further substantial lessening of competition and tendency toward monopoly in the sale of organic pigments.

INITIAL DECISION BY

MONTGOMERY K. HYUN, ADMINISTRATIVE LAW JUDGE

MAY 14, 1982

PRELIMINARY STATEMENT

By Complaint issued on April 5, 1979, the Federal Trade Commission ("FTC" or "Commission") charged BASF Wyandotte Corporation ("BWC"), a wholly-owned subsidiary of BASF Aktiengesellschaft ("BASF AG" or "BASF") with a violation of Section 7 of the Clayton Act, as amended (15 U.S.C. 18), and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. 45(a)(1)), by virtue of its acquisition of the Pigments Division of Chemetron Corporation ("CPD") from Allegheny Ludlum Industries, Inc. on March 3, 1979. BWC filed its Answer on May 4, 1979 admitting in part and denying in part the various allegations of the Complaint.

The Complaint alleged that prior to the acquisition, BASF, which manufactures and sells organic pigments throughout the world, sold organic pigments in the United States through its wholly-owned [2]subsidiary, BWC. (Complaint ¶ 1-6). The Complaint also alleged that CPD produced and sold organic pigments throughout the United States. (Complaint ¶ 7-11).

Organic pigments and submarkets thereof were alleged to be the relevant lines of commerce for the purpose of evaluating the competitive effects of the acquisition. (Complaint ¶ 15). Subsequent to the issuance of the Complaint, complaint counsel designated

phthalocyanine pigments as an appropriate submarket in which to analyze the effects of the acquisition. The Complaint further charged that the alleged organic pigments market was concentrated and that barriers to entry into the market were substantial. (Complaint ¶ 17-18).

The Complaint further alleged that prior to the acquisition, BWC and CPD had been actual competitors in the markets and that their shares of the organic pigments market were approximately 2% and 9.2%, respectively. (Complaint ¶ 19-20). It also alleged that BASF had manifested a long-standing interest in increasing its share of the United States organic pigment market. (Complaint ¶ 21-22).

The Complaint finally alleged that BWC's acquisition of CPD would tend to substantially lessen competition in the alleged markets in the following ways:

- (a) actual competition between BWC and CPD in the sale of organic pigments and submarkets thereof will be eliminated;
- (b) actual competition between competitors generally in the sale of organic pigments and submarkets thereof may be lessened;
- (c) the likelihood of increased participation by BWC and BASF AG in the U.S. organic pigments market and submarkets thereof by alternative means will be eliminated;
- (d) CPD will be eliminated as an actual substantial independent competitor in the sale of organic pigments and submarkets thereof;
- (e) the combined operation will be ranked number three in the organic pigments market, thus increasing concentration in the sale of organic pigments and diminishing possibilities for eventual deconcentration; and [3]
- (f) mergers or acquisitions between other organic pigment manufacturers may be fostered, thus causing a further substantial lessening of competition and tendency toward monopoly in the sale of organic pigments. (Complaint ¶ 23).

The parties conducted extensive discovery between themselves and non-party industry competitors prior to the trial of this matter. Complaint counsel conducted an industry-wide survey respecting the production and sale of organic pigments and phthalocyanine pigments for the years 1977-1979. Counsel for respondent subpoenaed profitability data from several organic pigments manufacturers.

The proceeding originally assigned for trial to Administrative Law Judge James P. Timony, April 6, 1979, was reassigned to Administrative Law Judge Paul Teetor on March 19, 1980, and upon Administrative Law Judge Teetor's retirement, to Administrative Law Judge Montgomery K. Hyun on February 19, 1981.

The trial of this matter began on March 30, 1981 in Chicago, Illinois. The case-in-chief was completed on May 1, 1981. The defense case was presented in New York, New York and began on or about June 1, 1981. Hearings continued on a regular basis through the beginning of September 1981. Rebuttal evidence was presented in Chicago during the last week of October and in New York in early December 1981. Surrebuttal was concluded on December 5, 1981. In all, testimony was taken from 46 witnesses, including 13 called by complaint counsel and 33 by counsel for respondent. The record consists of some 12 thousand pages of transcripts of testimony and several thousand pages of documentary exhibits.

The record was closed on December 18, 1981. By an Order dated January 18, 1982, the Commission extended the time for the filing of an initial decision to and including May 14, 1982. The following witnesses gave testimony in this proceeding:

Witnesses Called By Complaint Counsel

Heinz Geiss	Vice-President of Sales and Marketing, Industrial Chemicals Division American Hoechst Corporation (Tr. 2051-52)
David R. Kamerschen, Ph.D.	Distinguished Professor of Economics University of Georgia (CX 7001; Tr. 10,794) [4]
Alan E. Krause	Consumer Protection Specialist Federal Trade Commission (Tr. 931)
Jeffrey M. Lipton	Former Director, Colored Pigment Production Division E.I. Du Pont de Nemours & Co. (Tr. 1591-92)
William O. Nicoll	Vice President, former General Manager, Coatings, Specialty Products Hercules, Inc. (Tr. 10,657)
Sol Panush	Manager of Color, Plastics and Specialties Division Celanese Corporation (Tr. 2691-99)
Paul Papillo	Vice-President, Plastics and Additive Division CIBA-GEIGY Corporation (Tr. 1764-66)

Witnesses Called By Complaint Counsel

Erhard R. Schober	Director of Marketing, Pigments Division Mobay Chemical Corp. (formerly Harmon Colors Corp.) (Tr. 1637)
Hugh M. Smith, Ph.D.	Director of Research & Development, Pigments Division Sun Chemical Corporation (Tr. 1287)
Dr. Klaus Stammen	President Siegwerk, Inc. (Tr. 2376-77)
John Toogood, Ph.D.	General Manager, Colors Department Harshaw Chemical Company (Tr. 12,106)
Allan Weissglass	President Magruder Color Company, Inc. (Tr. 2481)
Harold C. Whittemore, Jr.	Senior Vice-President Sun Chemical Corporation (Tr. 1907-08) [5]

Witnesses Called By Respondent

Morris Adelman, Ph.D.	Professor of Economics Massachusetts Institute of Technology (RX 9015; Tr. 10,020-33)
Dr. Hans Albers	Director BASF AG (Tr. 6158)
Richard L. Alsager	Manager of Marketing Research BASF Wyandotte Corporation (Tr. 3508)
Eli M. Aschner	Tenneco, Inc. (former Marketing Manager, BWC) (Tr. 5333)
Theodore Bluey	Partner Deloitte, Haskins & Sells (Tr. 6325)
Dr. Gustav Bock	Director, Pigments & Auxiliaires Applied Technology Department Leader, Development Group BASF AG (Tr. 3389-91)
Roger Brinner, Ph.D.	Vice-President Data Resources, Inc. (Tr. 7662-77)

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Witnesses Called By Respondent

James Canon, Ph.D.	Consultant of BWC, former Vice President of Harshaw Chemical (Tr. 12,581)
Jerome E. Counihan	Former President of CDP and Consultant, BASF Wyandotte Corporation (Tr. 5521)
Jerome Bruce Giniger	Vice-President Pope Chemical Corporation (Tr. 7205-06)
Michael L. Glassman	President Glassman-Oliver Economic Consultants, Inc. (RX 9003; Tr. 8340) [6]
Dr. Erwin Hahn	Director, Dyestuffs and Pigment Research Laboratory BASF AG (Tr. 3947-53)
Laurie Hiscock	Works Manager, Huntington Works BASF Wyandotte Corporation (Tr. 6012)
Kurt Kiesling	Works Manager, Holland Plant, BASF Wyandotte Corporation (Tr. 6078)
Dr. Josef F. Kohnle	Group Vice-President BASF Wyandotte Corporation (Tr. 4386-87)
Abraham Lindenhauer	Vice-President of Technical Services GAF Corporation (Tr. 7490)
Charles S. Long	Manager of Division Engineering BASF Wyandotte Corporation (Tr. 5795-96)
Paul Malchick, Ph.D.	General Manager, Chemetron Pigments Division BASF Wyandotte Corporation (Tr. 2813-28)
Jesse W. Markham, Ph.D.	Charles Edward Wilson Professor of Economics Harvard University (RX 9002; Tr. 7902-40)
Herbert A. McKenzie	President Hilton-Davis Chemical Group Sterling Drug, Inc. (Tr. 6736-37)

Witnesses Called By Respondent

Frank Edward McKulka	Manager of Economic Analysis and Planning BASF Wyandotte Corporation (Tr. 7532)
Dr. Rolf Mecke	Member Division of Economic Evaluation BASF AG (Tr. 4152-55)
Charles H. Mertz	Vice-President, Customer Service Group Applied Color Systems (Tr. 7054) [7]
Karl Muench	Director, Sparte CP BASF AG (Tr. 3770)
Michael Peter Parker	Manager, Dyestuffs and Intermediates, Organics Division ICI, Ltd. (Tr. 4936-38)
Walter Schmiedeskamp	Partner Deloitte, Haskins & Sells (Tr. 6967)
Michael Stavar	Accountant BWC (Tr. 7233)
Dr. Erich Stoeckl	Director, Pigment Production BASF AG (Tr. 5014-15)
Clayton A. Sweeney	Executive Vice-President and Chief Administrative Officer Allegheny International (Tr. 7370)
Harold Thiemer	Accountant BASF AG (Tr. 6736-37)
Peter Tschirch	Controller BASF AG (Tr. 5184)

The proposed findings of fact and conclusions of law submitted by the parties and their arguments in support thereof have been given careful consideration by the administrative law judge and to the extent not adopted by this Initial Decision, in the form proposed or in substance, are rejected as not supported by the evidence or as immaterial. Any motion appearing on the record not heretofore or hereby ruled upon either directly or by the necessary effect of the

findings and conclusions made in this Initial Decision are hereby denied.

Upon consideration of the entire record in this proceeding and having considered the demeanor of the witnesses, the administrative [8]law judge makes the following findings of fact and conclusions of law and order based on the record considered as a whole.¹[9]

FINDINGS OF FACT

I. THE IDENTITY OF THE ACQUIRING AND THE ACQUIRED FIRMS

A. BASF AG And Its Business

1. The BASF Group is comprised of BASF Aktiengesellschaft (AG) and all companies which are at least 50% owned by BASF AG or its majority holdings. (RA 1; CX 51B).

2. BASF AG (hereinafter "BASF") is a West German corporation with headquarters in Ludwigshafen, the Federal Republic of Germany ("FRG" or "West Germany"). BASF is engaged in six lines of business:

Basic Petrochemicals, including oil, gas, and petroleum products such as fuel oil, naphtha, and benzene;

¹ The following abbreviations were used in this Initial Decision:

CB	Memorandum In Support of Complaint Counsel's Proposed Findings
RB	Respondent's Brief in Support of Proposed Findings
CPF	Complaint Counsel's Proposed Findings
RPF	Respondent's Proposed Findings
CX	Complaint Counsel's Exhibit
RX	Respondent's Exhibit
(Tr.)	Transcript Reference
(Name Number)	Testimony of the Named Witness at Listed Transcript Page Number
(CC's Admission, §)	Paragraph Number of Complaint Counsel's Responses to Respondent's Admissions
RA	Refers to Respondent's Responses to Complaint Counsel's Second Request for Admissions, dated February 23, 1981 and supplemented on March 30 and April 22, 1982 (No.)
Int. (I)	Refers to Respondent's Answers to Complaint Counsel's First Set of Interrogatories, dated December 24, 1979 and June 26, 1980 (No.)
Int. (II)	Refers to Respondent's Answers to Complaint Counsel's Second Set of Interrogatories, dated November 18, 1980, November 21, 1980 and December 3, 1980 (No.)
Stip.	Refers to Stipulation between Complaint Counsel and Respondent's Counsel (Date)

Agricultural Chemicals, including fertilizers, potash, salts, and crop protection products;

Plastics, including polyolefins, polystyrene, polyvinyl chloride, and specialty plastics;

Chemicals, including basic chemicals, industrial chemicals, intermediates, fine chemicals, and fiber raw chemicals;

Dyestuffs and Auxiliaries, including textile chemicals, pigments and non-textile auxiliaries, and dispersions; and

Consumer Products, including coatings and paints, magnetic recording media, nyloprint, and pharmaceuticals. (CX 51J).

3. The BASF Group manufactures and sells its products all over the world including the European Community, North America, West Europe excluding the European Community, Latin America, South and East Asia, Australia, East Europe, Africa, and West Asia. (CX 51X-Z). [10]

4. The BASF Group had the following net sales, earnings, and assets for the years 1971 through 1978:

million \$ ²	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Net Sales	2,944	3,720	5,384	7,642	7,364	8,338	*** [*]	***
Net Income	***	***	***	***	***	***	***	***
Fixed Assets	1,934	2,183	2,625	2,772	3,026	3,084	***	***
Total Assets	3,309	3,926	4,944	5,668	6,069	6,170	***	***

(RA 3).

5. Approximately 11% of the BASF Group's net sales were made in North America. (Compare RA 5 with RA 3). In the years 1977 and 1978 respectively, *** and *** of the BASF Group's investments in tangible fixed assets were made in the United States. (RA 6). In 1978 alone, the BASF Group invested almost *** million in tangible fixed assets in the United States. (RA 6).

6. The BASF Group sold the following quantities and value of organic pigments under the following tradenames in the years 1974-1978: [11]

² Deutschemarks converted to Dollars according to the following exchange rates listed in the Federal Reserve Bulletin:

<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
28.768	31.364	37.758	38.723	40.729	39.737	43.079	49.867

Cents per Deutschemark. Because responses to interrogatories, requests to admit facts, and documents often provided value information in a foreign currency, complaint counsel converted the foreign currency to dollars. All conversions from Deutschemarks to Dollars were made according to the exchange rates listed above. The source of these rates, the Federal Reserve Bulletin, is the same source used for the Stipulation dated February 10, 1982.

* Throughout this document, reference to [* * *] indicates where *in camera* material has been excised.

<u>Tradename</u>	<u>Initial Decision</u>			<u>100 F.T.C.</u>	
	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Heliogen ³					
Metric Tons	5,471.1	3,287.0	4,918.2	[***]	[***]
Million \$	39.7	27.3	38.7	[***]	[***]
Fanal					
Metric Tons	620.7	322.9	533.6	[***]	[***]
Million \$	7.8	4.3	6.8	[***]	[***]
Lithol					
Metric Tons	1,580.1	1,393.2	1,498.7	[***]	[***]
Million \$	8.7	8.7	9.2	[***]	[***]
Paliogen					
Metric Tons	243.9	139.8	210.5	[***]	[***]
Million \$	8.0	4.8	8.1	[***]	[***]
Paliotol					
Metric Tons	228.7	94.0	127.4	[***]	[***]
Million \$	3.5	1.4	2.1	[***]	[***]
Sico					
Metric Tons	1,056.9	632.4	801.6	[***]	[***]
Million \$	9.2	6.4	8.0	[***]	[***]
Others					
Metric Tons	247.6	164.4	189.3	[***]	[***]
Million \$	1.2	1.0	1.1	[***]	[***]
Total Worldwide ⁴					
Metric Tons	9,449	6,033.7	8,279.3	[***]	[***]
Million \$	78.1	53.8	74.0	[***]	[***]

(RA 22; 24). [12]

7. Until August 1, 1980, BASF was organized according to a divisional principle. (Int. (I) 16). There were ten "Ressorts" which had the following organization codes and titles:

<u>Code</u>	<u>Title</u>
A	Units reporting directly to the chairman
G	Basic Chemicals, Oil and Gas, Agrichemicals
K	Plastics
C	Dyestuffs, Chemicals, Dispersions
V	Consumer Products, Sales Coordination, Distribution
U	Overseas Operations
T	Engineering
W	Research and Development
F	Finance
P	Human Resources

Each "Ressorts" consisted of several "Sparten"—either "Product-

³ Quantity and value for the Heliogen tradename includes sales of phthalocyanine pigments in the United States under the tradename Paliofast. See RA 131; 134-35.

⁴ Differences between the total worldwide figures and the sum of the amounts for each tradename by year are the result of rounding errors in conversion from DM to \$ and inconsistencies between BWC's responses to RA 22 and RA 24.

Sparten" or "Regional-Sparten." "Product-Sparten" were responsible for sales in Europe and had worldwide chemical/technical responsibilities for the products they handle. "Regional-Sparten" were responsible for sales in their geographical regions outside Europe. (Int. (I) 16). Each of the "Sparten" were further subdivided into divisions, departments, and subdepartments which had progressively narrower areas of responsibility and specialization. See RA 7; 9-11; 13-19; 34; 37-40.

8. Until December 31, 1977, Ressort C (dyestuffs, chemicals, dispersions) was organized into four "Product-Sparten" which had the following organization codes and titles:

<u>Code</u>	<u>Title</u>
CF	Dyestuffs and Auxiliaries
CI	Industrial Chemicals
CZ	Intermediates
CD	Dispersions

(RA 9; Int. (I) 20). Sparte Dyestuffs and Auxiliaries ("CF") was responsible for the management of BASF's dyestuffs, pigments, and auxiliaries business. (RA 10). Sparte CF was subdivided into several departments, as follows: [13]

<u>Code</u>	<u>Title</u>
CFOS	Staff
CFA	Dyestuff (Production) Division I
CFB	Dyestuff (Production) Division II
CFH	Auxiliaries Division
CFV	Sales - Dyestuffs and Auxiliaries
CFE	Technical Services Department - Dyestuffs and Auxiliaries

(RA 11).

9. In 1970, BASF acquired G. Siegle and Co., GmBH, a manufacturer of organic and inorganic pigments. Until December 31, 1977, Sparte VS (Special Colors) was responsible for the management of the Siegle pigments business. (RA 12; Int. (I) 20).

10. On January 1, 1978, as a result of a reorganization of Ressorts C and V, Sparte Pigments and Auxiliaries ("CP") and Sparte Textile Dyes and Chemicals ("CT") were formed and Sparte CF and Sparte VS were abolished. (RA 12; Int. (I) 20). Thereafter, Sparte CP became responsible for the pigments business previously managed by Sparte VS and for the pigments, pigments dispersions, and non-textile dyestuffs and auxiliaries products previously managed by Sparte CF.

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Sparte CT became responsible for the dyestuffs and auxiliaries used for the textile industry. (RA 12; Int. (I) 20).

11. From January 1, 1978 until August 1, 1980, Sparte CP (Pigments and Auxiliaries) was organized into six departments, as follows:

<u>Code</u>	<u>Title</u>
CPOS	Staff
CPP	Pigment Production Division
CPH	Auxiliaries Production Division
CPV	Sales - Pigments and Auxiliaries
CPE	Technical Services Department - Pigments and Auxiliaries
CPOZ	Central Development [14]

(RA 14). Sparte CP also had collateral responsibility over the "U.B. Pigmente" division (formerly the Siegle pigments business) of BASF Farben and Fasern, AG. (RA 12; 14; Int. (I) 20). The "U.B. Pigmente" business (SP) was organized as follows:

<u>Code</u>	<u>Title</u>
ST	Technology
STA	Technical Services Department
SV	Sales

(RA 14).

12. During the period 1971-1979, Sparte CP (and its predecessor Sparte CF) had the following responsibilities respecting BASF's United States organic pigments business: short, middle, and long-range strategic and operations planning; marketing and sales development; production, export planning (in conjunction with Sparte UN); and production technology. (RA 13; Int. (I) 16).

13. Until August 1, 1980, Ressort U (Overseas Operations) was organized into four Sparten, one of which was Sparte UN (North America). (RA 37). Sparte UN was subdivided into three departments, as follows:

<u>Code</u>	<u>Title</u>
UNV	Sales
UNT	Technical Coordination
UNOK	Profit Control

(RA 38).

14. As of March 1979, Sparte UN had the following responsibilities respecting BASF's sale of organic pigments in the United States:

responsibility for the combined results of all United States subsidiaries; planning of exports from Europe (jointly with Sparte CP); handling of exports to BWC; coordination of technology transfer between Sparte CP and BWC; coordination in setting up strategies and plans; and planning and coordination of all major capital investments in tangible fixed assets to be made in the United States (in conjunction with Sparte CP). (Int. (I) 16; RA 39-40). [15]

15. The names and positions of some officers and employees of BASF and BWC are summarized hereinbelow as an aid to understanding the documentary and testimonial evidence in this proceeding.

Dr. Bernhard Timm: From 1971 to February 1981, he held the following positions:

Dates	Position
7/2/74 - present	Chairman, Supervisory Board of BASF
1971 - 7/2/74	Chairman, "Vorstand" (Board of Executive Directors) of BASF AG
1971 - 4/8/74	Member, Board of Directors, BASF Wyandotte Corporation

(RA 41).

Dr. Mathias Seefelder: From 1974 to February 1981, he held the following positions:

Dates	Position
7/2/74 - present	Chairman, "Vorstand" of BASF AG
4/8/74 - 11/15/80	Member, Board of Directors, BWC

(RA 42).

Dr. Hans Albers: From 1971 to February 1981, he held the following positions: [16]

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Dates	Position	Code ⁵
7/2/74 - 7/31/80	Director, Ressort Dyestuffs, Chemicals Dispersions, BASF AG	C
1/1/74 - present	Member, "Vorstand" of BASF AG	
4/25/78 - present	Member, Board of Directors of BWC	
11/1/71 - 7/1/74	General Manager, Sparte Dyestuffs and Auxiliaries, BASF AG	CF

(RA 43).

Dr. Otto Christmann: From July 1974 to August 1, 1980, he held the following positions:

Dates	Position	Code
1/1/78 - 8/1/80	General Manager, Sparte Textile Dyes and Chemicals, BASF AG	CT
7/2/74 - 12/31/77	General Manager, Sparte Dyestuffs and Auxiliaries, BASF AG	CF

(RA 44).

Karl Muench: From 1971 to August 1, 1980, he held the following positions: [17]

Dates	Position	Code
1/1/78 - 8/1/80	General Manager, Sparte Pigments and Auxiliaries, BASF AG	CP
1971 - 12/31/77	Director, Sales Department, Sparte Dyestuffs and Auxiliaries, BASF AG	CFV

(RA 45).

Bernard Hardekopf: From January 1, 1978 to August 1, 1980, he held the position of Director, Sales Department, Sparte Pigments and Auxiliaries, BASF A.G. (CPV). (RA 46).

Werner Scheuer: From 1971 to August 1, 1980, he held the following positions:

⁵ An understanding of BASF's system of organization codes is helpful because the authors and recipients of BASF's documents are generally indicated by organization code only.

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Dates	Position	Code
1/1/78 - 8/1/80	Deputy Director, Pigments and Soluble Dyes, Sales Department Sparte Pigments and Auxiliaries, BASF AG	CPV/P
1971 - 12/31/77	Deputy Director, Sales Department, Sparte Dyestuffs and Auxiliaries, BASF AG	CFV/P

(RA 47).

Dr. Erich Stoeckl: From April 1, 1967 to August 1, 1980, he held the following positions:

Dates	Position	Code
1/1/78 - 8/1/80	Director, Pigments Department, Sparte Pigments and Auxiliaries, BASF AG	CPP
[18] 4/1/67 - 1/1/78	Director, Dyes Department, Sparte Dyestuffs and Auxiliaries, BASF AG	CFA

While holding both of these positions, Dr. Stoeckl was responsible for BASF's production of organic pigments. (RA 48).

Dr. Schrodell: From 1971 to June 12, 1979, he held the following positions:

Dates	Position	Code
1/1/78 - 6/12/79	Deputy Director, Tricolor Factory, Pigments Department, Sparte Pigments and Auxiliaries, BASF AG	CPP/T
1971 - 12/31/77	Deputy Director, Tricolor Factory, Dyes Department, Sparte Dyestuffs and Auxiliaries, BASF AG	CFA/T

(RA 49).

Dr. Brunkhorst: From 1971 to August 1, 1980, he held the following positions:

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Dates	Position	Code
1/1/78 - 8/1/80	Deputy Director, Azo Factory, Pigments Department, Sparte Pigments and Auxiliaries, BASF AG	CPP/A
[19] 1971 - 12/31/77	Deputy Director, Azo Factory, Dyes Department, Sparte Dyestuffs and Auxiliaries, BASF AG	CFA/A

(RA 50).

Dr. Trauth: From 1971 to August 1, 1980, he held the following positions:

Dates	Position	Code
1/1/78 - 8/1/80	Deputy Director, Finish Factory, Pigments Department, Sparte Pigments and Auxiliaries, BASF AG	CPP/F
1971 - 12/31/77	Deputy Director, Finish Factory, Dyes Department, Sparte Dyestuffs and Auxiliaries, BASF AG	CFA/F

(RA 51).

Dr. Polster: From 1971 to August 1, 1980, he held the following positions:

Dates	Position	Code
1/1/78 - 8/1/80	Deputy Director, Pigments Development Laboratory, Pigments Department, Sparte Pigments and Auxiliaries, BASF AG	CPP/P
1971 - 12/31/77	Deputy Director, Development Laboratory, Dyes Department, Sparte Dyestuffs and Auxiliaries, BASF AG	CFA/P

(RA 52). [20]

Dr. Norbert Gotz: From 1971 to August 1, 1980, he held the following positions:

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Dates	Position	Code
1/1/78 - 8/1/80	Director, Technical Services Department, Sparte Pigments and Auxiliaries, BASF AG	CPE
1971 - 12/31/77	Director, Technical Services Department, Sparte Dyestuffs and Auxiliaries, BASF AG	CFE

(RA 53; 16).

Dr. Walter Puff: From 1971 to August 1, 1980, he held the following positions:

Dates	Position	Code
1/1/78 - 8/1/80	Deputy Director, Technical Services - "Sonder F" Subdepartment, Sparte Pigments and Auxiliaries, BASF AG	CPE/SF
1971 - 12/31/77	Deputy Director, Technical Services - "Sonder F" Subdepartment, Sparte Dyestuffs and Auxiliaries, BASF AG	CFE/SF

(RA 54). The Technical Services - "Sonder F" Subdepartment of Sparte CP was responsible, *inter alia*, for providing technical assistance and advice to purchasers of BASF's organic pigments through its Market Service Groups. (RA 17-18). [21]

Dr. Gustav Bock: From 1971 to August 1, 1980, he held the following positions:

Dates	Position	Code
1/1/78 - 8/1/80	Leader, Development Group, Technical Services - "Sonder F" Subdepartment, Sparte Pigments and Auxiliaries, BASF AG	CPE/SF1
1971 - 12/31/77	Leader, Development Group, Technical Services - "Sonder F" Subdepartment, Sparte Dyestuffs and Auxiliaries, BASF AG	CFE/SF1

(RA 55).

