

## Conclusions

### The monopoly situation

9.1. We are required by our terms of reference to investigate and report whether a monopoly situation exists in relation to the supply of white salt in the United Kingdom by producers of such salt.

9.2. We have shown in paragraph 5.6 that in 1984 Imperial Chemical Industries PLC (ICI), through the salt business of its Mond Division, supplied 45 per cent by volume of the total supply of white salt in the United Kingdom; and that British Salt Ltd (British Salt), a wholly-owned subsidiary of Staveley Industries PLC (Staveley), supplied 50 per cent. The separate shares of ICI and British Salt each exceeded 25 per cent of the total supply. We therefore conclude that a monopoly situation exists under the provisions of section 6(1)(a) of the Fair Trading Act 1973 in favour of ICI and under section 6(1)(b) of the Act in favour of British Salt and Staveley, the ultimate parent of British Salt.

### The public interest

9.3. Having concluded that a monopoly situation exists in favour of ICI and Staveley and British Salt our terms of reference require us to state whether any steps by way of uncompetitive practices or otherwise are being taken by the monopoly producers to maintain that situation; whether any action or omission on the part of the monopoly producers is attributable to the existence of the monopoly situation; and whether there is anything that we have found that operates or may be expected to operate against the public interest.

### The market

9.4. ICI and Staveley have been established in this market since the 1920s. We explained in Chapters 2 and 3 how they owe their monopoly positions in part to having acquired by different routes nearly all the numerous and fragmented salt businesses that used to make up the market. They have also acquired the necessary mineral rights, brinefields and reserves of salt in Cheshire, the area of the United Kingdom best suited logistically to the manufacture of salt. In order to establish and maintain this position the two companies introduced important economies by investment in plant and technology. They each operate one of the very few six-effect salt evaporation plants in the world. ICI has developed the controlled method of brine-winning which appears to have overcome the traditional problem of land subsidence from 'wild' brine pumping. At present this is the only method of controlled brine extraction approved by the Cheshire County Council.

9.5. From a peak of 1.5 million tonnes in 1979 the United Kingdom white salt market has shrunk to just over one million tonnes today. The decline can be attributed mainly to the fall in industrial demand, particularly in the chemical industry, and this has borne most heavily on UV salt. One might expect some

rise in demand again as industrial output increases. Moreover the demand for salt in the water softening sector is on the increase. However, there are factors militating against a general rise. First there has been a permanent loss to the salt market of about 180,000 tonnes following the closure of BP Chemicals' chlorine plant in South Wales in 1982. (ICI which has taken over this production uses brine instead of salt to produce chlorine.) Secondly the campaign to reduce human consumption of salt on health grounds is growing, resulting in a fall in demand in the food sector. We doubt therefore whether demand for salt will return in the foreseeable future to its level in 1979 which the production capacities of the two companies were designed to meet.

### **Competition**

9.6. In a market such as salt in which firms are producing broadly standardised products we would expect prices to be similar. However, depending on the particular circumstances, this similarity of prices may reflect active price competition or the lack of it. In the case of white salt we conclude that it is the latter.

9.7. White salt is an industry with a long history of arrangements which have had the effect of restricting price competition. From the 1930s until 1959 the industry operated under the umbrella of a common price agreement. From 1959 to 1980 the major producers operated similar aggregated rebate schemes (see paragraphs 5.22 and 5.31). With this history parallel pricing without any formal agreement was more likely to be achieved than in an industry without such a history.

9.8. The most striking feature of the pricing behaviour of the two monopoly producers over the last ten years is the absence of a single instance of one company failing to follow the lead of the other in setting list prices. In Chapter 5 we described the procedures for implementing price increases. In their evidence the companies denied collusion or collaboration of any kind. They said that each notifies the other of an impending price increase because each is a supplier to the other, and that each is committed to a price increase from the date of notification. However, the companies admit that announced price increases could be modified after customers have been notified. The evidence shows that price notifications are so interwoven that the price follower knows in advance what the price leader's increase will be, and before the price leader actually implements his price increase he knows that his lead is being followed.

9.9. For the last five years ICI has taken the lead in setting prices. The company argued that it had had to set them at a level which, it judged, British Salt would not wish to undercut and that if it had not been for the presence of British Salt it would have raised its prices by more than it has done. Both companies maintained that this reaction by ICI to British Salt's presence in the market was evidence that prices were affected by competition. It may well be that if ICI had a total monopoly of the salt market prices would be even higher than they are now, but this is not an adequate justification for the behaviour of the duopolists. As a lower cost producer (see paragraph 6.21) British Salt has been in a position to exert much more competitive pressure on ICI but has chosen to follow ICI's lead on prices and thereby earn high profits. As we have shown in paragraph 5.25, prices of salt have increased faster than those of manufacturing industry as a whole and of the chemical industry in particular.

9.10. Although the procedure for determining list prices falls short of collusion, its repeated use over a long period and the fact that one company's price increases have been exactly or almost exactly matched by the other in spite of substantial cost differences is an indication that price competition has been severely restrained.

9.11. We do not rule out the existence of some competitive discounting and the effect this may have in inducing some customers to switch from one producer to another. Indeed the argument was put to us that information on list prices gives a misleading picture of the degree of competition because it fails to take account of the competition that occurs in the form of price discounts.

9.12. In the UV sector where nearly all the large industrial users are found the average discount is about 15 to 17 per cent. By contrast, in the higher margin PDV sector where buyer concentration is lower, the average discount is less than three per cent. Although a few large customers negotiate discounts above that figure the majority of discounts are less than 1 per cent. Moreover, the size of the discounts offered by the two producers is very similar. This is certainly true of volume-related discounts (see Table 5.10), and though there is more variation in special discounts this is not sufficient to upset the conclusion that the net prices charged to particular customers have moved in parallel both in terms of the timing of price increases and their size (see paragraph 5.41).

9.13. During the period under review the structure of the salt market has not been completely static. The most noticeable changes since 1978 have been the decline in ICI's share of the PDV market from 43 per cent in 1979 to 35 per cent in 1984 and the increase in ICI's share of the UV market over the same period from 41 to 46 per cent. Apart from small year-to-year variations, the total market shares of the two producers have shown little change (Table 5.3).

9.14. We examined salt imports to see if this was a likely source of increased competition. We found some evidence that this was occurring. For instance, ICI's sales of granular salt to the hides and skins industry have found increasing competition from cheaper imports of rock salt. However, one factor explaining these imports of rock salt, a small percentage of which was made by ICI itself, was ICI's own failure to produce sufficient granular salt. The overall level of imports of white and competing ground rock salt is low, accounting for only 4 per cent of the United Kingdom market. We do not expect imports to grow to such an extent that they become a serious threat to domestic producers.

### **Barriers to entry**

9.15. The market for white salt has been dominated for many years by ICI and British Salt and we see no prospect of the position changing in the foreseeable future. It is true that there are in the country substantial salt deposits not controlled by ICI or British Salt. ICI has also indicated its willingness to license its controlled brine-winning technology to a new entrant and to provide brine in reasonable quantities and at a reasonable price while a new brinefield is being developed.

9.16. There are several factors which, taken together, suggest that new entry on a significant scale is unlikely. First, the economies of scale in the development of a brinefield and in the production of salt mean that an entrant would need to capture a substantial share of the United Kingdom market in order to avoid operating at a cost disadvantage. Second, even if a new entrant was able to secure brine in adequate quantities (and this would depend in part on its location) and on acceptable terms from ICI it would face a cost disadvantage until its own boreholes were fully developed and capable of producing strong brine. (This would take three to five years—see paragraph 5.56). Third, although salt deposits exist in many areas of the country, Cheshire has certain advantages which make it the most likely centre for any future development of white salt production and the county's planning proposals favour the existing producers (see paragraph 5.65). Fourth, a large part of the salt market may well be fore-closed to a new entrant as a result of the long-term relationships which ICI and British Salt have with major customers. Finally, a major feature of the industry in recent years has been a large measure of excess capacity caused by the downturn in demand. Neither company forecasts a sharp reversal in the recent trend in demand. A market dominated by two producers, with substantial excess capacity and with little prospect of a strong upturn in demand, is unlikely to prove attractive to potential entrants.

#### **Costs and efficiency**

9.17. We have shown in Chapter 4 that British Salt with its more modern purpose-built plant enjoys some operational advantages over ICI. Two of the three key 'pre-processes'—brine purification and steam generation—take place on site, while the pipeline from the brinefield to the site is only three miles long (compared with 15 miles for ICI's). By confining its production to fine salt (UV and PDV) it enjoys greater flexibility of operation. Thus, unlike ICI, it is able to maintain the advantages of six-effect working even in present conditions of output well below full capacity, so avoiding cost penalties from excess steam usage on reduced effect working. Moreover it has introduced refinements to its brine purification process to reduce costs (paragraph 4.17) and has taken measures which by improving thermal efficiency have reduced energy consumption by 22 per cent since the plant started operating in 1970, of which 10 per cent has been achieved since 1978.

9.18. British Salt states that it has always been able to obtain Staveley's approval to make the capital investment it needs to maintain and to improve the efficiency of its plant. Partly because of this it has managed to hold its steam costs—the key element in this industry's variable costs—at the same level for the past three years. It has also been successful in controlling its other variable production costs. British Salt is an efficient company which over the last few years has made significant gains in productivity.

9.19. Despite the difficulties of making a comparison between the costs of the two producers (see paragraph 6.13) we have found that the unit costs of ICI's salt business have been significantly higher than British Salt's and that the difference between these costs is widening (see Table 6.7). Further, Table 6.5 shows that ICI's variable costs per tonne have risen steeply particularly from 1982 onwards. ICI's salt business still derives some benefit from its favourable gas price, although that benefit has been declining and is likely to decline

further. The increase in its variable costs of steam has accelerated in recent years and ICI has told us that it expects this rise to continue in 1986. Moreover its brine purification costs are much higher than British Salt's. ICI has told us that partly because of the considerable distance between its salt and its brine purification plant the cost of the capital expenditure to adopt a cheaper purification process would be unacceptably high. ICI also considers that the particular quality of the salt produced by its own more costly brine purification process is important to some of its large customers.

9.20. There are particular cost problems associated with ICI's production of granular salt. The method by which this salt is produced inflates the costs of ICI's salt production as a whole due to problems resulting from the configuration of the Weston Point plant which we described in paragraphs 4.33 to 4.37. In particular the production of granular salt in the Oslo evaporators in present conditions of less than full production for the plant as a whole has adversely affected the company's ability to derive the benefit that it should from multi-effect operation. Weston Point has been working for the past five years with five effects rather than six, and at times with only four. ICI's own analysis shows that five-effect working at Weston Point is 16 per cent more costly in terms of steam usage per tonne than six-effect, and that four-effect working is 43 per cent more costly. A further problem is that ICI's output of granular salt has been well below capacity and at times, during the period 1980 to 1985, it has been unable to meet demand (see paragraph 5.5).

9.21. ICI sees significant advantages in producing granular salt of which it is the sole domestic producer. It is a higher value product than UV and PDV. Water softening for which it is mainly designed is one of the few sectors of the salt market where ICI sees good prospects for growth. ICI has told us that it derives considerable benefit from this production which it estimates contributed some £2.1 million to its profits in 1984 after taking into account all the extra steam costs at Weston Point associated with the production of granular salt. It therefore attaches importance to maintaining and indeed expanding it.

9.22. ICI has to some extent been able to alleviate the cost problems described in paragraph 9.20 by producing substantial volumes of salt for export, thus enabling it to operate the Weston Point plant with more effects than present domestic demand for UV and PDV salt would warrant. As a result these exports have contributed both savings in overall steam costs and a gross margin in excess of their own variable costs. However, this margin has declined very considerably during the last six years because the average net income per tonne from exports has not risen, while variable costs have increased to nearly the same level as net income (see Tables 6.4 and 6.5).

9.23. The upward trend in ICI's fuel costs will cause its variable costs to rise in 1986 and 1987. This is an important factor determining the declining profitability of ICI's salt business which we discuss in paragraphs 9.26 and 9.27.

9.24. ICI told us that the problems of increasing granular salt production and of the steam cost penalty associated with the configuration of its salt plant have been major preoccupations of the salt business management for the last six

years. The configuration of its Weston Point plant was the result of past investment decisions, and it would have to operate within the constraints imposed by these decisions however many competitors there were in the market. However, the company examined a number of possible solutions to these problems and rejected them on technical grounds or because of a failure to meet the criteria for sanctioning investment projects.

9.25. Despite the difficulties set out in paragraph 8.93, ICI appears to us to have taken a long time to introduce the steam by-pass to the Oslo evaporators. This £300,000 project has been considered at intervals over the last five years and has only recently been authorised in spite of a discounted cash flow of 70 per cent and a pay back period of 17 months (see paragraph 4.36). It is difficult to escape the conclusion that ICI has not yet had to face the full consequences of operating within the present configuration because it has not come under such pressure from British Salt as would, in conditions of effective price competition, have forced it to reduce its costs to a lower level. In such conditions ICI would have to accept these consequences or adjust its cost base. We conclude that lack of competition in this market allows ICI to continue to operate its salt business as a high cost producer.

### **Profits**

9.26. On a historical cost basis ICI's profits at Weston Point, on its combined United Kingdom and export business, do not look unhealthy, although the analysis in Table 6.1 shows that they are on a declining trend. However, ICI considers the level of its past profits to be totally inadequate and the outlook for future profitability to be very poor. On a CCA basis its return on capital employed and margin on sales had declined to just over one per cent by the end of 1984. Preliminary results for the first half of 1985 show a slight CCA loss on its white salt business and ICI faces the prospect of a further loss in 1986. It does not now expect to turn round its salt business to what it considers an adequate CCA profit until 1990 at the earliest.

9.27. The profile of rising costs and declining profits in the absence of effective competition has been a significant factor in determining the level of price increases ICI has implemented for the last five years. Until the end of 1984 price increases were enough to earn ICI a profit however small. In the first half of 1985 its salt business suffered a marginal loss. If profitability in that business is to be regained in 1986, with its present volume of production and configuration of plant, ICI would probably need to raise its prices by substantially more than the five per cent increases it implemented in January 1984 and January 1985.

9.28. British Salt's profits over the last six years are set out in Table 6.3. Despite the recession and a consequent decline in its sales volume from 700,000 tonnes in 1979-80 to just over 600,000 tonnes today, British Salt managed to achieve a consistently high return on capital employed (whether measured on a CCA or a HCA basis) combined with a consistently high margin on sales.

9.29. British Salt has been able to achieve these results in part because of the efficiency of its plant and its product mix (see paragraphs 4.15 and 4.16). However, they are also due in part to the absence of price competition and in particular to the fact that for the last five years British Salt has operated under the umbrella of the prices charged by ICI whose costs per tonne of its United Kingdom sales are now significantly higher than British Salt's (see paragraph 6.21). The indications are that without further substantial capital investment the unit costs of ICI's United Kingdom sales will increase at a faster rate than they have done in recent years (see paragraph 6.20), and at a faster rate than the cost increases that are likely to be experienced by British Salt. If prices continue to be set at a level related to ICI's costs and these prices continue to be matched by British Salt, then the latter's profits will become even higher than they are now.

### Conclusions

9.30. The evidence that we have found leads us to the conclusion that price competition in the United Kingdom white salt market has been extremely limited. British Salt, as the low cost producer, could have put more competitive pressure on ICI, and still have achieved a good return on capital employed. Instead in recent years it has chosen to follow the price increases of ICI, whose United Kingdom costs per tonne are significantly higher than its own. This has resulted in domestic price increases made by the two companies being significantly greater than they would have been in effective competition. Neither of the producers faces a high degree of risk. There is little threat of new imports or of new entry into the market; neither producer foresees any change in technology which might put its own process at a disadvantage; and although demand may not revert to its 1979 level, a substantial market for salt looks assured. British Salt's return on capital over the past five years, far from being inadequate, has been high by comparison with the average for manufacturing industry generally (see paragraphs 6.22 and 6.23); and it is notable that British Salt has succeeded in increasing its profits despite a diminishing volume of sales.

9.31. The reasons advanced by British Salt for so persistently matching ICI's price increases are that British Salt considered that its own costs and competitive presence influenced ICI's decisions on price increases, and that if British Salt has sought to undercut ICI this would have provoked a damaging retaliation. We do not accept that these reasons demonstrate the existence of a competitive market. If anything they merely serve to show the lack of effective competition by a company well placed to offer it.

9.32. We have not found evidence to suggest that the two monopoly producers have taken steps to exclude potential competitors from the market nor any other steps by way of uncompetitive practices or otherwise to maintain the monopoly situation. However, we do find that the lack of price competition in the United Kingdom white salt market is an omission and the pricing of white salt in that market is an action on the part both of ICI and of British Salt, and that this action and this omission are attributable to the existence of the monopoly situation. We further conclude that this action and this omission operate and may be expected to operate against the public interest. The particular effect adverse to the public interest is that the United Kingdom prices of

white salt are higher than they would be in conditions of effective price competition.

### **Possible remedies**

9.33. We have considered three ways in which the adverse effect of the conduct of monopoly producers might be reduced. One would be to increase the effectiveness of the market mechanism by, for instance, creating conditions that are more conducive to new entry or increasing the degree of competition from imports. Another would be to enhance the buying power of customers. A third way would be action by the Secretary of State including price control.

9.34. For the reasons set out in paragraphs 9.15 and 9.16 we judge new entry to be unlikely, and we do not see imports posing a substantial threat to the home producers. Some of the information in our report may increase the buying power of some customers but we do not consider that this will in itself be a sufficient remedy for the adverse effect which we have identified. Since we cannot promote the effective competition we would like to see in this market by either of the first two of these methods, we have to look to the third (action by the Secretary of State). And since the adverse effect which we wish to remedy is that United Kingdom prices are higher than they would be in conditions of effective competition, we consider that some form of control on United Kingdom prices is necessary. In the white salt market prices have been set for the last five years by the high cost producer (ICI) and have been matched by British Salt. The system of control that we seek is one which will break the link between ICI's high costs and British Salt's prices, and which will have the effect of reducing the rate of price increases below what might otherwise have been expected.

9.35. In principle it would be possible to control prices by reference to a measure of profitability. This might seem particularly relevant in the case of British Salt which, as we have shown, has been able to achieve a consistently high return on capital employed and a high margin on sales in the face of declining sales volume. However this form of control might have the possible disadvantage of weakening incentives to increase efficiency. In any case our objective can be achieved more directly by relating permitted price increases to an appropriate index relevant to the *input* costs of the salt business. We believe that this would have the effect of reducing the importance of the adverse effect which we have identified without weakening incentives to improve efficiency.

9.36. We explored the possibility of applying a single composite index which would be applicable to the salt industry as a whole. However because of the substantial differences in the product mix of the two leading producers and because ICI's key variable costs are reflections of transfer prices or rolled through costs, this approach proved to be impractical. We also discussed with British Salt and ICI the possibility of a price control system based on two indices one for each producer and related to each producer's own input costs in the salt business. However we could not derive an appropriate index for ICI which reflected its own costs and at the same time was likely to be effective in controlling prices, since such an index would reflect unduly its own internal transfer prices rather than input costs which were outside its control.

9.37. We believe that price control by means of an index based on the structure of British Salt's costs and applied to British Salt is the most appropriate and effective means of remedying the adverse effect on the market that we have identified in paragraph 9.31—namely that white salt prices are higher than they would be in conditions of effective price competition. This system of control will restrain both the level of British Salt's prices and the level of prices in the salt market as a whole. The practical effect of applying the index to British Salt's prices is that a limit is imposed beyond which no other producer will be able to raise its prices without jeopardising its market share. It will break the present link between British Salt's prices and ICI's costs and will also increase the pressure on ICI to improve its efficiency. At the same time it will not weaken British Salt's incentive to continue to improve its efficiency.

9.38. Dendritic and granular salt will not be affected by our proposed system of control because these products are not produced by British Salt. However, we do not consider this to be a serious weakness. Very little dendritic salt is sold in the United Kingdom. As for granular salt, prices are unlikely to move far out of line with those of UV and PDV. Some substitution between granular salt and PDV is possible and there is also competition from imported rock salt and salt tablets.

9.39. It may seem paradoxical to apply controls only to one company and moreover to the one we have commended for its efficiency. We have discussed price control with the main producers and New Cheshire Salt Works Ltd. Their views are summarised in Appendix 9.1. ICI recognises that these controls will effectively set the domestic price levels for ICI and the other producers as well as for British Salt. ICI expressed concern at the possibility of being constrained by a system related to the different operating regime of another producer. However, this would apply whether there were two separate indices or one relating to British Salt only. For in a two-index system the price level would tend to be determined by the index reflecting the lower increases in cost and therefore the smaller increases in price. Although we have looked at other possibilities (see paragraph 9.36), we have found them wanting in some respect or other. In all the circumstances therefore an index applied to British Salt alone but with the wider purpose described in paragraph 9.37 is our favoured option.

9.40. The index would be derived from the main components of British Salt's production costs weighted according to the contribution each makes to its total costs. Movement in the cost of the individual inputs would be based on movements in published price indices. These components, their weightings and the sources for the individual indices are set out in Table 9.1.

9.41. We have stated that the aim of price control in accordance with this index is to reduce the level of future prices below what otherwise might have been expected while not undermining incentives to maintain efficiency. Also in a properly functioning competitive market, where there is effective price competition, part of any gain in efficiency is passed on to the consumer and part retained as profit as a proper reward for that efficiency.

TABLE 9.1 Suggested index

<i>Component</i>	<i>Weighting (%)</i>	<i>Source</i>
Fuel and power	22.8	Price index of gas for large industrial consumers. (Digest of UK Energy Statistics)
Soda ash	2.7	Price index, soda ash (Department of Industry)
Lime	1.4	Price index, hydrated lime (Department of Industry)
Plant maintenance	12.0	{ 50 per cent index of earnings in Chemical and Man-Made Fibre industries. 50 per cent price index of plant and machinery, chemical industry (94142500) (Business Statistics Office, Business Monitor MMI7)
Depreciation	24.3	
Labour, salaries and other employment costs	15.7	Index of earnings in Chemical and Man-Made Fibre industries
Other materials and services; rents and rates; other overheads	21.1	RPI (non-food items) (Economic Trends)
	100.0	

9.43. We do not think therefore that British Salt should be allowed to increase its prices fully in line with the cost index. We believe that the maximum level of United Kingdom prices overall should be determined by the increase in the index in each year abated by one percentage point. In the first year of operation (1986) the maximum permitted level of prices relative to that of the base date 31 January 1985 should be determined by the increases in the cost index relative to their January 1985 level, less one percentage point. The maximum permitted level each year would form the starting point for calculating the permitted prices for the following year which would be determined by the further increases in the cost index less one percentage point.

9.43. The relevant increase in the input cost index to be used in implementing the price control system will be the increase in the 12 months prior to the proposed date of implementation of the price increase. The increase in the input cost index will in part be based on the known increases in the component indices (set out in Table 9.1), say for six months, and in part on estimated increases for the remainder of the 12-month period. The estimated increases in each of the components should be at the same average monthly rate as are available from the published data covering part of the year. Any differences which may emerge when data for the full 12 months are published would be dealt with by adjusting the base allowable level from which the subsequent increase is to be calculated.

9.44. We recommend that British Salt's domestic prices should be limited in this way for a period of five years as amplified in paragraph 9.45(b), and that thereafter the matter should be reviewed. We aim to minimise the burdensome

effect which controls inevitably have and suggest that the system be operated with a degree of flexibility. Provided that British Salt and Staveley (as the parent of British Salt) have given appropriate undertakings (see below) we see no need for prior notification of intended price increases. If during the period that price control is in operation there were a major change in circumstances which resulted in the special index ceasing to control prices in the way that is intended, the index should be re-examined. And, if there were to be major structural changes in the market which no longer required the existence of an external price regulator, then consideration should be given to terminating the system of controls sooner than five years. We recommend that in the absence of appropriate undertakings, the Secretary of State should make an order to regulate the prices concerned.

9.45. Accordingly, we recommend that:

- (a) the Secretary of State should request the Director General of Fair Trading (the Director General) to consult British Salt and Staveley Industries with a view to obtaining from them undertakings (the undertakings) designed to limit the prices of white salt sold in the United Kingdom by British Salt, the maximum permitted level of prices overall to be based, as is explained in paragraphs 9.42 and 9.43, on the operation of the index (the index) described in Table 9.1, and to be subject, as is also explained in paragraph 9.42, to an annual abatement of one percentage point;
- (b) in support of the action described in (a) above, the Director General should:
  - (i) from time to time, examine the price level and, if he should consider this necessary, vary the components of the index;
  - (ii) keep under review the operation of the undertakings;
  - (iii) consider, at the end of five years (or earlier if satisfied that there has been a material change in circumstances) whether the undertakings should be varied in any respect or determined and whether in consequence he should give any advice to the Secretary of State or take any other action in respect of the undertakings;
  - (iv) obtain such information as he may from time to time require in order to deal with the matters set out in (a) and in (i) to (iii) above or otherwise in connection with the undertakings;

and should consider the extent to which (bearing in mind his powers under section 88 of the Fair Trading Act 1973) the contents of the undertakings should take account of the matters in (i) to (iv) above;

- (c) if undertakings are not obtained by the Director General as recommended in (a) above or if, in the opinion of the Director General, the undertakings are not complied with, the Secretary of State should, subject to the advice of the Director General, exercise his powers under section 56(2) and Schedule 8 of the Fair Trading Act 1973 with a view to the making of an order to regulate the prices concerned; and
- (d) any such order should, if the Secretary of State should think fit, provide that any price increase subject to the order should require the *prior* approval of the Director General, to be given only on his being satisfied that this would be permissible on the basis referred to in (a) above for the operation of the undertakings.

### Summary of conclusions and recommendations

- 9.46. (a) We have found that a monopoly situation exists under section 6(1)(a) of the Fair Trading Act 1973 in favour of ICI and under section 6(1)(b) of the Act in favour of British Salt, a subsidiary of Staveley Industries, and Staveley Industries.
- (b) We have not found that ICI and British Salt have been taking steps by way of uncompetitive practices or otherwise to maintain the monopoly situation.
- (c) We have found that the action and omission on the part of ICI and British Salt which are described in (i) and (ii) below are attributable to the monopoly situation:
- (i) the pricing of white salt sold in the United Kingdom; and
  - (ii) lack of competition in respect of the United Kingdom prices of white salt.
- (d) We conclude that the action and the omission in (c) above are having and may be expected to have the following adverse effect: prices for white salt in the United Kingdom are higher than they otherwise would be.
- (e) We conclude that the action and omission found in (c) and the adverse effect found in (d) operate and may be expected to operate against the public interest.

9.47. Accordingly we recommend the application of domestic price control to British Salt as an action to be taken for the purpose of remedying the adverse effect found in paragraph 9.46(d). The Secretary of State should request the Director General to seek appropriate undertakings from British Salt and Staveley and in the absence of such undertakings being given should regulate prices by means of an order under section 56(2) of the Fair Trading Act 1973.

D G RICHARDS (*Chairman*)

ROBERT CLAYTON

K D GEORGE

R M GOODE

H H HUNT

N L SALMON

N E D BURTON (*Secretary*)

11 February 1986