

WEEKLY

REPRODUCTION AUTHORIZED

Brussels, 19 October 1971

No. 116

** Wishing to provide companies with legal instruments designed to assist TRANSNATIONAL COOPERATION, the Commission of the European Communities intends shortly to submit to the Council a formal proposal for the introduction into Community legislation of the concept of a GROUPEMENT D'INTERET ECONOMIQUE, introduced in France more than four years ago. ANNEX 1 describes the advantages which the adoption of this legal concept would confer.

** The Commission of the European Communities may shortly express a view on the ADJUSTMENT OF THE RULES OF COMPETITION IN FAVOUR OF AGREEMENTS FOR COOPERATION ON RESEARCH AND DEVELOPMENT; it will do so on the occasion of the publication of a decision on a research agreement notified to it by the two companies Henkel (Düsseldorf) and Colgate-Palmolive (New York). A summary of the problem will be found in ANNEX 2.

This bulletin is published by the Directorate General Press and Information of the Commission of the European Communities

For further information please apply to the

Commission of the European Communities
Directorate-General for Press and Information
Division for industrial and scientific information
200, avenue de la Loi
1040 Brussels - Tel. 3500 40

or any of the Information Offices of the European Communities (list inside cover)

The information and articles published in this Bulletin concern European scientific cooperation and industrial development in Europe. Hence they are not simply confined to reports on the decisions or views of the Commission of the European Communities, but cover the whole field of questions discussed in the different circles concerned.

PRESS AND INFORMATION OFFICES OF THE EUROPEAN COMMUNITIES

1 BERLIN 31
Kurfürstendamm 102
tel. 886 40 28

53 BONN
Zitelmannstraße 22
tel. 22 60 41

1040 BRUSSELS
200, rue de la Loi
tel. 35 00 40

GENEVA
72, rue de Lausanne
tel. 31 87 30

THE HAGUE
22, Alexander Gogelweg
tel. 33 41 23

LONDON SW 1
23, Chesham Street
tel. 235 4904/07

LUXEMBOURG
Centre européen du Kirchberg
tel. 479 41

NEW YORK 10017
155 East 44th Street
tel. 212 MU 20458

PARIS 16e
61, rue des Belles-Feuilles
tel. 553 53 26

ROME
Via Poli, 29
tel. 689722 à 26

SANTIAGO DI CHILE
Edif. Torres de Tajarar-Apt. 4
Torre A, Casilla 10093
Avda Providencia 1072
Tel. 43872

WASHINGTON, D.C. 20037
2100 M Street, N.W.
Suite 707
tel. (202) 296-5131

** The mean rate of expansion of the total markets for steel produced within the Community between 1970 and 1975 should be 4.7%, and in very favourable circumstances might even attain 6.2%. But in order to achieve this expansion, THE EUROPEAN STEEL INDUSTRY MUST FOLLOW CERTAIN GUIDELINES, particularly as regards investment and supply policy and the adaptation of the steel-sector structure to new requirements. These are the central considerations in the MEMORANDUM ON THE GENERAL OBJECTIVES OF THE COMMUNITY STEEL INDUSTRY FOR THE YEARS 1975-1980, recently adopted by the Commission of the European Communities and now published in No. C/96 of the Journal Officiel des Communautés Européennes (a summary having appeared in "Industry, Research and Technology" No. 93).

** In the absence of objections from interested third parties, the Commission of the European Communities intends to take decisions in favour of three COOPERATION AGREEMENTS of which it has been notified, namely:

1. A reciprocal supply and specialization agreement in the field of servo-control systems concluded between the Société d'Optique, Précision, Electronique et Mécanique (SOPELEM), Paris and Langen & Co., Düsseldorf.
2. An agreement on export sales of canned vegetables manufactured by five companies in Northern France grouped together under the name of "SAFCO" (Société Anonyme de Fabricants de Conserves Alimentaires) et La Gorgue (France).
3. A cooperation and rationalization agreement between the Wild Paris company, Rueil-Malmaison and E. Leitz-France, Kremlin-Bicêtre, (France) for the marketing of optical microscopes and their accessories manufactured by their respective parent companies.

Institutional procedures lay down that agreements which - although capable of having a restrictive effect on competition - might help to improve the production or distribution of products, or promote technical or economic progress, may be exempted from the prohibitions laid down in the EEC Treaty, Article 85.

- ** The section of the Economic and Social Committee which specializes in NUCLEAR PROBLEMS held its most recent meeting at the Ispra establishment of the Joint Research Centre (JRC) on 18 and 19 October. The proceedings included an address by Mr Caprioglio, Director General of the JRC, on the new multiannual programme for the Centre which has been submitted by the Commission of the European Communities to the Council (see "Industry, Research and Technology" Nos. 106 and 114).
- ** Representatives of the TRADE UNION ORGANIZATIONS ECFTU (European Confederation of Free Trade Unions in the Community) and EO-ICL (European Organization of the International Confederation of Labour) in the energy sector of the Member States met at the Ispra establishment of the Joint Research Centre on 12-14 October to discuss the JOINT ENERGY POLICY. The meeting was chaired by Mr Haferkamp, Vice-President of the Commission of the European Communities with special responsibility for energy questions.
- ** The Euratom Scientific and Technical Committee met in Brussels on 15 October to discuss the drafting of a formal opinion, as required by the Treaty, on the THREE-YEAR RESEARCH PROGRAMME recently proposed by the Commission of the European Communities (see "Industry, Research and Technology" No. 114).
- ** The Faculty of Law and Economic Sciences of the University of Nice, which is carrying out a research programme on INTERNATIONAL COOPERATION in the cultural, scientific and technical fields, issues various publications including a six-monthly information and documentation bulletin, the second number of which has just appeared.
- ** The Commission of the European Communities arranged three days of information and study on the PREVENTION OF FIRES AND UNDERGROUND COMBUSTION IN COALMINES at Saarbrücken (West Germany) on 12-14 October. They were attended by 220 mining engineers.
- ** SCIENTIFIC AND TECHNICAL REPORTS recently published by the Commission of the European Communities include the following:

- Kernkraftwerk Lingen - Jahresbericht 1969 (Lingen nuclear power plant - Annual Report 1969)
(No. EUR 4616 d - 48 pages - 70 BF - available in German);
- Identification of irradiated meat by thin-layer gel chromatography and solubility studies
(No. EUR 4618 e - 24 pages - 40 BF - available in English);
- Isotopengeneratoren Neuentwicklungen, Weiterentwicklung und Prüfung handelsüblicher Generatoren (Abschlussbericht über die Forschungsarbeiten in der Periode vom 1. Oktober 1966 bis 30. September 1969)
(Isotope generators - new developments, improvements, testing of commercial generators (Final Reports on the research work carried out from 1 October 1966 to 30 September 1969);
(No. EUR 4619 d - 106 pages - 150 BF - available in German).

These reports can be obtained from the Sales Office for Official Publications of the European Communities, 37 rue Glésener, Luxembourg.

The Groupement D'Intérêt Economique -
an instrument for transnational cooperation
between companies

The efficient industrial development of the Community and the adaptation of its firms both to the new scale of an expanded market and to the rapid evolution of production and management techniques are tasks which call for a modernization of structures and in particular for new modes of cooperation between companies in Member States. The Commission of the European Communities is therefore seeking to provide companies with legal instruments to facilitate transnational cooperation.

Among the proposed forms the Groupement d'Intérêt Economique, introduced in France more than four years ago, appears to be a promising means of promoting cooperation between medium-sized and small businesses. The Commission of the European Communities therefore intends to present the Council with a formal proposal for the introduction of this concept into Community law.

The GIE, which is designed to supplement and extend the activities of its member companies, is simple in law, flexible in application and operation, and efficacious.

The formalities of incorporation are minimized, since it suffices to draw up a contract for a GIE and enter it in the commercial register, in order for the GIE to enjoy a legal personality and full capacity in law.

The GIE's structure is simple, comprising only a few components - a members' meeting, one or more directors, an auditing body and a body for management supervision.

The rules for operation, dissolution and liquidation impose few constraints or formalities; they proceed from the will of the parties rather than from the law. The results (profits or losses) are assessed for taxation not at GIE level, but at the levels of each of the member companies.

Neither the structure nor the financial mechanisms of the GIE are subject to regulation. Its members retain their essential personalities and meet on equal terms. They pool whatever it suits them to pool. Their freedom of choice extends both to the purpose of the GIE and the means used, which may consist not only of contributions in cash or kind (the customary contributions under company law), but also and solely of activities and even competences, since a GIE may be created without capital.

The cooperative framework may be progressively perfected, expanded and strengthened at the will of the parties. The development may also be halted or reversed at any moment without entailing the consequences for the parties of an abortive merger.

Since the GIE does not in itself imply the making and sharing of profits, it enables companies to engage in activities whose profitability appears problematical, extremely remote in time, or very indirect (research, export, joint purchase, etc.). Thus different technologies can seek mutual enhancement without having to face the delicate problem of evaluating contributions; or, if some businesses are too small to undertake certain tasks, this can be remedied by the creation of jointly financed services..

The members of the GIE act with solidarity vis-à-vis third parties in the context of their chosen objective. Because of this basic rule the individual interests of the members tend to conform and merge with one another, even if they are not entirely convergent at the outset; they thus form a unity which ensures the GIE's credit and gives it a corporate personality.

Experience in France, where three years after the adoption of this legal concept more than 2,000 GIEs had been set up, shows that they contain enterprises of all sizes and from all economic sectors. The objectives pursued, however, have in France hitherto related predominantly to service activities (purchase, sale, research, transport, management, etc.) rather than to production or fabrication.

Adjustment of the Rules of Competition in
Favour of Agreements for Cooperation
on Research and Development

If the Community wishes to ensure the competitive capacity of Member-State enterprises in a wider market and to preserve the technical and economic conditions for development, it must promote cooperation in the field of research and development. The Commission of the European Communities has repeatedly stressed this point, and also submitted to the Council in May 1970 a regulation designed to enable it, in a general manner and in particular conditions established from case to case, to exempt research and development agreements from the prohibition on the conclusion of agreements contained in Article 85 of the EEC Treaty.

On the other hand it is necessary to prevent cooperation on research from being used to restrict competition, for example by the dividing up of foreign markets or the protection of the home market. The Commission of the European Communities has a duty to prevent such abuses from occurring under the cover of research agreements. It took a stand on this question for the first time in an opinion published in March 1971 (see "Industry, Research and Technology" No. 98). The Commission of the European Communities there contested the validity of a provision in a contract incorporating a research agreement, which accorded to each partner a rate of licensing dues which favoured him in his principal market, thus giving him an unfair territorial advantage. With the same aim of ensuring the free inter-State movement of goods, the Commission of the European Communities has also advised those concerned that the patents and know-how resulting from their joint research cannot be used to prevent the import into a Member State of products manufactured by one of them with the aid of these joint research results and marketed in another Member State. This opinion has since been confirmed by the Court of Justice in its decision of 8 June 1971 in the case of "Deutsche Gramophongesellschaft (DGG)/Metro", whose implications extend far beyond the copyright issue which was in question.

ANNEX 2 p.2

The Commission may soon define the applicability of the EEC Treaty rules of competition to agreements on cooperation in research and development, when it publishes its decision (which should be favourable, unless other interested parties enter an objection) concerning a research agreement notified to it by two world-scale firms, Henkel of Düsseldorf and Colgate-Palmolive of New York.

If the Commission approves the agreement, these two firms intend to align their development projects regarding certain washing-powders for textiles and to have them carried out by a research company based in Switzerland, in which they both have an equal interest. The research company will consolidate the various research projects carried out to date and pursue them until they reach the marketable stage. The joint research results (patents and know-how) will be similarly accessible to both parties and can be exploited by them without restriction. In return for a royalty rate of not more than 2% of the selling price, each party will be entitled to obtain a licence from the research company for all the countries in which the research results are protected.