

**EUROPEAN  
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**C O M M O N M A R K E T • E U R A T O M • C O A L & S T E E L C O M M U N I T Y**

**EEC COMMISSION TO ANNOUNCE CONDITIONS FOR REGISTRATION  
OF EXCLUSIVE DEALERSHIP AND PATENT LICENSE AGREEMENTS**

WASHINGTON, D. C., December 29 -- The Commission of the European Economic Community met on December 20 to consider the workings of Regulation 17 (the "cartel regulation") and its implementing Regulation 27, designed to put into effect Article 85, one of the antitrust provisions of the Common Market Treaty.

The Commission reviewed comments received and opinions given by the advisory committee of representatives of the member states and made the following decisions:

1. Without prejudice to the interpretation of Article 85 in other cases, the Commission will give notice in the next official gazette of the conditions under which it will regard commercial agency contracts or patent license contracts as not falling within the scope of paragraph 1 of Article 85 of the EEC Treaty, so that they are not banned under EEC law and registration is not required. This notice will also cover those agreements in the field of patent license contracts for which originally a collective exception was envisaged.
2. License contracts which are caught by Article 85 (1) of the Treaty and which do not comply with the conditions set out in Article 4 (2) or Article 5 (2) of Regulation 17, must still be registered on Form B if the benefit of Article 85 (3) is to be claimed in respect of them.
3. The Commission has refrained from granting at this stage certain collective exceptions under Article 85 (3), because the comments received have shown that the object of establishing greater certainty as to law cannot be attained at present.
4. Exclusive dealing agreements between a producer and a dealer, which fall within the scope of Article 85 (1) and which do not fulfill the special conditions set out in Article 4 (2) of Regulation 17 must be registered if the benefit of Article 85 (3) of the Treaty is to be claimed in respect of them. Where both parties to such an agreement have their place of business in the same Member State, Article 85 (1) will not as a rule apply for the time being.

5. In order to take account of the request for fewer formalities, it seemed appropriate so far as possible to simplify the registration of certain exclusive dealing agreements. The Commission has accordingly decided to issue a regulation amending Regulation 27, and this will be published in the next official gazette. This amending regulation requires only the partner(s) to the agreement and the date of the agreement to be registered. If a firm uses a standard agreement, it will suffice to mention the partner thereto, and the date on which it was concluded, in order to register it.  
No particular form is prescribed; all that is necessary is that the wording prescribed in the regulation for registration purposes shall be included in the application for registration.
6. The simplified registration procedure will be used only for such exclusive dealing agreements as:
  - a. Involve no more than two firms; and
  - b. Do not result in any mutual exclusive dealing in products which form the subject of competition and which both the licensor and the licensee produce; do not hinder intermediaries or consumers from obtaining the product from another licensed dealer or any intermediary within the Common Market, or licensed dealers from supplying customers outside the area covered by their license; and do not contain any obligation on the licensed dealer to maintain a fixed minimum price determined by the licensor.  
Any exclusive dealing agreements which do not comply with these conditions, and in particular those which contain import or export bans or will indirectly have a comparable effect, will not qualify for the simplified registration procedure. If Article 85 (3) of the Treaty is to be invoked for them, and Article 4 (2) of Regulation 17 does not apply, they must be registered in seven copies on Form B.
7. The Commission intends to submit to the Council a proposal whereby the possibility of a subsequent collective exception will be left open; it will also propose appropriate procedure.