

Brussels, 3rd May 1966
IP (66) 47PRESS RELEASEMemorandum on the establishment of "European companies".

The Commission of the European Economic Community has submitted to the Council a memorandum concerning the institution of European-wide companies. The memorandum studies the problem of how to enable the companies from different Member States to form larger units. It is at the same time a response to the note of 15 March 1965 from the French Government suggesting legal arrangements for the European incorporation of companies.

In the Commission's view the object is to ensure that Community companies remain able to meet the increasing competition both within the Community and outside it. They must be able to adapt themselves to the new European market, to the conditions on world markets, which have changed in many respects, to technical development and to the requirements of modern research. This means that many companies must increase in size - by internal growth, increased research, broader capital structure and association of all kinds with other companies. Amalgamations which increase productivity without impairing workable competition are therefore desirable. They strengthen the competitive position and consequently the viability of the amalgamated companies and allow of an improvement in workers' living and working conditions.

While companies within the separate Member States are free to combine under the appropriate national rules, amalgamations between companies from different Member States and transfers of company headquarters from one country to another have so far been impossible for reasons of company and taxation law. Other forms of association between companies, such as, for example, the establishment of joint subsidiary companies, are hampered or rendered uneconomic by the same obstacles. The Commission has studied ways and means of removing these obstacles. It agrees with the French Government that in addition to the types of companies already existing in the Member States, a new legal framework for companies should be created: the European company.

The French Government's Note discusses the feasibility of introducing "uniform laws" into the legislation of each of the member countries by means of a convention between them. Such national laws would make available to industry the uniform legal type of company, the European company. This would not only help towards homogeneous legislation in general and consequently facilitate trade between the Member States, but would also provide new opportunities for the establishment and control of subsidiaries in other Member States. Company owners, stockholders and creditors would be effectively protected in a uniform manner in all the Member States, and the European type of company would therefore be an inducement to the investment of capital in other EEC countries.

The introduction of uniform laws into the legal system of the Member States would not solve the main problem facing managements, their inability to move their headquarters without undue formality to another member country and to combine with companies from other member countries without difficulty. The validity of each of the proposed national laws would naturally still be confined to the territory of that country, so that the present suggestion offers no solution to the problem of international movements of headquarters and international mergers. These international questions would still have to be solved by negotiations at European level as provided for in Article 220 of the EEC Treaty.

But even this approach could provide no solution to the problem of the change in the "nationality" of a company, which is the necessary consequence of the transference of a company from one legal system to another, even if these legal systems have been aligned. This factor constitutes a major obstacle to the formation of European companies from companies of different Member States and to the freedom of movement of companies in the Common Market.

For these reasons the Commission feels that the possibility should be explored of finding an arrangement going beyond that proposed by the French Government, namely an arrangement under which a company would not be subject to the legal systems of the several Member States and would not have the nationality of a specific state. This arrangement could be introduced by means of a convention between the Member States.

On the basis of the work accomplished so far, the Commission has formed the view that this kind of European-incorporated company would be the most appropriate having regard to the trends now discernible in the structure of European firms. These companies would have access to production factors in all the Member States under the same conditions and consequently would be particularly well placed to meet the requirements of the Common Market, of international competition and of economic, social and technical progress. Mutually compatible solutions to a large number of problems in the field of company, tax, finance and social law would have to be found, however, before a Community company of this type could be instituted.

Consequently the Commission feels that the final choice between a European company under national law and a European company under European law can only be made when the detailed studies now in hand have been completed.

As for an appropriate procedure, the Commission, sharing the view of the French Government, recommends the establishment of a working party of experts from the Governments and from the Commission. In order to speed up the urgent work to be carried out by this new group, the Commission has made the necessary preparatory studies for the institution of a European type of company.