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(Acts whose publication is obligatory)

REGULATION (EEC) No 2380/74 OF THE COUNCIL
of 17 September 1974
adopting provisions for the dissemination of information relating to research
programmes for the European Economic Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas, to help in attaining the objectives listed in Articles 2 and 3 of the Treaty, the Council adopted research programmes for the European Community on 14 May 1973 and 18 June 1973 in accordance with the conditions of Article 235 of the Treaty;

Whereas the Council reserved the right to define at a later stage the provisions for the dissemination of information resulting from the execution of these programmes;

Whereas, therefore, it is necessary to define these provisions;

Whereas the Treaty establishing the European Economic Community made no provision for the powers required for these purposes,

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation shall be applicable to information and inventions, whether patentable or not, resulting from the execution of the research programmes for the European Economic Community adopted by the following Decisions :

- (a) Council Decision No 73/125/EEC⁽¹⁾ of 14 May 1973 adopting a research programme in the field of standards and reference substances (certified reference substances);

- (b) Council Decision No 73/126/EEC⁽¹⁾ of 14 May 1973 adopting a research programme on the protection of the environment;
- (c) Council Decision No 73/127/EEC⁽¹⁾ of 14 May 1973, adopting a research programme in the field of teledetection of earth resources;
- (d) Council Decision No 73/174/EEC⁽²⁾ of 18 June 1973, adopting a research programme on the protection of the environment (direct project);
- (e) Council Decision No 73/175/EEC⁽²⁾ of 18 June 1973, adopting a research programme in the field of standards and reference substances (certified reference substances);
- (f) Council Decision No 73/176/EEC⁽²⁾ of 18 June 1973, adopting a research programme in new technologies (use of solar energy and recycling of raw materials);
- (g) Council Decision No 73/179/EEC⁽²⁾ of 18 June 1973, adopting a research programme in the field of reference substances and methods (Community Bureau of Reference);
- (h) Council Decision No 73/180/EEC⁽²⁾ of 18 June 1973, adopting a research programme for the protection of the environment (indirect project).

Article 2

The information and inventions referred to in Article 1 shall be the property of the Community.

The Commission shall, where appropriate, ensure the protection of these inventions on behalf of the Community.

Article 3

Rules determining ownership with regard to inventions whether or not patentable, resulting from research or work done under contract, shall be laid down in each contract.

⁽¹⁾ OJ No L 153, 9. 6. 1973.

⁽²⁾ OJ No L 189, 11. 7. 1973.

Where these inventions belong to the contractor, the Community shall obtain free licence to use them for its own needs.

The contractor shall be required to exploit inventions which belong to him or to have them exploited under conditions which are in conformity with the interests of the Community and within a period to be laid down in the contract.

The Commission shall be entitled to grant sub-licences, in accordance with the conditions laid down in Articles 6 and 7 where the contractor, without a legitimate reason, fails to fulfil his obligation to exploit these inventions or to have them exploited.

Article 4

The Commission shall transmit the information referred to in Article 1 as promptly as possible to the Member States as well as to persons and undertakings which pursue, on the territory of a Member State, a research or a production activity justifying access to such information. The Commission may make communication of this information conditional upon its remaining confidential and not being passed on to third parties.

Article 5

Information which cannot be put to industrial use and the nature of which does not justify its being restricted to the Member States nor to the persons and undertakings referred to in Article 4, shall be published by the Commission.

Article 6

The Member States shall be entitled to obtain a licence from the Commission in respect of invitations, whether or not patentable, which belong to the Community. The same shall apply to persons and undertakings which pursue, on the territory of a Member State, a research or production activity justifying the grant of such a licence.

Grant of a licence may be refused where the applicant does not undertake to manufacture effectively within the Community.

The Commission shall grant sub-licences under the same conditions, where the fourth paragraph of Article 3 entitles it to make such grants.

The Commission shall grant such licences or sub-licences on terms to be agreed with the licensees and

shall furnish all the information which it is entitled to supply and which is required for their exploitation. These terms shall relate in particular to suitable remuneration and, where appropriate, to the right of the licensee to grant sub-licences to third parties and to the obligation to treat the information as a trade secret.

Failing agreement on the terms referred to in the fourth paragraph, the licensees may bring the matter before the Court of Justice of the European Communities so that appropriate terms may be laid down.

Article 7

The Commission shall publish offers for the grant of non-exclusive licences by all appropriate means.

If these offers do not lead to applications for licences, the Commission shall publish them in the *Official Journal of the European Communities*. If, within six months from such publication, no application is made, the Commission may offer and grant exclusive licences for a maximum period of five years.

Sub-licences granted by the Commission pursuant to the fourth paragraph of Article 3 shall be subject to the same conditions. However, the holder of an exclusive sub-licence shall not oppose the exploitation of the invention by the owner and the owner shall not grant any further licences during the term of validity of the exclusive sub-licence.

Article 8

The information and inventions which the Commission has the right to supply and to which this Regulation is applicable may be transferred or exchanged within the framework of agreements or conventions with a third country or an international organization, in accordance with the conditions of Article 228 of the Treaty.

Article 9

When concluding the necessary contracts, the Commission shall ensure compliance with this Regulation by including appropriate clauses.

Article 10

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 17 September 1974.

For the Council

The President

J. SAUVAGNARGUES
