

SOIS 10

# **Groups of Companies in European Laws**

**Legal and Economic Analyses  
on Multinational Enterprises**

**Volume II**

# **Les groupes de sociétés en droit européen**

**Analyses légales et économiques  
sur les entreprises multinationales**

**Volume II**

Edited by / Sous la direction de  
**Klaus J. Hopt**



**1982**

**Walter de Gruyter · Berlin · New York**

Purchased : gratis

Approval :

Gratis

Acc. No.

Price

017104

KJ

L43

V.2

C.2

346.06626

HOP-II

National Library  
Indiana University

Library of Congress Cataloging in Publication Data

Main entry under title:

Legal and economic analyses on multinational enterprises.

At head of title: European University Institute.

Vol. 2, English and French, with summaries for each item in the other language, has also parallel title: Analyses légales et économiques sur les entreprises multinationales.

Includes indexes.

Contents: v. 1. European merger control --

v. 2. Groups of companies in European laws.

1. International business enterprises -- Law and legislation -- Europe -- Addresses, essays, lectures.

2. Antitrust law -- Europe -- Addresses, essays, lectures.

3. International business enterprises -- Europe -- Addresses, essays, lectures. I. Hopt, Klaus J., 1940-. II. European University Institute. III. Title: Analyses légales et économiques sur les entreprises multinationales.

Law

ISBN 3-11-008703-0 (v. 1) 346.4'07 81-19615

ISBN 3-11-008704-9 (v. 2) 344.067 AACR2

CIP-Kurztitelaufnahme der Deutschen Bibliothek

Legal and economic analyses on multinational enterprises / ed. by Klaus J. Hopt. [Europ. Univ. Inst.]. - Berlin ; New York : de Gruyter

Teilw. mit Parallel.: Analyses légales et économiques sur les entreprises multinationales

NE: Hopt, Klaus J. [Hrsg.]; Istituto Universitario e Europeo <Firenze>; PT

Vol. 2. → Groups of companies in European laws

Groups of companies in European laws = Les groupes de sociétés en droit européen / ed. by Klaus J. Hopt. [Europ. Univ. Inst.]. - Berlin ; New York : de Gruyter, 1982.

(Legal and economic analyses on multinational enterprises ; Vol. 2)

ISBN 3-11-008704-9

NE: Hopt, Klaus J. [Hrsg.]; Istituto Universitario e Europeo <Firenze>; PT

© Copyright 1982 by Walter de Gruyter & Co., Berlin.

All rights reserved, including those of translation into foreign languages. No part of this book may be reproduced in any form - by photoprint, microfilm, or any other means - nor transmitted nor translated into a machine language without written permission from the publisher.

Dust Cover Design: Rudolf Hübner, Berlin. - Printing: Georg Wagner, Nördlingen. -

Binding: Verlagsbuchbinderei Dieter Mikolai, Berlin.

Printed in Germany

## Table of Contents / Table des Matières (Volume II)

<i>Klaus J. Hopt</i> , Dr. iur., Dr. phil., M. C. J., Professor of Law, University of Tübingen, Germany and European University Institute at Florence, Italy	
Foreword . . . . .	V
Table of Contents of Vol. I/Table des matières du vol. I . . . . .	XIII
<b>Chapter/Chapitre I:</b>	
<b>Horizontal Groups and Joint Ventures: the Practical Experience</b>	
<b>Les groupes de sociétés horizontaux et les filiales communes dans l'expérience pratique</b>	
<i>Wilhelm F. Bayer</i> , Dr. iur., Attorney at Law and General Counsel, Enka AG, Wuppertal, Germany	
Horizontal Groups and Joint Ventures in Europe: Concepts and Reality . . . . .	3
Groupes horizontaux et filiales communes en Europe: concepts et réalité (Résumé) . . . . .	17
<b>Chapter/Chapitre II:</b>	
<b>Groups of Companies in Major European Laws</b>	
<b>Les groupes de sociétés dans les droits européens</b>	
<i>Herbert Wiedemann</i> , Dr. iur., Professor of Law and President of the University of Cologne, Germany	
The German Experience with the Law of Affiliated Enterprises . . . . .	21
L'expérience allemande avec le droit des sociétés affiliées (Résumé) . . . . .	44
<i>Roger Houin</i> , Professeur de droit, Doyen honoraire, Ancien Conseiller d'Etat, Université de Droit, d'Economie et de Sciences Sociales de Paris II, France	
Les groupes de sociétés en droit français . . . . .	45
Groups of Companies in French Law (Summary) . . . . .	58
<i>Pierre Van Ommeslaghe</i> , Avocat à la Cour de Cassation et Professeur de droit, Université Libre de Bruxelles, Belgique	
Les groupes de sociétés et l'expérience du droit belge . . . . .	59
Groups of Companies and the Experience of Belgian Law (Summary) . . . . .	98

<i>D. D. Prentice</i> , M. A., J. D., LL. B., Fellow and Lecturer in Law, Pembroke College, University of Oxford, England	
Groups of Companies: The English Experience . . . . .	99
Les groupes de sociétés: l'expérience anglaise (Résumé) . . . . .	130
<i>Jean Nicolas Druey</i> , Dr. iur., LL. M., Attorney at Law and Professor of Law, University of St. Gall, Switzerland	
Company Groups in Swiss Law . . . . .	131
Le droit des groupes de sociétés en Suisse (Résumé) . . . . .	141
<i>Knut Rodhe</i> , Professor of Law, Stockholm School of Economics, Swe- den	
Groups in Scandinavian Company Law . . . . .	142
Les groupes de sociétés dans les droits sur les sociétés scandinaves (Résumé) . . . . .	152

#### Chapter/Chapitre III:

##### **Groups of Companies in the Law of the European Communities** **Les groupes de sociétés dans le droit des Communautés Européennes**

*Yves Guyon*, Professeur de droit, Université de Paris I (Panthéon-Sorbonne) France

Examen critique des projets européens en matière de groupes de sociétés  
(le point de vue français) . . . . .

155

A Critical Appraisal of the European Proposals for Harmonization in the  
Field of Groups of Companies: the French Point of View (Summary) . . . . .

174

*Welf Müller*, Dr. iur., Attorney at Law and Tax Consultant, Frankfurt  
a. M., Germany

Group Accounts Under the Proposed Seventh EEC Directive: A Practi-  
tioner's View . . . . .

175

La comptabilité des groupes et la proposition d'une septième directive du  
point de vue de la pratique (Résumé) . . . . .

193

#### Chapter/Chapitre IV:

##### **Multinational Groups of Companies: Banks, Labour, Taxes** **Les groupes de sociétés multinationaux: Banques, Travail, Fisc**

*Alain Hirsch*, Professeur de droit, Membre de la Commission fédérale des  
banques, Université de Genève, Suisse

La surveillance administrative d'un groupe multinational: L'exemple des  
banques multinationales . . . . .

197

Administrative Control of Multinational Groups: the Example of Multi-  
national Banks (Summary) . . . . .

207

<i>Paul L. Davies</i> , Fellow and Tutor in Law, Balliol College, University of Oxford, England	
Labour Law and Multinational Groups of Companies . . . . .	208
Le droit du travail et les groupes de sociétés multinationaux (Résumé) . . . . .	229
<i>Gustaf Lindencrona</i> , Professor of Law, University of Stockholm, Sweden	
What is Wrong With Unitary Taxation? . . . . .	230
Les défauts d'un système unitaire de l'imposition des entreprises multinationales (Résumé) . . . . .	243
<b>Annex/Annexe I:</b>	
<b>Discussion Report</b>	
<b>Résumé de la discussion</b>	
<i>Raimund Raith</i> , Assistant, European University Institute at Florence, Italy:	
Report on the Colloquium on "Multinational Corporations in European Corporate and Antitrust Laws", 28-31 May 1980, at the European University Institute at Florence (Volume II: Groups of Companies in European Laws) . . . . .	247
<b>Annex/Annexe II:</b>	
<b>Relevant Legal Provisions</b>	
<b>Textes des lois</b>	
1. The Federal Republic of Germany / République Fédérale d' Allemagne:	
German Stock Corporation Law of 1965: Connected Enterprises Sec. 15-22, 291-338 . . . . .	265
2. France:	
Proposition de loi sur les groupes de sociétés et la protection des actionnaires, du personnel et des tiers (Proposition "Cousté", version 1978) . . . . .	296
3. Sweden/Suède:	
a) The Swedish Companies Act 1975 (as of 1980) Ch. 1 § 2, Ch. 4 § 20, Ch. 7 § 1, Ch. 8 § 7, Ch. 9 § 1 last para., § 12, Ch. 10 §§ 4, 7, 8, 9, Ch. II §§ 10, 11, 13, Ch. 12 §§ 2, 7, Ch. 14 §§ 9-13 .	320
b) Act on Annual Reports of Certain Enterprises 1980 Ch. 1 § 1 . . . . .	328
List of Abbreviations/Table des abréviations . . . . .	329
Table of Cases and Enterprises/Table des décisions et des entreprises . . . . .	334
Index/Index alphabétique . . . . .	340

## Table of Contents (Volume I)

Foreword by <i>Klaus J. Hopt</i> . . . . .	V
Table of Contents of Vol. II . . . . .	IX

### Chapter I: Economic Considerations

<i>John H. Dunning</i> , B. Sc. (Econ.), Ph. D., Professor and Head of Department of Economics, University of Reading, England	
Multinational Enterprises in the 1970's: An Economist's Overview of Trends, Theories and Policies . . . . .	3
Summary . . . . .	24
<i>Roger G. Opie</i> , C. B. E., M. A., M. Phil., Fellow and Tutor in Economics, Member of the Monopolies and Mergers Commission, New College, University of Oxford, England	
Merger Policy in the United Kingdom . . . . .	25
Summary . . . . .	41

### Chapter II: Merger Control Systems in European Countries

<i>Valentine Korah</i> , LL. M., Ph. D., Reader, Faculty of Laws, University College London, England	
Control of Mergers in the United Kingdom on Grounds of Competition: Legislation, Practice and Experience . . . . .	45
Summary . . . . .	70
<i>Klaus J. Hopt</i> , Dr. iur., Dr. phil., M. C. J., Professor of Law, University of Tübingen, Germany, and European University Institute at Florence, Italy	
Merger Control in Germany: Philosophies, Experiences, Reforms . . .	71
Summary . . . . .	100
<i>Claude Champaud</i> , Professor of Law and Honorary President of the University of Rennes, France	
Merger Control in France: Direct and Indirect Ways of Control . . .	101
Summary . . . . .	121
<i>Walter R. Schluep</i> , Dr. iur., Professor of Law, President of the Swiss Cartel Commission, University of Zurich, Switzerland	
The Swiss Act on Cartels and the Practice of the Swiss Cartel Commission Concerning Economic Concentration . . . . .	123
Summary . . . . .	150

### **Chapter III: Merger Control in the European Communities**

*Alexis Jacquemin*, Professor and Director of the Center of Interdisciplinary Research of Law and Economics, Catholic University of Louvain, Belgium

Concentration and Mergers in the European Economic Community: Towards a System of Control . . . . .	155
Summary . . . . .	168
<i>Paul M. Schmitt</i> , Head of the General Competition Policy Division in the Directorate General for Competition, Commission of the European Communities, Brussels, Belgium	
Multinational Corporations and Merger Control in Community Antitrust Law . . . . .	169
Summary . . . . .	186

### **Annex I: Discussion Report**

*Joseph H. H. Weiler*, Assistant, European University Institute at Florence, Italy

Report on the Colloquium on "Multinational Corporations in European Corporate and Antitrust Laws", 28-31 May 1980, at the European University Institute at Florence (Volume I: European Merger Control)	189
---	-----

### **Annex II: Relevant Legal Provisions**

1. The Federal Republic of Germany:	
a) Law Against Restraints of Competition (as of 1980) Secs. 22-24b . . . . .	213
b) Federal Cartel Office, Information in Respect of Merger Control under Section 23 et seq. of the Act Against Restraints of Competition (as of 1980) . . . . .	224
c) Federal Cartel Office, Memorandum on "Domestic Effects Within the Meaning of Section 98 (2) of the Act Against Restraints of Competition in the Case of Mergers" . . . . .	230
2. The United Kingdom:	
Fair Trading Act 1973 Secs. 57-77, 84 . . . . .	231
3. France:	
Law No. 77-806 of 19 July 1977 Concerning the Control of Economic Concentration and the Repression of Illegal Agreements and of Abuses of a Dominant Position Secs. 1-11 . . . . .	245

4. European Communities:	
a) European Coal and Steel Community Treaty Art. 66 . . . . .	249
b) Decision No. 24-54 of 6 May 1954 Laying Down in Implementation of Article 66 of the Treaty a Regulation on What Constitutes Control of an Undertaking [ECSC] . . . . .	252
c) Commission Proposal for a Regulation (EEC) of the Council on the Control of Concentrations Between Undertakings of 1973 . . . . .	253
List of Abbreviations . . . . .	263
Table of Cases and Enterprises . . . . .	266
Index . . . . .	270