

52. Some idea of the scope of the BEAMA's principal interests and activities can be gained from the titles of the various Council Committees (see footnote to paragraph 48); these by themselves, however, do not give a complete picture of the many spheres in which these interests are pursued through the Association's membership of Government, professional, technical and commercial councils and committees in both the national and the international field.* We have already referred in paragraphs 28 to 33 to the part played by the Association in research and standardisation and we describe the BEAMA's work on conditions of contract in Chapter 5. It is relevant here to mention one other aspect of its many other activities, namely the close contact which has for many years existed between the Association and electricity supply authorities in the United Kingdom. This led to the formation of the BEAMA/IMEA† Joint Committee in 1921 and later to the constitution of a four-party committee consisting of representatives of the BEAMA, the IMEA, the power supply companies‡ and the Central Electricity Board, and more recently of the BEA/BEAMA Joint Committee with its sub-committees.§ Insofar as these matters are also of interest to the Groups and are directly relevant to our inquiry, some aspects of them are referred to again in greater detail in later chapters of our report.

CHAPTER 3. THE GROUPS

(1) General Description of the Groups and their Activities

53. We have described in paragraph 41 the conditions prevailing in the electrical industry in the early years of the present century when the first Groups were formed. These Groups are not and have never been formally incorporated bodies, and indeed it is not always entirely clear what constitutes an individual Group. Considered as a whole the Groups are concerned with the operation of a number of agreements, 37 of which relate wholly or in part to machinery and plant within the scope of this inquiry. Each agreement is concerned with a particular type of plant (e.g. transformers), or with plant of a particular type within a specified range of size or output (e.g. steam turbines of 300 to 11,000 kW) or for a particular purpose (e.g. electrical equipment for rolling mills); it may be concerned with the home market or with exports or with both. Since each agreement contains provisions for periodical meetings of the signatories and the general administration of the agreement by the signatories, each may be said to set up a separate Group. In practice, however, there are a number of cases where two agreements,

* The Association's Handbook for 1955-56 shows the BEAMA as being represented on more than 100 such councils and committees.

† That is the Incorporated Municipal Electrical Association, a body which existed to promote the interests of municipal supply undertakings.

‡ That is the privately owned, as distinct from the municipally owned, supply undertakings.

§ There are seven sub-committees dealing respectively with:—

- General Conditions of Contract;
- Contract Price Adjustment Clause and Formulae;
- Turbo-Alternator Standardization;
- Transformer Standardization;
- Switchgear Standardization;
- Quantity Buying Terms and Discounts;
- Meters Technical.

Until January 1954 there were also two sub-committees (Nos. 5 and 7) dealing respectively with Transformer and Turbo-Alternator Prices, representation on which on the manufacturers' side was in effect a matter for the Groups concerned.

though covering different kinds of arrangements (notification and prices—see paragraph 152), deal with the same types and range of machinery in the same territory and have identical signatories; in such cases the signatories do not as a rule hold separate meetings to transact business under the two agreements, so that to all intents and purposes there is one Group operating two agreements. In other cases the membership of two such agreements may be largely but not entirely common; and though the signatories of each agreement must then act as a separate Group for the purpose of any formal decisions, the joint membership will frequently meet and act as though it were a single Group. Furthermore separate Groups concerned respectively with home and export sales of the same type of machinery, or Groups concerned with types which have a special association one with another (e.g. turbines, alternators and condensing plant) sometimes hold joint meetings. Although, therefore, we refer throughout this report to the "Groups" in the aggregate, for the sake of clarity we discuss particular arrangements as those of the signatories of a specified agreement rather than of a particular Group.

54. All Group agreements were reviewed by the Groups between 1948 and 1951 in the light of the Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948. They were subsequently revised and reissued, and the common provisions of these revised agreements, such as those relating to membership and administrative arrangements, are now similar or identical in form. As regards other provisions there is in the first place a broad division between agreements dealing with prices and agreements dealing with the notification of enquiries, though there are some which cover both kinds of arrangement. Apart from this distinction, there are considerable variations from agreement to agreement. Some of these arise from technical considerations peculiar to individual types of machine, but others are due to the fact that each agreement represents the policy of a particular set of signatories, and different sets of signatories do not always arrive at the same solution to similar problems.

55. Under the revised agreements new signatories are admitted on a majority vote of existing signatories; formerly a unanimous vote was required. Existing signatories have always required that applicants shall have demonstrated their ability to manufacture machinery of the type and range concerned to a standard of quality comparable to that of signatories. Subject to this the Groups have told us that membership is open to any *bona fide* manufacturer in the United Kingdom of the type of machinery concerned. Signatories may withdraw from an agreement on giving a stipulated period of notice, generally but not always six months; an agreement may be terminated by a prescribed majority of its signatories, ranging from 70 to 80 per cent. according to the agreement concerned.

56. With few exceptions the larger manufacturers for whom machinery covered by our reference is a major interest are all signatories of one or more of these agreements, though not necessarily of every agreement concerned with the types of machinery they make. Most of them are also members of the BEAMA. There are practically no United Kingdom manufacturers of machinery in class (a) who are not members of the appropriate Groups.* In the case of machinery in classes (b) and (c), however, there are a number of manufacturers, generally making a limited range of the smaller motors and transformers, who are not Group members; some of these

* One large manufacturer of machinery in this class does not however subscribe to all Group arrangements, while another company making steam condensing plant, but normally not other types of machinery within our terms of reference, is not now a member of the Condenser Group or the Condenser Section of the BEAMA. There is no current Group agreement relating to the supply of hydro-electric plant in the home market.

non-Group concerns are members of the BEAMA, but others belong neither to the Groups nor to the BEAMA. Most of the non-Group manufacturers are small, but one of them is among the largest producers of machinery in class (b).

57. Nearly all agreements* as now drafted have as their expressed objects co-operation for the good of the industry and of the public, the encouragement of research and development, the establishment of reasonable conditions of contract, and the study of, and co-operation in meeting, market requirements; those agreements which include price arrangements also include among their objects that of stabilising prices at "a reasonable and economic" or "competitive" level.†

58. The main provisions of the agreements include all or some of the following arrangements:—

- (i) *Notification*, that is the central notification by signatories of specified particulars of enquiries, and subsequently of orders, received for machinery or plant the subject matter of an agreement.‡ This information, or some part of it, is circulated among signatories and enables them to discuss relevant technical or commercial matters. Historically notification has preceded other forms of co-operation between manufacturers. The arrangement does not, as a rule apply to the smaller machinery in classes (b) and (c).
- (ii) *Compensation* (referred to under earlier texts of the agreements as "royalty"), that is the payment by the successful tenderer of a sum of money to be used to compensate other tenderers who are members of the Group for the expenses involved in tendering.
- (iii) *Common minimum price*, that is a price for specified machinery or plant below which all signatories have agreed not to quote, except as otherwise provided by the agreement. The minimum is in practice normally the actual price quoted. This does not mean that the prices quoted by all signatories to an agreement in response to a particular enquiry will necessarily be identical. For some of the more complicated machinery they are in fact unlikely to be so, since the operating characteristics offered by the various signatories will differ and these technical differences will be reflected in price adjustments which are provided for in the agreement. If, however, all tendering signatories were to offer machines of identical performance (though not of identical design) their prices would also be identical unless any of them exercised their right to quote above the minimum. In the case of larger machinery which is supplied under contract this practice is often called "level tendering".
- (iv) *Supplementary provisions* relating to such matters as uniform conditions of contract, main contractor's handling charges, discount and price maintenance on resale: in their general effect these provisions support the main price arrangements.§

59. The operation of all these arrangements in relation to machinery in each of the three classes is described more fully in later sections of our report. They differ in detail between the different types of machinery, but not greatly in general effect. The Groups' arrangements for notification and

* There are two agreements, one concerning equipment for rail and the other for road traction, which provide only for general consultation between their signatories.

† The Transformer Makers' Agreement, however, expresses this object as: "To secure economic prices based upon the costs of efficient producers".

‡ Subject to any specified exceptions under particular agreements.

§ But signatories have certain obligations with regard to contract conditions under some agreements which do not include price arrangements.

common minimum prices together with such supplementary provisions as are relevant cover nearly all machinery within our terms of reference supplied in the home market; the exceptions are described in the chapters dealing with the individual classes. The arrangements for compensation apply only to class (a) and the larger machinery in class (b). The Groups' arrangements for exports cover a more limited field than those for the home market, the main differences being that:—

- (i) the Groups have no arrangements for common minimum prices or compensation in relation to exports of the larger machinery and plant in class (a);
- (ii) they have no arrangements of any kind relating to exports of certain large specialised machines in class (b), while their arrangements for other large machines in this class apply only to "indirect" exports (that is, roughly speaking, exports which have been ordered by persons in this country, see footnote* to table in paragraph 320).

Where exports are outside the scope of the Groups' arrangements, they are in most cases covered by the arrangements of The International Electrical Association Ltd. (IEA) (see Chapter 4).

60. The titles and subject matter of the Group agreements concerned with machinery in each of the three classes of our terms of reference, together with those of the IEA, are given in Appendix 4: the membership of the various agreements is shown in Appendix 3. The texts of the main clauses and provisions of two Group agreements (the large turbine notification and price agreements) are reproduced in Appendix 5. While no single agreement is in all ways typical of all Group agreements, these may be regarded as fairly illustrative of the type of document concerned.

(2) Organisation and Administration

61. The total administrative costs, including taxation, of the Groups concerned with machinery covered by our terms of reference amounted to £84,112 in 1952 and £91,687 in 1953. Approximately 65 per cent. of the total cost in each of the two years was on account of accommodation and staffing services. Each Group has its own administration fund formed by payments from its members, assessed in relation to either the value of orders received or, in the case of turbo alternator plant in class (a) and large machines in class (b), the capacity of the machinery ordered.* It is from these funds that each Group defrays the expenses incurred on its behalf by the BEAMA (see paragraphs 49 and 50).

62. The agreements are administered by representatives of the signatory companies in committee and general meetings and by secretaries responsible to them, the same Secretary normally serving a number of agreements concerned with similar or interrelated machinery. The Groups are housed and staffed by the BEAMA. The provisions of the agreements may now be altered by a stipulated majority which generally varies from 70 to 80 per cent. of the signatories: † resolutions on other matters are normally carried by a simple majority vote. ‡

* Exceptionally, signatories of the agreements concerned with traction equipment in class (b) make equal contributions to the cost of administration.

† In the case of agreements relating to machinery in classes (b) and (c) of our reference, where amendment relates to the price provisions of the agreement concerned the stipulated majority is based on signatories' turnover.

‡ In the case of the Dynamo and Motor Agreement and the Dynamo and Motor (Export) Agreement, unanimous consent of all signatories is necessary to all changes other than changes affecting the price provisions.

§ The class (a) agreements contain express voting provisions only for alteration of the agreement. In class (b) the agreements relating to marine motors and generators, alternators and large D.C. generators require a 75 per cent. majority for resolutions on matters other than alterations to the agreement.

63. Most agreements* provide that if there is doubt whether a signatory has fulfilled his obligations, the Secretary shall have the right to scrutinise all relevant documents of that signatory in order to ascertain whether there has been a breach of the agreement. In cases where it is established that a breach has occurred, the Secretary is given power to direct the signatory to rectify his fault; if the signatory fails to do so, the matter is to be reported by the Secretary to other signatories.† If the offending signatory is not satisfied with the decision of his fellow signatories, or if he fails to rectify his fault when called upon by them to do so,‡ the matter becomes a case of dispute and may be referred to arbitration under procedure laid down.§

64. Most Group agreements embodying common minimum price arrangements set out penalties which can be imposed for breaches of their provisions. These take the form of fines up to a maximum in some cases of 25 per cent. of the selling price of the machine as correctly calculated under each agreement, in others of 20 per cent. of the selling price so calculated or three times the difference between the agreement price and the offending signatory's actual price, whichever is the greater:¶ some current agreements also provide penalties for breach of provisions other than price provisions.¶ Any fines imposed are either to be paid into the administration fund of the agreement concerned or distributed among the non-offending signatories. In recent years there have been no breaches under any of the agreements which have led to the imposition of penalties: some agreements provide that "where a breach has been inadvertently committed . . . the fine shall be wholly or partially remitted", and the same principle appears in practice to have been applied by other Groups.

65. A number of agreements also provide that "if the membership of any signatory is in the opinion of the other signatories detrimental to the successful working of this agreement such signatory after being heard in his defence may be expelled by the unanimous resolution of the other signatories". The only recorded case of the application of this provision occurred when a transformer maker, after giving notice of withdrawal in July, 1953, was expelled from the Transformer Makers' Agreement for failing to observe fully his price maintenance obligations during the period of notice.

(3) Relation of the Groups to the BEAMA

66. We have referred earlier to the arrangements whereby the BEAMA provides accommodation and secretarial services for the Groups. We have

* That is, all agreements except the ship propulsion agreement and the agreements concerned with traction equipment.

† Procedure varies as between individual agreements: the Secretary's report is made to all signatories, to the signatories who tendered for the contract concerned, or to a committee appointed by the signatories, as specified under each. Under the Dynamo and Motor Agreement, the Secretary's findings are reported to other signatories concerned: that is, the Secretary does not himself in the first place instruct the offending signatory to rectify his fault.

‡ This second proviso is expressly stated only in the case of agreements embodying common minimum price arrangements.

§ Besides the exceptions mentioned in footnote * above, the Marine Motor and Generator Agreement contains no arbitration provisions, but provides that where a breach is committed "in respect of prices, other signatories are allowed to reduce their prices to the same level".

¶ Under agreements relating to steam turbines and allied plant in class (a), a fine up to a maximum of 25 per cent. of the "total correct price" is payable where the offending signatory accepts or fulfils the order; if he loses the order, he is liable to a fine up to a maximum of £100. Under these agreements a signatory supplying the turbine and also the alternator or condenser for use therewith and deemed to have infringed any one of the three relevant price agreements, may in some circumstances be deemed also to have infringed the others and may be held liable to a fine under each.

¶ By fine fixed by the other signatories, in some cases subject to a maximum of 20 per cent. of the value of the machinery concerned.

also referred to the high degree of common membership between the BEAMA and the Groups: 58 of the 400 BEAMA members make machinery covered by the reference; 33 of these are signatories of one or more of the Group agreements concerned. The 25 BEAMA members who are not also members of one or more of the Groups are small concerns or have only a minor interest in these machines. There are also four signatories of certain Group agreements who are not members of the BEAMA. Before considering further the present relationship between these bodies, it is appropriate to give a brief account of their historical development.

67. The BEAMA has told us that as its membership expanded after the constitutional changes in 1911 (see paragraph 41), some members wished to co-operate more extensively in the regulation of prices and a number of Groups were formed for the purpose. By 1930 the BEAMA was supplying secretarial services and employing a large staff for the service of these Groups. In 1933 the Council of the BEAMA decided for convenience to set up a separate body, the Groups Joint Administration Board (GJAB), to administer the Groups' central administration fund and to assess the contribution due to it from each Group.* the GJAB also had the function of advising the Groups on matters of common commercial interest. The Board's four original members, the Chairmen of The British Thomson-Houston Co. Ltd. (BTH), The English Electric Co. Ltd. (English Electric), The General Electric Co. Ltd. (GEC), and Metropolitan-Vickers Electrical Co. Ltd. (Metro-Vick), were chosen because their companies had the widest range of membership in the Groups and consequently the most comprehensive knowledge of the Groups' affairs; they were later joined by the Chairman of a fifth company, C. A. Parsons & Co. Ltd (Parsons). The members of the GJAB have usually also been members of the BEAMA Council. In 1938 the GJAB appointed a General Manager, who was also appointed by the signatories of each Group agreement as General Manager for that agreement. The General Manager thereby took over certain responsibilities previously carried by the Director of the BEAMA: until 1938 the Director had been referred to in most Group agreements as the Secretary of the agreement and the accounts of some were still in his name.† The present General Manager also holds the appointment of Export Director of the BEAMA. Since 1944 the GJAB has delegated its routine duties to a committee (the Groups Joint Administration Committee—GJAC) consisting of representatives of the same five companies.

68. On a number of occasions in 1945, 1946 and 1947 the Council of the BEAMA considered the relationship between the Association and the Groups, and in 1947 certain constitutional and administrative changes were made. In the first place the Memorandum of Association of the BEAMA was amended with the intention of enabling it to co-operate with trade unions;‡ this amendment was introduced because it was thought that

* A BEAMA and GJAB joint reserve fund was also created, the money being placed in a separate bank account which was at the disposition of the GJAB, although no part of it could be spent without approval of the BEAMA Council.

† The provisions of the agreements concerned were brought into line with those of other Group agreements in 1938.

‡ Paragraph 3 (V) of the Memorandum of Association lays down that it is one of the objects of the BEAMA "to do all such other lawful things as are incidental or conducive to the attainment" of the objects earlier specified, "provided that the Association shall not impose on its members or support with its funds or otherwise, or attempt to procure the observance by its members of any regulation or restriction which, if an object of the Association, would make it a trade union".

Paragraph 3 (M), as amended in 1947, lays down that it is an object of the Association: "To co-operate with any associations, incorporated or not incorporated, with objects altogether or in part similar to those of the Association, and which may prohibit the payment of dividend or profit to their members, at least to as great an extent as such payment to the members of this Association is prohibited by this Memorandum". (The BEAMA itself may not distribute any profits—see paragraph 44).

the Groups might be trade unions in law, while the Electrical Fair Trading Council—a body whose members are concerned with products outside the scope of the present inquiry and with which the BEAMA was in fact co-operating on certain matters—was registered as such.* In the second place the Council on the advice of the Association's auditors† unified the Groups' administration accounts with those of the BEAMA, leaving the Groups to deal with any other financial business themselves; this action further reduced the functions of the GJAB which was, however, kept in being to advise the Groups on matters of general policy. In practice such general advice as the Groups are given now emanates from the GJAC rather than the GJAB.

69. In evidence to us the BEAMA has emphasised that the Groups are autonomous bodies, and that they do not receive recommendations on policy from or come under the control of the BEAMA Council. The BEAMA has also said that while it "is concerned with fair trading as between individual buyer and seller (e.g. contract conditions) and with a code of conduct and ethics which will maintain the prestige of the electrical manufacturing industry" and speaks for the industry as a whole on such matters, it is precluded by its constitution from regulating or discussing selling prices.‡ The Association has pointed out that the BEAMA Catalogue, which has a wide circulation, contains a note explaining that this limitation of function "has resulted in member-firms interested in the manufacture of particular products organizing themselves into autonomous Trade Groups which deal with matters outside the scope of the BEAMA. These matters may include codes of trade practice and the establishment of fair prices."

70. The evidence submitted to us and the records of the various bodies concerned which we have examined show that where, as in the case of contract conditions, the BEAMA and the Groups have a common—though not necessarily identical—interest, the Groups individually decide how far they will adopt any recommendations made to them, although at the same time the GJAC tries to ensure that their general policy in such matters shall be as uniform as possible. We accept the BEAMA's statement that it is not itself concerned with the operation of arrangements for notification, compensation and common minimum prices to which we have referred earlier in this chapter. There have been occasions, nevertheless, when the Association has been indirectly concerned with some aspects of these arrangements.

71. Thus on several occasions between 1946 and 1951 the BEAMA Council discussed complaints by overseas Governments and others about the practice of certain United Kingdom electrical manufacturers in quoting common prices: and discussions on similar matters have taken place in the Export Panel of the BEAMA. The Association has explained to us that complainants approach the BEAMA because it is the only body of which they are aware. We are told that, although in reply to such complaints the

* In law, a trade union is any combination which has for its principal objects one or more of the following: (i) the regulation of relations between workmen and masters or between workmen or between masters; (ii) the imposition of restrictive conditions on the conduct of any trade or business; (iii) the provision of benefits to members.

Under Section 6 of the Trade Union Act of 1871 a trade union may be registered with the Registrar of Friendly Societies. Registration does not confer trade union status, but provides evidence that a trade union is a trade union in law.

† Following their audit of the BEAMA accounts for 1946, the auditors drew attention to the fact that the BEAMA annual accounts did not show the whole of the expenditure for which the Association was contractually liable, and that certain funds in which it had a direct interest were not shown as assets in the balance sheet. The BEAMA has told us that a further reason for unifying the accounts of the Groups with those of the BEAMA "was the decision to act on the recommendations of the Cohen Report which ultimately led to the Companies Act of 1948".

‡ By Article 3 (V) of the Memorandum of Association—see footnote to paragraph 68.

Association has submitted memoranda justifying the principle of common prices, the memoranda were actually prepared on behalf of the GJAB by certain specific Groups, so that the BEAMA acted only as a post office. The complaints themselves are considered further in Chapter 31.

72. In Chapters 9 and 26 of our report we describe the course of negotiations between the Central Electricity Authority (CEA) and the manufacturers about prices of steam driven generating plant and transformers. It is relevant to note here that the Joint Committees set up in 1949 to discuss such matters were initially known as BEA/BEAMA Price Sub-Committees although the manufacturers concerned in fact represented the appropriate Groups.* Moreover, in 1950 when negotiations within these committees had reached a stalemate, and again in 1952 when misunderstanding had arisen on certain detailed price increases for turbo alternator plant, the Director of the BEAMA helped to bring the parties together for further discussions (see paragraphs 210 and 219).

73. We are aware of two other cases in which the BEAMA has acted on behalf of or instead of particular Groups in matters connected with price arrangements. In the first the Condenser Section of the BEAMA in 1929 entered into an agreement with the Condenser Plate Association providing for rebates to its members on plates supplied for export land contracts. The BEAMA has said that in this case Section members were acting as a Group before the Condenser Group as such had been formed; similar arrangements today would be properly a matter for the Group concerned. We have since been told that the agreement has been terminated. In the second case the Association in 1943 signed on behalf of the members of the Group concerned an agreement with the Ministry of Supply relating to the prices of a certain range of industrial motors and D.C. generators; the agreement provided that quotations should be strictly in accordance with the price schedules of the Group agreement and set out the discounts applicable. The BEAMA has told us that it acted in this way on this occasion because the Ministry was unwilling to enter into an agreement with the Group as an unincorporated body. The agreement was revised in 1950, and all negotiations and subsequent arrangements were between the Ministry and the Group.

74. In conclusion it seems fair to say that while the BEAMA on the one hand and the Groups on the other have each distinct functions, the existence of common members and of administrative and financial links between the two has sometimes resulted in an assumption on the part of outsiders that the name and authority of the BEAMA are lent to activities which are strictly a function of the Groups. In the light of the facts set out above it is hardly surprising that Group prices should often be regarded by purchasers and others, more particularly those overseas, as BEAMA prices, a confusion which has been apparent in evidence submitted to us and of which the BEAMA is itself aware.

CHAPTER 4. THE INTERNATIONAL ELECTRICAL ASSOCIATION LTD.

(1) Summary of Organisation and Current Arrangements

75. The International Electrical Association Ltd. (IEA), incorporated in the United Kingdom in 1945 as a private company, is the successor of the unincorporated International Electrical Association; the latter was set up

* See footnote § to paragraph 52.