

# INFORMATION

E N E R G Y

THE EURATOM Supply Agency

85/75

The Treaty setting up the Euratom Community, signed in March 1957, provides for the formation of a Supply Agency. This is part of the common supply policy applicable under the Treaty to supplies of ores, source materials and special fissionable materials. For the sake of brevity these are described below as "nuclear material".

The Agency ranks as a commercial undertaking, the function of which is to ensure that inside the Euratom Community the principle of equal access to supplies of nuclear material is duly observed. It thus has to see that none of the Community member countries enjoys a privileged position for supplies of material within this definition, whether its origin be inside or outside the Community. For this purpose the supply Agency has legal personality, financial autonomy and its own capital. It has a number of rights and prerogatives which are exercised under the control of the Commission and are further described below.

Since it started work in 1960 its importance has been growing steadily. It is now a key factor in this difficult period of energy shortages.

## Nuclear material from inside the Community

The primary instrument of the Agency's operation is its option on all material within the above definition produced in the territories of member countries. Any producer of such material is accordingly required to offer it to the Agency prior to its use, transfer or stockpiling. The Agency is free to accept this offer

for the purpose of covering the requirements of users in the Community, for stockpiling for its own account or, subject to authorisation by the Commission, for export. It is, however, to be noted that the Agency is required to fulfil all orders received from the member countries, unless there are legal or material obstacles to their execution.

If the Agency does not exercise its right of option, the producer may stockpile the material for his own account; transform it, or have it transformed provided he duly offers the Agency the product of such transformation; or export it outside the Community, subject to authorisation by the Commission and provided he does not offer it on terms more favourable than those of his previous offer to the Agency. In the case of special fissionable materials, however, the authorisation to export is qualified by the restriction that such material may only be exported by the Agency. In addition, when source materials and special fissionable materials have been obtained from material or substances supplied by a non-member country under an agreement of cooperation with the Community, the authorisation to export is also subject to the terms of this agreement. It is usual for such agreements to provide that the export of such material outside the Community is subject to specific authorisation by the government of the country concerned, and that the material shall be used exclusively for non-military purposes.

#### Nuclear material from inside or from outside the Community

The Agency has the exclusive right to conclude contracts relating to supplies of ores, source materials and special fissionable materials coming from inside or from outside the Community.

A supply contract therefore is not legally enforceable unless it has been made through the intermediary of the Agency. In the case of a direct contract of delivery between a buyer and a seller there can be no question of a posteriori confirmation or authorisation. If, however, the Commission, at the request of the users concerned, notes and acknowledges that the Agency is not in a position to make delivery of the supplies ordered within a reasonable time, or can do so only at exorbitant prices, users are entitled to make direct contracts for supplies from outside the Community, provided such contracts conform to the

essential particulars of their order. This right is granted for a period of one year, and is renewable if the conditions which led to its granting still prevail. Users are accordingly required to inform the Commission of any direct contracts into which they propose to enter; and the Commission may within one month object to the conclusion of such agreements on the ground that they infringe the purposes of the Euratom Treaty.

In general, supply contracts for a period of more than 10 years require approval by the Commission. Moreover, it is the prerogative of the Agency to determine from what source supplies shall come, provided always that it can offer the user terms at least as advantageous as those laid down in the order.

Prices result from the comparison of offer and demand on the lines described above and the governments of member countries may not contravene this provision by means of their own national regulations. This of course is subject to such exceptions as are provided in the Euratom Treaty.

All price manipulations designed to ensure a privileged position for certain users are of course prohibited. If the Agency notes the existence of any such infractions of the principle of equal access to resources, it is required to report them to the Commission which, if it regards the accusations as proven, may in the case of disputed offers restore the prices to a level compatible with the principle of equal access. The Commission may also propose price schedules to the Council of Ministers, which may decide by unanimous vote that they be fixed at the levels proposed.

It is part of the supply policy that the Commission may contribute financially to the cost of prospecting activities in the member countries, or make recommendations to the governments of those countries on the development of prospecting and mining activities.

It is with this in view that the member countries are required to report to the Commission annually on the development of their own mining and mining potential, and the Commission may inform the Council accordingly. If the

Council finds by a qualified majority that in spite of extraction possibilities appearing economically justifiable, the measures taken by any country to develop its mining operations are nevertheless substantially inadequate, the member country concerned is deemed to have forfeited both for itself and for its nationals its right to equality of access to the resources of the Community. This decision applies until such time as the country concerned has remedied the deficiency. In addition, if circumstances make it necessary and subject to a decision by the Commission, the Agency may set up emergency stocks, financing them in accordance with financial arrangements approved by the Council.

In matters of safety control the supply Agency cooperates with the Security Division to ensure full respect for these aspects of the Treaty. For this purpose the Commission may send inspectors into the territories of member countries. These inspectors at all times have access to all places and to any person who, by reason of his occupation, deals with materials, equipment or facilities subject to control under the Euratom Treaty, to the extent necessary to control ores, source materials and special fissionable materials.

The scope of the supply Agency was considerably enlarged by the adhesion of three new member countries (Denmark, Ireland and the United Kingdom) to the Community as from January 1 1973. It became clear that its Statute would need amendment, particularly in regard to its capital (art. V) and the consultative committee (art. X). On this basis the Council decided under date of March 8 1973 (O.J. of March 30 1973) that the capital of the Agency should be increased to ua.\*3,200,000, which is 10% paid up, and that the number of members of the consultative committee should be 33.

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\* ua.= unit of account = about \$ 1.20 (US)

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