COUNCIL DECISION

of 20 May 1975

on the establishment of the joint undertaking 'Schnell-Brüter-Kernkraftwerksgesellschaft mbH' (SBK)

(75/328/Euratom)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 49 thereof;

Having regard to the Opinion of the Commission;

Having regard to the report from the Commission;

Having regard to the proposal from the Commission;

Whereas the objects of 'Schnell-Brüter-Kernkraftwerksgesellschaft mbH' (SBK) are to construct, equip and operate a nuclear power station of the order of 300 MWe at Kalkar (Landkreis of Kleve) Land of North-Rhine-Westphalia in the Federal Republic of Germany;

Whereas SBK has for this purpose applied for establishment as a joint undertaking;

Whereas the statutes of SBK are compatible with the provisions of the Treaty which relate to joint undertakings, and whereas Article 13, in particular, of those statutes provides that, if SBK is established as a joint undertaking, it will be governed by the said provisions, by the acts adopted in implementation thereof and in particular by this Decision;

Whereas it is the task of the Community to contribute to the raising of the standard of living in the Member States and to the development of relations with other countries by creating the conditions necessary for the speedy establishment and growth of nuclear industries;

Whereas, notwithstanding the economic risks at present inherent in such an undertaking, it is important that a start be made forthwith on establishing this nuclear power station equipped with a fast-neutron reactor and benefiting from all the progress achieved hitherto;

Whereas the project put forward by SBK is therefore of prime importance to the development of nuclear industry in the Community now that nuclear techniques are being applied to the production of energy,

HAS ADOPTED THIS DECISION:

Article 1

'Schnell-Brüter-Kernkraftwerksgesellschaft mbH' (SBK) is hereby established as a joint undertaking withing the meaning of the Treaty for a period of 25 years from 1 January 1975.

The objects of SBK shall be to construct, equip and operate a nuclear power station of the order of 300 MWe in Kalkar (Landkreis of Kleve), Land of North-Rhine-Westphalia, Federal Republic of Germany.

Article 2

The statutes (memorandum and articles of association) of the SBK annexed to this Decision are hereby approved. The winding-up provided for in Article 8 of these statutes shall, however, be effected only after approval by the Council, acting on a proposal from the Commission, in accordance with Article 50 of the Treaty.

SBK shall add 'Gemeinsames Europäisches Unternehmen' after its name.

Article 3

This Decision is addressed to the Member States and to SBK.

Done at Brussels, 20 May 1975.

For the Council

The President

R. RYAN

ANNEX

(Translation)

STATUTES

of the Schnell-Brüter-Kernkraftwerksgesellschaft mit beschränkter Haftung

Article 1

Name

The name of the company is:

Schnell-Brüter-Kernkraftwerksgesellschaft mit beschränkter Haftung.

Article 2

Seat

The seat of the company is at Essen.

Article 3

Object of the company

The object of the company is to develop a series of fast breeder reactors to a stage at which they are ready for marketing, by construction and operation of a prototype nuclear power station with a sodium-cooled fast breeder reactor and by participating in energy-producing companies set up for the purpose of building and operating sodium-cooled fast breeder reactors.

Article 4

Capital

The capital of the company is DM 57 000 000 (fifty-seven million German marks).

Article 5

Subscribed capital

The following companies and board have contributed to the capital:

(a) Rheinisch-Westfälisches Elektrizitätswerk Aktiengesellschaft, Essen, subscriptions of:	DM	3 500 000
	DM	14 000 000
	DM	21 000 000
(b) N. V. Samenwerkende Elektriciteits-Produktiebedrijven, Arnhem, subscriptions of:	DM	750 000
	DM	3 000 000
	DM	4 500 000
(c) SYNATOM, Société Anonyme, Brussels, subscriptions of:	DM	750 000
	DM	3 000 000
	DM	4 500 000
(d) Central Electricity Generating Board, London, a subscription of:	DM	2 000 000

One-quarter of the subscriptions to the capital shall be paid in cash before application is made for the entry of the company in the commercial register. The management may call up further amounts if necessary. Such amounts shall be paid within four weeks of receipt of the call.

Article 6

Disposal of shares

No shares or fractions thereof shall be assigned or mortgaged without the assent of all the members.

Article 7

Administrative organs

The administrative organs of the company shall be:

(a) the general meeting of the members,

(b) the management.

Article 8

General meeting of members — Decisions

A general meeting of members shall be convened by the management not less than once a year by registered letter at least two weeks in advance specifying the place, date, time and agenda of the meeting. General meetings may take place anywhere within the country or, provided they do not require to be proved by a notary public, abroad.

At the written request of one of the members, the management shall forthwith convene a general meeting.

Each DM 10 000 shall carry entitlement to one vote in the general meeting.

The chair at the general meeting shall be taken by the representative of the Rheinisch-Westfälisches Elektrizitätswerk Aktiengesellschaft.

Unless otherwise required by law or the statutes, the general meeting shall take decisions by a simple majority of the votes cast.

Decisions concerning the construction of the prototype nuclear power station with a fast breeder reactor, amendment of the statutes, participation in other energy producing companies and winding-up of the company shall be taken by a majority of 90% of the voting entitlement.

Unless the decisions taken by the general meeting are certified by a notary public, the management shall prepare minutes of the decisions taken by general meetings and shall send them to all members after signature by the chairman of the general meeting.

Article 9

Management

The management may consist of one or more persons. The managers shall be appointed and dismissed by the general meeting, which may appoint one of the managers to the chairmanship of the management.

The management shall conduct the business of the company in accordance with the law, these statutes and the decisions of the general meeting of members.

Article 10

Representation

If there is more than one manager, the company shall be represented by two managers acting jointly or by a manager and the holder of a power of attorney.

Article 11

Financial year

The financial year shall run from 1 July in one year to 30 June in the next.

Article 12

Closing of accounts

Within five months after the end of each financial year, the management shall draw up the balance sheet, the profit and loss account and an annual report.

Article 13

Joint undertaking

If the company is granted the status of a joint undertaking within the meaning of the Treaty establishing the European Atomic Energy Community, it is subject, for the whole of its activity as such, to the provisions of the Euratom Treaty which relate to joint undertakings, and also to the decisions of the Council of Ministers of the European Atomic Energy Community establishing it as a joint undertaking and conferring on it any of the advantages listed in Annex III to the Euratom Treaty.

In particular:

(a) amendments to these statutes shall not enter into force until they have been approved by the Council of Ministers, pursuant to Article 50 of the Euratom Treaty;

(b) in accordance with Article 171 (3) of the Euratom Treaty, the company's profit and loss accounts and the balance sheet relating to the preceding financial year shall, within one month after their approval by the general meeting, be sent by the management to the Commission, which shall place them before the Council of Ministers and the European Parliament. The estimates of revenue and expenditure shall be submitted in accordance with the same procedure one month at the latest before the beginning of each financial year.

Subject to the foregoing provisions the company shall continue to be governed by German law and in paricular the law relating to companies with limited liability.

Article 14

Notices

All notices of the company shall be published exclusively in the Bundesanzeiger.

Article 15

Costs of formation

The costs of forming the company, including the costs of certifying the statutes and registering the company, shall be borne by the company.