COUNCIL DECISION

of 7 May 2002

on the extension of the advantages conferred on the Joint Undertaking Hochtemperatur-Kernkraftwerk GmbH (HKG)

(2002/356/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 48 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) By Decision 74/295/Euratom [1], the Council established Hochtemperatur-Kernkraftwerk GmbH (HKG) as a joint undertaking, within the meaning of the Treaty, for a period of 25 years as from 1 January 1974.

(2) By Decision 2002/355/Euratom [2] the Council extended the Joint Undertaking status granted to HKG for eleven years with effect from 1 January 1999.

(3) By its Decision 74/296/Euratom [3] and that of 16 November 1992 the Council conferred on HKG a number of advantages listed in Annex III to the Treaty, for a period of 25 years as from 1 January 1974.

(4) By letters of 25 November 1998, 15 March 1999 and 13 June 2000, HKG requested extension of its tax advantages for the new period for which it had been granted Joint Undertaking status.

(5) HKG's current objective is to implement a programme for decommissioning the nuclear power station up to the safe enclosure stage and, thereafter, to carry out a programme of surveillance of the enclosed nuclear installations.

(6) There is no equivalent to these programmes in the Community since, to date, no high-temperature reactor has been shut down definitively in the Community.

(7) Implementation of these programmes is therefore important since they provide useful experience for the development of the nuclear industry in the Community, notably as regards the decommissioning of nuclear installations.

(8) HKG should be assisted with implementing the programme for decommissioning the nuclear power station up to the safe enclosure stage and the programme of surveillance of the enclosed nuclear installations, by lightening the financial burden.

(9) Arrangements for financing HKG's activities have been agreed between the Federal Government, the Land of North Rhine-Westphalia, HKG and its members for the period up to 31 December 2009.

(10) The advantages conferred on HKG should therefore be extended for the same period as the extension of its Joint Undertaking status, that is until 31 December 2009,

HAS ADOPTED THIS DECISION:

Article 1

Member States hereby extend for eleven years with effect from 1 January 1999 the following advantages listed in Annex III to the Treaty conferred on the Joint Undertaking Hochtemperatur-Kernkraftwerk GmbH (HKG):

1. under paragraph 4 of the said Annex, the exemption from the Grunderwerbsteuer (tax on the acquisition of immovable property);

2. under paragraph 5 of the said Annex:
   — the exemption from Grundsteuer (land tax),
   — the exemption from that part of the profits tax which is levied, pursuant to Article 8, point 1 of the Gewerbesteuergesetz (trade tax law), on the interest due on long-term debt.

Article 2

The advantages listed in Article 1 shall be conferred on HKG subject to the condition that the Commission has access to all the industrial, technical and economic information, including that relating to safety, acquired by HKG in the course of implementation of the programme for decommissioning the nuclear power station up to the safe enclosure stage and of the programme of surveillance of the enclosed nuclear installations. This obligation shall extend to all the information which HKG is entitled to pass on in accordance with the contracts concluded with it. The Commission shall determine which information must be communicated to it, as well as the manner in which such communication shall be made, and shall ensure that this information is disseminated.

[1] OJ L 165, 20.6.1974, p. 7.
[2] See page 53 of this Official Journal.
[3] OJ L 165, 20.6.1974, p. 14.

Article 3

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

Done at Brussels, 7 May 2002.

For the Council
The President
R. DE RATO Y FIGAREDO