COUNCIL DECISION

of 17 June 2011

on extension of the advantages conferred on the joint undertaking Hochtemperatur-Kernkraftwerk GmbH (HKG)

(2011/374/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 European 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 11 years with effect from 1 January 1999.

(3) By Decision 74/296/Euratom [3] and its Decision of 16 November 1992 [4] 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 Decision 2002/356/Euratom [5], the Council extended the conferred advantages on HKG for 11 years with effect from 1 January 1999.

(5) By a letter, dated 26 April 2010, HKG asked for the further extension of its tax advantages for the new period for which it had been granted Joint Undertaking status.

(6) The current objective of HKG 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.

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

(8) Implementation of these programmes is therefore important since they provide useful experience for the future development of nuclear energy in the Community, in particular as regards the decommissioning of nuclear installations.

(9) HKG should therefore 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.

(10) Arrangements for financing HKG's activities have been agreed between the Federal Republic of Germany, the Land of North Rhine-Westphalia, HKG and its members for the period up to 31 December 2017.

(11) 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 2017,

HAS ADOPTED THIS DECISION:

Article 1

The Member States hereby extend for 8 years with effect from 1 January 2010 the following advantages listed in Annex III to the Treaty establishing the European Atomic Energy Community, conferred on the Joint Undertaking Hochtemperatur-Kernkraftwerk GmbH (HKG):

1. Under paragraph 4 of Annex III to the Treaty, the exemption from the *Grunderwerbsteuer* (tax on the acquisition of immovable property);

2. Under paragraph 5 of Annex III to the Treaty:

   — the exemption from *Grundsteuer* (land tax),

   — the exemption from that part of the industrial or commercial profits tax which is levied, pursuant to point 1 of Article 8 of the *Gewerbesteuergesetz* (trade tax law), on the interest due on long-term debt.

Article 2

The conferment of the advantages listed in Article 1 on HKG is subject to the condition that the European Commission shall have 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 extends 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] OJ L 123, 9.5.2002, p. 53.
[3] OJ L 165, 20.6.1974, p. 14.
[4] Not published in the Official Journal.
[5] OJ L 123, 9.5.2002, p. 54.

Article 3

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

Done at Luxembourg, 17 June 2011.

For the Council
The President
CZOMBA S.