

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(76) 193 final.

Brussels, 28th April 1976.

COOPERATION WITH THE INTERNATIONAL ENERGY AGENCY (IEA) ON ENERGY RESEARCH AND DEVELOPMENT (R&D)

(Communication and draft decisions submitted
by the Commission to the Council)

COM(76) 193 final.

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

1. By Document COM(76) 26 final of 10 February 1976 communicated to the Council by letter of 12 February 1976, the Commission informed the Council of its intention to sign an "Implementing Agreement" for multilateral exchange of information on nuclear safety and an "Implementing Agreement" for a cooperative research and development programme leading to construction of an intense neutron source, both Agreements prepared under the auspices of the International Energy Agency.
2. At the request of a Member State, this question was examined by the Permanent Representatives Committee on 24 March and 9 April 1976.
3. The Commission has noted that all the delegations favour participation by the EAEC in these two Agreements but that some of them had objections regarding the procedure to be followed in order to secure such participation.
4. The Commission cannot subscribe to the opinion of a Member State that these "Implementing Agreements" constitute internal agreements of the IEA and that in consequence they could not be acceded to by the Commission without an agreement for co-operation with the IEA. However, in order to find a rapid solution, the Commission is forwarding to the Council the attached draft Council decision issuing a directive to the Commission to negotiate with the IEA an exchange of letters stating the intention of the two parties to co-operate, under agreements to be concluded, in the field of research and development.
5. Furthermore, as regards the applicability of the third paragraph of Article 101, the Commission maintains its standpoint that the "Implementing Agreements" in question do not fall within the second paragraph of Article 101 of the Euratom Treaty but within the third paragraph of that Article.

However, in the case in issue, the Commission agrees, in order to arrive at a rapid solution, to the Council's taking action on the basis of the second paragraph of Article 101. But the Council decision should cover simultaneously the directive and approval of the Agreements in question, the text of which is now known by the delegations. The Commission attaches two draft Council decisions along these lines.

6. The Commission stresses the fact that the compromise which it has proposed above does not in any way mean that it has relaxed its position as regards the legal aspect. It asks that this position should be made the subject of an entry in the Council minutes.

DRAFT COUNCIL DECISION ISSUING A DIRECTIVE TO
THE COMMISSION ON PARTICIPATION BY THE EAEC
IN TWO R & D AGREEMENTS IN THE NUCLEAR FIELD,
PREPARED UNDER THE AUSPICES OF
THE INTERNATIONAL ENERGY AGENCY (OECD)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the proposal from the Commission,

Whereas the Council Decision of 25 March 1976 adopted a research and training programme for the European Atomic Energy Community in the field of fusion and plasmaphysics,

Whereas, in view of the considerable efforts needed to reach the application stage of controlled thermonuclear fusion, the EAEC should, when appropriate, establish with third States, international organizations or nationals of third States all forms of co-operation likely to avoid unnecessary duplication and to speed up the progress of Community programmes in this field,

Whereas the Council Decision of 25 August 1975 adopted a joint research and training programme in the field of reactor safety,

Whereas the Council passed a Resolution of 22 July 1975 on the technological problems of reactor safety,

Whereas nuclear safety problems extend beyond the frontiers not only of Member States but of the Community as a whole, and it is therefore incumbent on the EAEC to participate, when appropriate, in initiatives for co-operation on a broader international plane;

Whereas the International Energy Agency (IEA), established on 15 November 1974 by Decision of the OECD Council and forming an autonomous body within that Organization, approved on 25 July 1975, by Decision of its Governing Board, "Guiding Principles" in the field of energy research and development,

Whereas on the same date, the Governing Board of the IEA approved in particular

- a programme for co-operation in the field of nuclear fusion, including a co-operative R&D programme leading to construction of an intense neutron source;

- a programme for co-operation on nuclear safety, including a project for multilateral exchange of technical information on research in this field,

Whereas, pursuant to Supplementary Protocol N° 1 to the Convention of the Organization for Economic Co-operation and Development, the Commission of the European Communities shall take part in the work of that Organization, and whereas the Commission is taking part in the work of the IEA; and whereas it is playing the role of lead organization in the implementation of the co-operative programme in the field of thermonuclear fusion,

Whereas, pursuant to Article 4 (c) of the aforementioned "Guiding Principles", the European Communities may take part in any co-operative R&D programme or project initiated under the auspices of the IEA,

Whereas such participation may, in certain cases, be of an informal nature but, in other cases, shall require the signing of the legal instrument designated "Implementing Agreements" and committing the European Communities as such;

Whereas, moreover, the Council is issuing a Directive to the Commission to institute with the International Energy Agency (IEA) an exchange of letters, whereby :

on the one hand, the European Communities, invoking the right conferred upon them by Article 4 (c) of the "Guiding Principles" to take part in the co-operative R&D programmes of the IEA, state their intention of negotiating, case by case, their participation in the "Implementing Agreements" established or to be established under the auspices of the Agency which are likely to contribute to the achievement of the research and development objectives of the Communities;

on the other hand, the IEA notes this intention and confirms that such participation is open to the European Communities,

Whereas, under the auspices of the International Energy Agency, a draft Implementing Agreement on a co-operative research and development programme leading to construction of an intense neutron source and a draft Implementing Agreement for multilateral exchange of information on nuclear safety research and development have been prepared,

HAS DECIDED AS FOLLOWS :

Sole Article

The Commission shall negotiate the participation of the EAEC in the "Implementing Agreement for a co-operative research and development programme leading to construction of an intense neutron source" and the "Implementing Agreement on the technical exchange of information in the field of reactor safety research and development" prepared under the auspices of the IEA.

DRAFT COUNCIL DECISION APPROVING

- 1) the Implementing Agreement on the technical exchange of information in the field of reactor safety research and development
 - 2) the Implementing Agreement for a co-operative research and development programme leading to construction of an intense neutron source
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The Council of the European Communities,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the exchange of letters between the Commission of the European Communities and the International Energy Agency (IEA) stating the intention of the European Communities to participate in certain research and development agreements prepared under the auspices of the IEA,

Whereas the Commission has negotiated its participation in accordance with the Council's instructions and intends to conclude the Implementing Agreement on the technical exchange of information in the field of reactor safety research and development and the Implementing Agreement for a co-operative research and development programme leading to construction of an intense neutron source, which have been prepared under the auspices of the International Energy Agency,

Whereas it is advisable to approve these two agreements,

HAS DECIDED AS FOLLOWS :

Article 1

The conclusion of the Implementing Agreement on the technical exchange of information in the field of reactor safety research and development is approved.

Article 2

The conclusion of the Implementing Agreement for a co-operative research and development programme leading to construction of an intense neutron source is approved.

DRAFT COUNCIL DECISION ISSUING A DIRECTIVE TO THE COMMISSION TO NEGOTIATE WITH THE INTERNATIONAL ENERGY AGENCY AN OUTLINE AGREEMENT, IN THE FORM OF AN EXCHANGE OF LETTERS STATING THE INTENTIONS OF THE TWO PARTIES TO COOPERATE, UNDER AGREEMENTS TO BE CONCLUDED, IN THE FIELD OF RESEARCH AND DEVELOPMENT

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 228 thereof,

Having regard to the proposal from the Commission,

Whereas programmes of research and development in the energy sector are being implemented in the European Communities, notably in pursuance of the Council Decisions of 22 August 1975 adopting a programme of research and development in the energy sector and of 25 August 1975 and 25 March 1976 adopting research and training programmes for the European Atomic Energy Community;

Whereas in some cases energy R&D problems extend beyond frontiers not only of Member States but of the Community as a whole, and whereas it is therefore incumbent on the Community to participate, where appropriate, in initiatives for cooperation on a broader international plane;

Whereas, within the International Energy Agency (IEA), established by decision of the OECD Council on 15 November 1974 and forming an autonomous body within that Organization, cooperative programmes of research and development on energy, adopted by Decisions of the Governing Board of the IEA on 28 July and 20 November 1975, are now being implemented;

Whereas, by its Decision of 28 July 1975, the Governing Board of the IEA adopted "Guiding Principles" which govern the energy research and development of the Agency;

Whereas, pursuant to Supplementary Protocol N° 1 to the Convention on the Organization for Economic Cooperation and Development, the Commission of the European Communities takes part in the work of that Organization, and whereas the Commission takes part in the work of the IEA;

Whereas, pursuant to Article 4 (c) of the aforementioned "Guiding Principles", the European Community may take part in any cooperative R&D programme or project initiated under the auspices of the IEA;

Whereas such participation may, in certain cases, be of an informal nature but, in other cases, shall require the signing of a legal instrument, designated "Implementing Agreements" and committing the European Community as such;

HAS ADOPTED THIS DECISION :

Sole Article

The Commission shall negotiate with the International Energy Agency (IEA) an outline agreement in the form of an exchange of letters whereby the IEA and the European Communities agree that, on the basis of the possibility open to them under Article 4(c) of the "Guiding Principles" adopted by the Decision of the Steering Committee of the Agency on 28 July 1975, the European Community shall negotiate and conclude, case by case, its participation in the "Implementing Agreements" established, or to be established, under the auspices of the IEA when those Implementing Agreements are likely to contribute towards the attainment of the research and development objectives of the Community in the field of energy R&D.