

RULES OF PROCEDURE

Decision of the Supply Agency of the European Atomic Energy Community adopting the Agency Rules determining the manner in which demand is to be balanced against the supply of ores, source materials and special fissile materials, and repealing the Rules of the Supply Agency of the European Atomic Energy Community of 5 May 1960, as amended by the Regulation of 15 July 1975

THE SUPPLY AGENCY,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 2(d), 52, 55 and 60(6) thereof,

Having regard to the Statutes of the Euratom Supply Agency, established by Council Decision No 2008/114/EC, Euratom of 12 February 2008 ⁽¹⁾, and in particular to Article 13(3)(a) thereof,

Having regard to Commission Regulation (Euratom) No 66/2006 of 16 January 2006 exempting the transfer of small quantities of ores, source materials and special fissile materials from the rules of the chapter on supplies ⁽²⁾,

Having regard to the Opinion that the Agency's Advisory Committee, duly consulted and convened, delivered on the proposed new Rules on 13 May 2016,

Whereas:

- (1) The European Atomic Energy Community, pursuant to Article 2 of the Treaty establishing it ('the Treaty'), shall ensure that all users in the Community receive a regular and equitable supply of ores and nuclear fuels, by means of a common supply policy based on the principle of equal access to sources of supply.
- (2) In the interest of the common supply policy, a Supply Agency ('the Agency' or the 'Euratom Supply Agency') was established by Chapter 6 of the Treaty.
- (3) Security of energy supply, which is the Agency's main purpose, is a key objective of the Union policy on energy, as per Article 194 of the Treaty on the Functioning of the European Union. It has been reaffirmed in the Commission Communication on the European Energy Security Strategy ⁽³⁾, adopted in 2014 and endorsed by the Council.
- (4) In accordance with Article 60(6) of the Treaty, Agency rules, which shall require approval by the Commission, shall determine the manner in which demand is to be balanced against supply.
- (5) The Agency Rules in force were adopted in 1960 ⁽⁴⁾ and partially amended in 1975 ⁽⁵⁾.
- (6) Since the 1970s, the development of new fuel cycle technologies and products, as well as the emergence of new market actors (notably, intermediaries) and new trade practices have substantially affected the Agency's role in security of nuclear supply. At the same time, the number of actors in the market has increased considerably.
- (7) The Agency's Statutes, established in 2008, enhanced its role in monitoring the market and providing relevant expertise, information and advice to the Community, hence reinforcing the need for the Agency to have a complete and up-to-date knowledge of the market in nuclear materials and services, including of the world market trends.

⁽¹⁾ OJ L 41, 15.2.2008, p. 15.

⁽²⁾ OJ L 11, 17.1.2006, p. 6.

⁽³⁾ COM(2014) 330 final.

⁽⁴⁾ Decision of the EAEC Commission fixing the date on which the Euratom Supply Agency shall take up its duties and approving the Agency Rules of 5 May 1960 determining the manner in which demand is to be balanced against the supply of ores, source materials and special fissile materials (OJ 32, 11.5.1960, p. 776 – English special edition: Series I, Chapter 1959-1962, p. 45).

⁽⁵⁾ OJ L 193, 25.7.1975, p. 37.

- (8) As a consequence of the above developments, the 1960/1975 Rules of the Agency no longer allow the Euratom Supply Agency to respond to developments in the nuclear market and may put at risk the Agency's capacity to carry out its mission.
- (9) They need to be adapted in order to enhance legal certainty for the industry, the Member States and the European Commission, and to enable the Agency to ensure appropriate data collection for its Market Observatory.
- (10) Under Article 55 of the Treaty, the Agency is entitled to receive all information it needs to be able to exercise its right of option and its exclusive right to conclude supply contracts.
- (11) In fulfilling its tasks, the Agency acts pursuant to the principles of non-discrimination and equal access to sources of supply.
- (12) The procedures for balancing demand against supply must be determined in a way that makes it possible to meet needs under various supply situations.
- (13) It is appropriate to maintain direct contracting between users, producers and intermediaries, as long as the regular supply of nuclear materials to Community users is ensured.
- (14) In the light of the foregoing, the Agency took the initiative to update its Rules, in cooperation with its stakeholders. The Agency's Advisory Committee, duly convened and consulted on 13 May 2016, delivered a favourable opinion on the new Rules.
- (15) Pursuant to the Agency's Statutes, its Rules are to be adopted by decision of the Agency's Director General, requiring approval by the Commission.
- (16) For the sake of clarity, the Agency's current Rules should be repealed upon the entry into force of the new ones.
- (17) It is, therefore, appropriate to adopt the Rules annexed to the present Decision and, upon their entry into force, repeal the Agency's Rules currently in force,

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

The Rules of the Supply Agency of the European Atomic Energy Community, as they stand in the Annex of this Decision, determining the manner in which demand is to be balanced against the supply of ores, source materials and special fissile materials are hereby adopted.

Article 2

The Rules of the Supply Agency of the European Atomic Energy Community determining the manner in which demand is to be balanced against the supply of ores, source materials and special fissile materials, as they are currently in force ⁽⁶⁾, shall be repealed upon the entry into force of the new ones.

Article 3

This Decision shall enter into force on 1 July 2021, subject to its approval by the European Commission. It shall be published in the *Official Journal of the European Union* jointly with the Commission decision approving it.

Done at Luxembourg, 15 January 2021.

For the Euratom Supply Agency
The Director General
Agnieszka Ewa KAŻMIERCZAK

⁽⁶⁾ OJ 32, 11.5.1960, p. 777, as amended (OJ L 193, 25.7.75, p. 37) and corrected (Consolidated text of corrigenda to instruments published in Special Editions 1952-72, p. 3 (511/60)).