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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

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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

THE SUPPLY AGENCY OF THE EUROPEAN ATOMIC ENERGY
COMMUNITY,

Having regard to the provisions of the Treaty, and in particular the
sixth paragraph of Article 60 thereof;

After consulting the Advisory Committee to the Agency;

Having regard to the Decision of the Euratom Commission of 5 May
1960 fixing the date on which the Supply Agency is to take up its
duties and approving these Rules, and in particular Articles 3 and 4 of
that Decision relating to procedures for the entry into force of these
Rules;

Whereas, in order to carry out its duties in accordance with the princi-
ples set out in Article 52 of the Treaty, the Agency must, in respect of
each product and on the basis of declarations covering users' estimated
requirements and producers' estimated available supplies, have a
complete knowledge of the situation on the market;

Whereas the procedures for balancing demand against supply must of
necessity be determined in such a way as to enable various supply
situations to be met;

Whereas the introduction of these procedures includes such transitional
measures as will facilitate their progressive application;

HAS ADOPTED THE FOLLOWING PROVISIONS:

Article 1

Users shall, when so requested by the Agency, notify it in respect of a
given period, as provided for in Article 3, of their estimated require-
ments of ores, source materials and special fissile materials and, on
the basis of contracts already entered into, of their supply programmes.

The declarations shall specify:

- (1) Designation of product;
- (2) Nature and chemical and physical composition and other relevant
specifications;
- (3) Quantities (in metric units);
- (4) Place of origin;
- (5) Intended use;
- (6) Delivery dates;
- (7) Price terms, which are not binding.

Article 2

Producers shall, when so requested by the Agency, notify it in respect
of a given period, as provided for in Article 3, of stocks held by them
at the start of the period, their estimated production and, on the basis of
contracts already entered into, their delivery programmes.

The declarations shall specify:

- (1) Designation of product;
- (2) Nature and chemical and physical composition and other relevant
specifications;
- (3) Quantities (in metric units);
- (4) Place of origin;
- (5) Delivery dates;

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(6) Price terms, which are not binding.

Article 3

The Agency shall, after obtaining the Opinion of the Advisory Committee, fix and publish in the *Official Journal of the European Communities* the time limit within which, and the period in respect of which, users and producers must forward to the Agency the declarations referred to in Articles 1 and 2.

Article 4

When in possession of all the declarations made under Articles 1 and 2 of this Regulation the Agency shall, by means of a circular, communicate to users and producers in the Community information on general data and market trends, and also, where appropriate, on supply potential and possible outlets in third countries.

Article 5

If, in respect of a specific product and where in particular the Agency takes the initiative, the Commission, having heard the Advisory Committee, finds that the situation on the market shows a clear surplus of supply over demand, it may, by means of an appropriate directive, call upon the Agency to apply the simplified procedure set out below:

- (a) On the basis of information acquired through the declarations made under Articles 1 and 2 of this Regulation, the Agency shall, after obtaining the Opinion of the Advisory Committee, lay down the general conditions to be fulfilled in supply contracts covering that product;
- (b) These general conditions shall be made known to the parties concerned, who shall then be empowered to negotiate directly and to sign contracts;
- (c) Contracts shall be communicated to the Agency and deemed to be concluded by it if no objection is notified by the Agency to the parties concerned within eight days from the time of receipt of the contracts.

The procedure set out in this Article shall not apply to supply contracts relating to special fissile materials.

▼M1*Article 5 bis*

As far as ores and source materials are concerned,

- (a) users shall be authorized to invite tenders directly from the producers of their choice and to negotiate the supply contract freely with the latter;
- (b) users shall communicate to the Agency information obtained by them from the producers in respect of:
 - (i) the number of tenders received,
 - (ii) the quantities offered,
 - (iii) the range of tendering prices;
- (c) the supply contract shall include at least the following information:
 1. designation of the contracting parties,
 2. quantities of materials to be supplied,
 3. annual calendar of delivery dates,
 4. nature of the materials to be supplied,
 5. country of origin of the materials to be supplied. If the supplier is unable to provide this information at the time of entering into the contract, he shall give the user and the Agency an undertaking that he will subsequently inform them in writing of the country of origin of each part delivery,
 6. price and terms of payment,

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7. duration of the contracts;
- (d) the contract shall, for the purposes of its conclusion, be submitted to the Agency for signature within 10 working days;
 - (e) if the supply contract does not contain any stipulation concerning the use to which the materials are to be put, the user shall at the same time supply the Agency with a written statement to that effect;
 - (f) the Agency shall act, either by concluding or refusing to conclude the contract, within 10 working days from the date of receipt thereof;
 - (g) a refusal to conclude the contract shall be notified to the parties concerned in a reasoned decision. This decision may be referred to the Commission in accordance with the provisions of Article VIII (3) of the Statutes of the Euratom Supply Agency⁽¹⁾;
 - (h) in the event of cancellation of the supply contract, the Agency shall be notified thereof;
 - (i) any amendment to the supply contract shall require the signature of the Agency, in accordance with the procedure for the original contract.

▼B*Article 6*

Where exception is provided for by Article 5, demand shall be balanced against supply in accordance with the following procedure:

Users shall notify the Agency, by the dates and in respect of the periods fixed by it, of their requirements in respect of supplies of ores, source materials and special fissile materials.

As soon as these requirements are known, the Agency shall, by inviting tenders and indicating all relevant specifications, fix the dates by which, and the periods in respect of which, producers in the Community are invited to submit their tenders.

By submitting their tenders, producers in the Community shall be considered to have fulfilled the obligation devolving upon them pursuant to the second subparagraph of Article 57 (2) of the Treaty. As soon as those tenders are received, the Agency shall decide whether it will exercise its right of option and, if it does so, the quantities that option will cover.

The Agency shall notify users of the tenders and of the number of applications it has received and shall make known to the parties concerned the terms on which their applications can be met and the procedures whereby contracts shall be concluded.

*Article 7***▼M1**

Independently of the procedures laid down in Articles 5, 5 *bis* and 6 of this Regulation, users may at any time make application to, or place orders with, the Agency. Such orders shall be met on the best terms in relation to supplies available on the market.

▼B*Article 8*

This Regulation shall enter into force in its entirety on 1 June 1960 for contracts relating to the supply of special fissile materials.

As regards contracts for the supply of ores and source materials, implementation of Articles 5 and 6 shall be deferred for six months from that date and shall take effect on 1 December 1960. During that period contracts falling within the provisions of this paragraph shall continue

⁽¹⁾ OJ No 27, 6. 12. 1958, p. 537/58.

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to be subject to the prior approval of the Commission, in accordance with Article 222 of the Treaty.