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COUNCIL DECISION

of 18 June 1963

on the establishment of the 'Kernkraftwerk RWE-Bayernwerk GmbH' Joint Undertaking

(63/27/Euratom)

THE COUNCIL OF THE EUROPEAN ATOMIC ENERGY COMMUNITY,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 1 and 49 thereof;

Having regard to the Opinion of the Commission;

Having regard to the proposal from the Commission;

Having regard to the Report of the Commission;

Whereas the objects of 'Kernkraftwerk RWE-Bayernwerk GmbH' (KRB) are to construct, equip and operate a nuclear power station of the order of 237 MWe at Gundremmingen, State of Bavaria, Federal Republic of Germany;

Whereas KRB has for this purpose applied for establishment for a period of twenty-five years as a Joint Undertaking;

Whereas the Statutes of KRB are compatible with the provisions of the Treaty which relate to Joint Undertakings, and whereas Article 15 in particular of those Statutes provides that if KRB is established as a Joint Undertaking it will be governed by the provisions of the Treaty, by acts adopted in implementation thereof and in particular by this Decision;

Whereas it is the task of the Community to contribute to the raising of the standard of living in the Member States and to the development of relations with the other countries by creating the conditions necessary for the speedy establishment and growth of nuclear industries;

Whereas, notwithstanding the economic risks at present inherent in such an undertaking, it is important that there should be established from now onwards large nuclear power stations incorporating all the progress achieved hitherto;

Whereas the project put forward by KRB is therefore, at the present stage of the application of nuclear techniques to production of energy, of fundamental importance to the development of the nuclear industry in the Community;

HAS ADOPTED THIS DECISION:

Article 1

'Kernkraftwerk RWE-Bayernwerk GmbH' (KRB) is hereby established as a Joint Undertaking within the meaning of the Treaty for a period of twenty-five years from the date of entry into force of this Decision.

The objects of KRB shall be to construct, equip and operate a nuclear power station with a capacity of the order of 237 MWe at Gundremmingen, State of Bavaria, Federal Republic of Germany.

Article 2

The Statutes of KRB annexed to this Decision are hereby approved.

Article 3

If the advantages conferred on KRB by special Decision of the Council pursuant to Annex III to the Treaty are completely withdrawn before the expiry of the period referred to in Article 1, the Council shall at the same time withdraw the status of Joint Undertaking from KRB by means of a Decision which shall be published.

Article 4

This Decision shall be published in the *Official Journal of the European Communities*. It shall enter into force on the date of its publication.

Done at Brussels, 18 June 1963.

For the Council

The President

Eugène SCHAUS

ANNEX

STATUTES

*Article 1***Name of the company**

The name of the company is:

'Kernkraftwerk RWE-Bayernwerk Gesellschaft mit beschränkter Haftung'.

When the capital was increased on 10 June 1963, the members subscribed the following amounts:

- (a) 'Rheinisch-Westfälisches Elektrizitätswerk Aktiengesellschaft', Essen: DM 15 000 000;
- (b) 'Bayernwerk Aktiengesellschaft', Munich: DM 5 000 000.

*Article 2***Seat of the company**

The seat of the company is at Gundremmingen.

*Article 6***Disposal of shares**

Neither member shall dispose of any part of its shares without the assent of the other.

*Article 3***Objects of the company**

The objects of the company are to construct and operate a nuclear power station.

*Article 7***Administrative organs of the company**

The company shall have two administrative organs:

- (a) the manager or managers;
- (b) the general meeting of the members.

*Article 4***Capital**

The capital of the company is DM 30 000 000 (thirty million German marks).

*Article 8***Management**

The company shall have one manager or more than one.

The manager or managers shall be appointed and dismissed by the general meeting of the members. These appointments shall be for a period of five years and shall be renewable.

*Article 5***Subscribed capital**

On the formation of the company the members subscribed the following amounts:

- (a) 'Rheinisch-Westfälisches Elektrizitätswerk Aktiengesellschaft', Essen: DM 7 500 000;
- (b) 'Bayernwerk Aktiengesellschaft', Munich: DM 2 500 000.

*Article 9***Representation of the company**

If there is more than one manager, the company shall be represented by two managers acting jointly or by one of them acting jointly with an employee holding a power of attorney.

*Article 10***Powers and duties of managers**

Managers shall conduct the business of the company in accordance with the law, these statutes and the resolutions of the general meeting.

Managers shall obtain the approval of the general meeting regarding any matter which does not concern the conduct of day-to-day business. The creation of charges on the immovable property of the company does not form part of the conduct of the day-to-day business.

*Article 11***Convening of a general meeting**

A general meeting of the members shall be convened by the management at least two weeks in advance by notice in writing which shall specify the place, date and agenda of the meeting.

Upon requisition by one of the members, the management shall forthwith convene a general meeting.

Members may waive the formalities and period of notice laid down in the first paragraph.

*Article 12***Proceedings**

The general meeting may not alter the Statutes of the company save unanimously. Provisions of law in force shall apply as regards all other resolutions of the general meeting.

Resolutions of the general meeting not expressed in a document certified by a notary shall be recorded in minutes signed by the members.

*Article 13***Financial year**

The company financial year shall be the calendar year. The first financial year shall end on 31 December 1962.

*Article 14***Closing of accounts**

Within four months after the end of each financial year, the management shall draw up the balance sheet, the profit and loss account and the report for the preceding financial year.

*Article 15***Joint Undertaking**

If the company is established as a Joint Undertaking within the meaning of the Treaty establishing the European Atomic Energy Community it shall be subject, for the whole of the period of its activity as such, to the provisions of the Euratom Treaty which relate to Joint Undertakings and also to the Decisions of the Council of Ministers of the European Atomic Energy Community establishing it as a Joint Undertaking and conferring on it any of the advantages listed in Annex III to the Treaty. In particular:

- (a) amendments to these Statutes shall not enter into force until they have been approved by the Council of Ministers, pursuant to Article 50 of the Treaty;
- (b) in accordance with Article 171 (3) of the Euratom Treaty, the company's profit and loss accounts and balance sheets relating to the preceding financial year shall, within one month after their approval by the general meeting, be sent by the management to the Commission of Euratom, which shall place them before the Council of Ministers and the European Parliament. The estimates of revenue and expenditure shall be submitted in accordance with the same procedure one month at the latest before the beginning of each financial year.

Subject to the foregoing provisions, the company shall continue to be governed by German law and in particular by the Law of 20 April 1892 relating to companies with limited liability.