
ADDITIONAL ACT TO THE CONSTITUTION
No 2
PEACEFUL USE OF ATOMIC ENERGY

TITLE I PROTECTION FROM RADIATION

Article 1

Basic standards relating to the safety of installations and the protection of the environment, the population and workers from the dangers of radiation shall be laid down in the Union.

Article 2

The basic standards shall be proposed by the Commission, after obtaining the opinion of a group of individuals designated by the scientific and technical committee from among the experts in public health and nuclear safety in the Member States.

The basic standards shall be laid down by Law.

At the request of a Member State, the basic standards may be revised or supplemented. The Commission shall examine any request made by a Member State.

Article 3

Each Member State shall lay down the appropriate provisions, whether by legislation, regulation or administrative action, to ensure compliance with the basic standards which have been established.

The Commission shall make appropriate recommendations for harmonising the provisions applicable in this field in the Member States, including those regarding the safety of installations.

To this end, the Member States shall communicate to the Commission those provisions in force and any subsequent draft provisions of the same kind.

Any recommendations the Commission may wish to issue with regard to such draft provisions shall be made within three months of the date on which such draft provisions are communicated.

Article 4

Any Member State in whose territories particularly dangerous experiments are to take place shall take additional protective measures, on which it shall first obtain the opinion on the Commission.

Article 5

Each Member State shall establish the facilities necessary to carry out continuous monitoring of the level of radioactivity in the air, water and soil and to ensure compliance with the basic standards, including those for nuclear safety.

The Commission shall have the right of access to such facilities; it may verify their operation and efficiency.

Article 6

The appropriate authorities shall periodically communicate information on the checks to the Commission so that it is kept informed of the level of radioactivity to which the public is exposed and of adherence to standards of safety.

Article 7

Each Member State shall provide the Commission with such general data relating to any plan for the disposal of radioactive waste in whatever form as will make it possible to determine whether the implementation of such plan is liable to result in the radioactive contamination of the water, soil or airspace of the Union.

The Commission, after seeking the necessary expert opinions, shall deliver its opinion within six months.

The Commission shall make recommendations to the Member States with regard to the level of radioactivity in the air, water and soil.

In cases of urgency, the Commission shall adopt a decision requiring the Member State concerned to take, within a period laid down by the Commission, all necessary measures to prevent infringement of the basic standards and to ensure compliance with regulations.

Should the State in question fail to comply with the Commission decision within the period laid down, the Commission or any Member State concerned may forthwith bring the matter before the Court of Justice.

TITLE II INVESTMENT

Article 8

The Commission shall publish illustrative programmes indicating in particular nuclear energy production expectations and all the types of investment required for their attainment.

Article 9

Persons and undertakings engaged in the industrial activities listed in Annex I shall communicate to the Commission investment projects relating to new installations and also to replacements or conversions which fulfil the criteria as to type and size laid down by the Council on a proposal from the Commission.

The list of industrial activities may be altered by Law.

Article 10

Investment projects shall be communicated to the Commission and, for information purposes, to the Member State concerned, not later than three months before the first contracts are concluded with the suppliers or, if the work is to be carried out by the undertaking with its own resources, three months before the work begins.

The Commission may alter this time limit.

Article 11

The Commission shall discuss with the persons or undertakings all aspects of investment projects which relate to the objectives of the Union, including their impact on the proper functioning of the internal market. It shall evaluate, within this framework, the methods of financing the planned investments and shall decide on the authorisation of the investment project.

The Commission may publish the essential and general elements of its decision on the investment projects which are communicated to it.

TITLE III JOINT UNDERTAKINGS

Article 12

Undertakings which are of fundamental importance to the development of the nuclear industry in the Union may be established as Joint Undertakings within the meaning of this Act, in accordance with the following Articles.

Article 13

1. Every project for establishing a Joint Undertaking, whether originating from the Commission, a Member State or any other quarter, shall be the subject of an inquiry by the Commission.

For this purpose, the Commission shall obtain the views of the Member States and of any public or private body which in its opinion can usefully advise it.

2. The Commission shall forward to the European Parliament and the Council any project for establishing a Joint Undertaking, together with its reasoned opinion.

If the Commission delivers a favourable opinion on the need for the proposed Joint Undertaking, the following shall be laid down by Law:

- (a) the location,
- (b) the statutes,
- (c) the scale and timetable for financing,
- (d) possible participation by the Union in the financing of the Joint Undertaking,
- (e) possible participation of a third State, an international organisation or a national of

a third State in the financing or management of the Joint Undertaking,
(f) the conferring of any or all of the advantages listed in Annex II to this Treaty.

The Commission shall attach a detailed report on the project as a whole.

Article 14

The European Parliament and the Council may, when the matter has been submitted to them by the Commission, request the latter to supply such further information or to undertake such further inquiries as they may consider necessary.

If the European Parliament or the Council considers that a project forwarded by the Commission with an unfavourable opinion should nevertheless be carried out, the Commission shall submit the proposals and the detailed report referred to in Article 13.

Article 15

The Law may make applicable to each Joint Undertaking any or all of the advantages listed in Annex II; each Member State shall for its part ensure that these advantages are conferred.

The conditions governing the conferment of these advantages may be laid down by Law.

Article 16

Joint Undertakings shall be established by Law.

Each Joint Undertaking shall have legal personality.

In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under their respective national laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

Save as otherwise provided in this Act or in its own statutes, each Joint Undertaking shall be governed by the rules applying to industrial or commercial undertakings; its statutes may make subsidiary reference to the national laws of the Member States.

Save where jurisdiction is conferred upon the Court of Justice, disputes in which Joint Undertakings are concerned shall be determined by the appropriate national courts or tribunals.

Article 17

The statutes of Joint Undertakings shall be amended, where necessary, in accordance with the special provisions which they contain for this purpose.

Such amendments shall not, however, enter into force until they have been approved by Law.

Article 18

The Commission shall be responsible for the execution of all Laws relating to the establishment of Joint Undertakings until the bodies responsible for the operation of such

Undertakings have been set up.

TITLE IV **SUPPLIES**

Article 19

1. The supply of ores, source materials and special fissile materials shall be ensured, in accordance with the provisions of this Title, by means of a common supply policy on the principle of equal access to sources of supply.
2. For this purpose and under the conditions laid down in this Title:
 1. All practices designed to secure a privileged position for certain users shall be prohibited,
 2. An Agency is hereby established; it shall have an exclusive right to conclude contracts for the supply of source materials and special fissile materials coming from inside the Union or outside.

The Agency may not discriminate in any way between users on the grounds of the use which they intend to make of the supplies requested unless such use is unlawful or is found to be contrary to the conditions imposed by suppliers outside the Union on the consignment in question.

Article 20

This Agency shall be under the supervision of the Commission, which shall issue directives to it, possess a right of veto over its decisions and appoint its Director.

Any act, whether implied or expressed, performed by the Agency in the exercise of its right of option or of its exclusive right to conclude supply contracts, may be referred by the parties concerned to the Commission, which shall give a decision thereon within one month.

Article 21

The Agency shall have legal personality and financial autonomy.

The statutes of the Agency shall be laid down by Law.

The statutes may be amended by Law.

The statutes shall determine the Agency's capital and the terms upon which it is to be subscribed. The major part of the capital shall always belong to the Union and to the Member States. The contributions to the capital shall be determined by common accord of the Member States.

The rules for the commercial management of the activities of the Agency shall be laid down in the statutes. The latter may provide for a charge on transactions to defray the operating expenses of the Agency.

Article 22

The Agency, acting where appropriate within the framework of agreements concluded between the Union and a third State or an international organisation, shall, subject to the exceptions provided for in this Treaty, have the exclusive right to enter into agreements or contracts whose principal aim is the supply of ores, source materials or special fissile materials coming from outside the Union.

The rules of the Agency, submitted for approval to the Commission, shall determine the conditions under which it shall approve applications from users and contracts between users and the Agency relating to the supply of ores, source materials or special fissile materials coming from outside the Union.

The Agency may, however, decide on the geographical origin of supplies provided that conditions which are at least as favourable as those specified in the order are thereby secured for the user.

Article 23

Pricing practices designed to secure a privileged position for certain users in violation of the principle of equal access laid down in the provisions of this Title shall be prohibited.

If the Agency finds that any such practices are being employed it shall report them to the Commission.

The Commission may, if it accepts the findings, set the prices of the offers at a level compatible with the principle of equal access.

Article 24

The Commission shall make all appropriate recommendations to Member States with regard to revenue or mining regulations.

Article 25

The Agency may, from material available inside or outside the Union, build up the necessary commercial stocks to facilitate supplies to or normal deliveries by the Union.

The Commission may, where necessary, decide to build up emergency stocks. The method of financing such stocks shall be laid down by Law.

Article 26

Where an agreement or contract between a Member State, a person or an undertaking on the one hand, and a third State, an international organisation or a national of a third State on the other, provides *inter alia* for delivery of products which come within the province of the Agency, the prior consent of the Commission shall be required for the conclusion or renewal of that agreement or contract, as far as delivery of the products is concerned.

Article 27

The Commission may exempt from the provisions of this Title the transfer, import or export of small quantities of ores, source materials or special fissile materials such as are

normally used in research.

The Agency shall be notified of every transfer, import or export operation effected by virtue of this provision.

Article 28

The provisions of this Title shall not apply to commitments relating to the processing, conversion or shaping of ores, source materials or special fissile materials and entered into:

- (a) by several persons and undertakings, where the material is to return to the original person or undertaking after being processed, converted or shaped,
- (b) by a person or undertaking and an international organisation or a national of a third State, where the material is processed, converted or shaped outside the Union and then returned to the original person or undertaking,
- (c) by a person or undertaking and an international organisation or a national of a third State, where the material is processed, converted or shaped inside the Union and is then returned either to the original organisation or national or to any other consignee likewise outside the Community designated by such organisation or national.

The persons and undertakings concerned shall, however, notify the Agency of the existence of such commitments and, as soon as the contracts are signed, of the quantities of material involved in the movements. The Commission may prevent the commitments referred to in point (b) from being undertaken if it considers that the conversion or shaping cannot be carried out efficiently and safely and without the loss of material to the detriment of the Union.

The materials to which such commitments relate shall be subject in the territories of the Member States to the safeguards laid down in title V.

Article 29

The provisions of this Title may be amended by Institutional Law, particularly if unforeseen circumstances create a situation of general shortage. The Commission shall inquire into any request made by a Member State.

TITLE V SAFEGUARDS

Article 30

In accordance with the provisions of this Title, the Commission shall satisfy itself that, in the territories of Member States:

- a) ores, source materials and special fissile materials are not diverted from their intended uses as declared by the users,
- b) the provisions relating to supply and any particular safeguarding obligations assumed by the Union under an agreement concluded with a third State or an international organisation are complied with.

Article 31

Anyone setting up or operating an installation for the production, separation or other use of source materials or special fissile materials or for the processing of irradiated nuclear fuels shall declare to the Commission the basic technical characteristics of the installations to the extent that knowledge of these characteristics is necessary for the attainment of the objectives set out in Article 30.

The Commission must approve the techniques to be used for the chemical processing of irradiated materials, to the extent necessary to attain the objectives set out in Article 30.

Article 32

The Commission shall require that operating records be kept and produced in order to permit accounting for ores, source materials and special fissile materials used or produced. The same requirement shall apply in the case of the transport of source materials and special fissile materials.

Those subject to such requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 31 and to the first paragraph of this article.

The nature and the extent of the requirements referred to in the first paragraph of this Article shall be defined in a regulation made by the Commission.

Article 33

The Commission may require that any excess special fissile materials recovered or obtained as by-products and not actually being used or ready for use shall be deposited with the Agency or in other stores which are or can be supervised by the Commission.

Special fissile materials deposited in this way must be returned forthwith to those concerned at their request.

Article 34

The Commission may send inspectors into the territories of Member States. Before sending an inspector on his first assignment in the territory of a Member State, the Commission shall consult the State concerned; such consultation shall suffice to cover all future assignments of this inspector.

On presentation of a document establishing their authority, inspectors shall at all times have access to all places and data and to all persons who, by reason of their occupation, deal with materials, equipment or installations subject to the safeguards provided for in this Title, to the extent necessary in order to apply such safeguards to ores, source materials and special fissile materials, and to ensure compliance with the provisions of Article 30. Should the State concerned so request, inspectors appointed by the Commission shall be accompanied by representatives of the authorities of that State; however, the inspectors shall not thereby be delayed or otherwise impeded in the performance of their duties.

If the carrying out of an inspection is opposed, the Commission shall apply to the

President of the Court of Justice for an order to ensure that the inspection be carried out compulsorily. The President of the Court of Justice shall give a decision within three days.

If there is danger in delay, the Commission may itself issue a written order, in the form of a decision, to proceed with the inspection. This order shall be submitted without delay to the President of the Court of Justice for subsequent approval.

After the order or decision has been issued, the authorities of the State concerned shall ensure that the inspectors have access to the places specified in the order or decision.

Article 35

Inspectors shall be recruited by the Commission.

They shall be responsible for obtaining and verifying the records referred to in Article 32. They shall report any infringement to the Commission.

The Commission may issue a decision calling upon the Member State concerned to take, by a time limit set by the Commission, all measures necessary to bring such infringement to an end; it shall inform the Council thereof.

If the Member State does not comply with the Commission decision by the time limit set, the Commission or any Member State concerned may refer the matter to the Supreme Court direct.

Article 36

1. In the event of an infringement on the part of persons or undertakings of the obligations imposed on them by this Title, the Commission may impose sanctions on such persons or undertakings. These sanctions shall be, in order of severity:

- (a) a warning,
- (b) the withdrawal of special benefits such as financial or technical assistance,
- (c) the placing of the undertaking, for a period not exceeding four months, under the administration of a person or board appointed by common accord of the Commission and the State having jurisdiction over the undertaking,
- (d) total or partial withdrawal of source materials or special fissile materials.

2. Decisions taken by the Commission in implementation of paragraph 1 and requiring the surrender of materials shall be enforceable. They may be enforced in the territories of the Member States in accordance with Article 65 of Additional Act No 4.

Actions brought before the Court of Justice against decisions of the Commission which impose any of the sanctions provided for in paragraph 1 shall have suspensory effect. The Court of Justice may, however, on application by the Commission or by any Member State concerned, order that the decision be enforced forthwith.

There shall be an appropriate legal procedure to ensure the protection of interests that have been prejudiced.

3. The Commission may make any recommendations to Member States concerning laws

or regulations which are designed to ensure compliance in their territories with the obligations arising under this Title.

Member States shall ensure that sanctions are enforced and, where necessary, that the infringements are remedied by those committing them.

Article 37

In the application of the safeguards, no discrimination shall be made on grounds of the use for which ores, source materials and special fissile materials are intended.

The scope and procedure for the safeguards and the powers of the bodies responsible for their application shall be confined to the attainment of the objectives set out in this Title.

The safeguards may not extend to materials intended to meet defence requirements which are in the course of being specially processed for this purpose or which, after being so processed, are, in accordance with an operational plan, placed or stored in a military establishment.

Article 38

Where new circumstances so require, the procedures for applying the safeguards laid down in this Title may be adapted by Institutional Law. The Commission shall examine any such request made by a Member State.

TITLE VI OTHER PROVISIONS

Article 39

1. A Scientific and Technical Committee is hereby set up; it shall be attached to the Commission and have advisory status.

The Committee must be consulted where this Additional Act so provides. It may be consulted in any case where the Commission deems it appropriate.

2. The Committee shall consist of 38 members, appointed by the Commission.

The members of the Committee shall be appointed in their personal capacity for five years. Their appointment shall be renewable. They shall not be bound by any mandatory instructions.

The Scientific and Technical Committee shall each year elect its chairman and officers from among its members.

Article 40

The multiannual framework research programme provided for in Article III-48 of the Constitution shall facilitate nuclear research in the Member States.

Article 41

1. After consulting the Scientific and Technical Committee, the Commission shall establish a Joint Nuclear Research Centre.

This Centre shall ensure that the research programmes and other tasks assigned to it by the Commission are carried out.

It shall also ensure that a uniform nuclear terminology and a standard system of measurements are established.

It shall set up a central bureau for nuclear measurements.

It shall contribute to the development of the necessary methods and technologies in the field of nuclear safety and safeguards.

2. The activities of the Centre may, for geographical or functional reasons, be carried out in separate establishments.

3. The Commission may, within the framework of the Joint Nuclear Research Centre, set up schools for the training of specialists, particularly in the fields of prospecting for minerals, the production of high-purity nuclear materials, the processing of irradiated fuels, nuclear engineering, health and safety and the production and use of radioisotopes.

The Commission shall determine the details of such training.

Article 42

Information which the Union acquires as a result of carrying out its research programmes, and the disclosure of which is liable to harm the defence interests of one or more Member States, shall be subject to a security system.

To this end, a decision, adopted by the Council on a proposal from the Commission, shall lay down the various security gradings to be applied and the security measures appropriate to each grading.

Article 43

If the Commission considers that a person or undertaking has committed an infringement of this Act to which the provisions of Article 9 do not apply, it shall call upon the Member State having jurisdiction over that person or undertaking to cause sanctions to be imposed in respect of the infringement in accordance with the national law.

If the State concerned does not comply with such a request within the period laid down by the Commission, the latter may bring an action before the Court of Justice to have the infringement of which the person or undertaking is accused established.

Article 44

Member States shall take all measures necessary to facilitate the conclusion of insurance contracts covering nuclear risks.

The rules for application of this Article shall be laid down by Law.

Article 45

1. "Special fissile materials" means plutonium-239, uranium-233, uranium enriched in uranium-235 or uranium-233; and any substance containing one or more of the foregoing isotopes and such other fissile materials as may be specified by Law; the expression "special fissile materials" does not, however, include source materials;
2. "Uranium enriched in uranium-235 or uranium-233" means uranium containing uranium-235 or uranium-233 or both in an amount such that the abundance ratio of the sum of these isotopes to isotope 238 is greater than the ratio of isotope 235 to isotope 238 occurring in nature;
3. "Source materials" means uranium containing the mixture of isotopes occurring in nature, uranium whose content in uranium-235 is less than normal, thorium, any of the foregoing in the form of metal, alloy, chemical compound or concentrate, any other substance containing one or more of the foregoing in such a concentration as shall be specified by the Council on a proposal from the Commission.
4. "Ores" means any ore containing, in such average concentration as shall be specified by Law, substances from which the source materials specified above may be obtained by the appropriate chemical and physical processing.

ANNEX I**INDUSTRIAL ACTIVITIES REFERRED TO IN ARTICLE 9**

1. Mining of uranium and thorium ore.
2. Concentration of such ores.
3. Chemical processing and refining of uranium and thorium concentrates.
4. Preparation of nuclear fuels, in any form.
5. Fabrication of nuclear fuel elements.
6. Production of uranium hexafluoride.
7. Production of enriched uranium.
8. Processing of irradiated fuels for the purpose of separating some or all of the elements contained therein.
9. Production of reactor moderators.
10. Production of hafnium-free zirconium or compounds thereof.
11. Nuclear reactors of all types and for all purposes.
12. Facilities for the industrial processing of radioactive waste, set up in conjunction with one or more of the facilities specified in this list.
13. Semi-industrial installations intended to prepare the way for the construction of plants involved in any of activities 3 to 10.

ANNEX II**ADVANTAGES WHICH MAY BE CONFERRED ON JOINT UNDERTAKINGS UNDER
ARTICLE 13**

1.
 - a) Recognition that public interest status in conformity with the national laws applies to the acquisition of immovable property required for the establishment of Joint Undertakings.
 - b) Application of national procedure for compulsory acquisition on the grounds of public interest, so that such acquisition may be effected where amicable agreement has not been reached.
2. Exemption from all duties and charges when Joint Undertakings are established and from all duties on assets contributed.
3. Exemption from all duties and charges levied upon acquisition of immovable property and from all registration and recording charges.
4. Exemption from all direct taxes to which Joint Undertakings, their property, assets and revenue might otherwise be liable.
5. Exemption from all customs duties and charges having equivalent effect and from all prohibitions and restrictions on imports or exports, whether of an economic or a fiscal nature, with regard to:
 - (a) scientific and technical equipment, excluding building materials and equipment for administrative purposes;
 - (b) substances which have been or are to be processed in the Joint Undertaking.
6. Exemption from restrictions on entry and residence for nationals of Member States employed by Joint Undertakings and for their spouses and dependent members of their families.