

Consolidated version of the Treaty establishing the  
European Atomic Energy Community 2016/C 203/01

TITLE II

**PROVISIONS FOR THE ENCOURAGEMENT OF  
PROGRESS IN THE FIELD OF NUCLEAR ENERGY**

CHAPTER 2

*Dissemination of information*

Section 2

**Other information**

(c)

*Grant of licences by arbitration or under compulsory powers*

Article 17

1 Failing amicable agreement, non exclusive licences may be granted either by arbitration or under compulsory powers in accordance with Articles 18 to 23:

- a to the Community or to Joint Undertakings accorded this right under Article 48 in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with nuclear research, where the granting of such licences is necessary for the continuance of their own research or indispensable to the operation of their installations.

If the Commission so requests, such licences shall include the right to authorise third parties to make use of the invention, where they are carrying out work for or orders placed by the Community or Joint Undertakings;

- b to persons or undertakings which have applied to the Commission for them in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with and essential to the development of nuclear energy in the Community, provided that all the following conditions are fulfilled:
  - (i) at least four years have elapsed since the filing of the patent application, save in the case of an invention relating to a specifically nuclear subject;
  - (ii) the requirements arising out of the development of nuclear energy, in the Commission's conception of such development, in the territory of a Member State where an invention is protected, are not being met with regard to that invention;
  - (iii) the proprietor, having been called upon to meet such requirements either himself or through his licensees, has not complied with this request;

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- (iv) the persons or undertakings applying for licences are in a position to meet such requirements effectively by making use of the invention.

[<sup>X1</sup>Member States may not, in order to meet such requirements, take any coercive measures provided for in their national legislation which will limit the protection accorded to the invention, save at the prior request of the Commission.]

2 A non exclusive licence may not be granted as provided for in paragraph 1 where the proprietor can establish the existence of legitimate reasons, in particular that he has not had sufficient time at his disposal.

3 The granting of a licence pursuant to paragraph 1 shall confer a right to full compensation, the amount of which shall be agreed between the proprietor of the patent, provisionally protected patent right or utility model and the licensee.

4 The provisions of this Article shall not affect those of the Paris Convention for the Protection of Industrial Property.

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**Editorial Information**

**X1** Substituted by [Erratum to the Consolidated version of the Treaty establishing the European Atomic Energy Community](#) ('Official Journal of the European Union' C 84 of 30 March 2010) (2010/C 181/01).