

NIGERIA ATOMIC ENERGY COMMISSION DECREE 1976



Decree No. 46

[24th August 1976]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. There is hereby established a body to be known as the Nigeria Atomic Energy Commission (hereafter in this Decree referred to as "the Commission") which shall be a body corporate with perpetual succession and a common seal.

Establish-
ment of
Nigeria
Atomic
Energy
Commission.

2.—(1) Subject to this Decree, the Commission is hereby charged with responsibility for the promotion of the development of atomic energy and for all matters relating to the peaceful uses of atomic energy, and without prejudice to the generality of the foregoing, the Commission shall have power—

Functions
of the
Commission.

(a) to prospect for and mine radioactive minerals ;

(b) to construct and maintain nuclear installations for the purpose of generating electricity ;

(c) to produce, use and dispose of atomic energy and carry out research into matters connected with the peaceful uses of atomic energy ;

(d) to manufacture or otherwise produce, buy or otherwise acquire, treat, store, transport and dispose of any radioactive substances ;

(e) to make arrangements with universities and other institutions or persons in Nigeria for the conduct of research into matters connected with atomic energy or radioactive substances and to make grants to universities or other institutions or persons engaged in the production or use of atomic energy or radioactive substances or in research into matters connected with atomic energy or radioactive substances ;

(f) to educate and train persons in matters connected with atomic energy and radioactive substances ;

(g) to advise the Federal Military Government on questions relating to atomic energy.

(2) The Commission shall have power to do anything which in its opinion is calculated to facilitate the carrying on of its activities, including, without prejudice to the generality of the foregoing, power—

- (a) to sue and be sued in its corporate name ;
- (b) to hold and manage movable and immovable property ; and
- (c) to enter into contract.

(3) The foregoing provisions of this section relate only to the capacity of the Commission as a statutory corporation, and nothing in those provisions shall be construed as authorising the disregard by the Commission of any enactment or law including, in particular, the applicable provisions of the Minerals Act.

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Commission
to act under
direction.

3.—(1) The Head of the Federal Military Government may for all or any of the purposes of this Decree initiate or approve policy ; and accordingly, the Head of the Federal Military Government may give to the Commission directions of a general or special nature as to the manner in which the Commission is to exercise its powers and it shall be the duty of the Commission to give effect to any such directions.

(2) No policy initiated by the Commission shall be implemented without prior reference to and approval by the Head of the Federal Military Government and the Head of the Federal Military Government may, if he thinks it necessary, consult with the Commission before approving any policy, but the question whether there was any such consultation or what was decided shall not be inquired into by any court.

Composition,
etc. of the
Commission.

4.—(1) The Commission shall consist of a chairman and not less than five and not more than eight other members all of whom shall be appointed by the Supreme Military Council.

(2) A member who is not a public officer—

(a) shall hold office for such period not exceeding 3 years as may be stated in the instrument by which he is appointed and shall be eligible for re-appointment ;

(b) shall be paid such remuneration whether by way of salary, fees or allowances for travelling and other expenses as the Head of the Federal Military Government may from time to time determine ;

(c) may by notice in writing addressed to the Head of the Federal Military Government resign his appointment and upon receipt of the notice by the Head of the Federal Military Government the appointment of that member shall be determined.

(3) The supplementary provisions set out in the Schedule to this Decree shall have effect with respect to the proceedings of the Commission and the other matters therein mentioned.

Secretary
and other
staff of the
Commission.

5.—(1) There shall be appointed by the Commission a secretary who shall conduct its correspondence and keep its records and exercise such other functions as the Chairman may from time to time direct.

(2) The Commission may appoint such persons as members of its staff as it considers necessary and may approve conditions of service, including provision for the payment of pensions :

Provided that no pension scheme shall be put into operation without the prior approval in writing of the Federal Commissioner charged with responsibility for pensions.

6.—(1) There shall be made to the Commission out of moneys provided by the Federal Military Government payments for the purposes of this Decree, either by way of grant or by way of loan or both, of such amounts and on such terms as may be approved by the Head of the Federal Military Government, and the funds of the Commission shall consist of any payments so made and of all other moneys received by the Commission in the course of its activities under this Decree.

Financial provisions.

(2) The Commission shall submit to the Head of the Federal Military Government not later than 31st December in each financial year an estimate of its expenditure and income (excluding payments to the Commission out of moneys provided by the Federal Military Government) during the next succeeding financial year.

(3) The Commission shall keep proper accounts in respect of each financial year (and proper records in relation to those accounts) and shall cause its accounts to be audited as soon as may be after the end of each financial year by auditors approved by the Supreme Military Council.

(4) The Supreme Military Council may, if it thinks fit, modify the requirements of subsections (2) and (3) above in such respect as the Supreme Military Council may determine.

7. The Commission shall prepare and submit to the Head of the Federal Military Government not later than 30th June in each financial year a report in such form as the Head of the Federal Military Government may direct on the activities of the Commission during the immediately preceding financial year and shall, unless the terms of any direction of the Supreme Military Council given pursuant to subsection (4) of section 6 of this Decree render it unnecessary or impossible for the Commission to do so, include in the report a copy of the audited accounts of the Commission for that year and of the auditor's report on the accounts.

Annual report.

8.—(1) Whenever there is any hindrance to the acquisition by the Commission of any land required for any purpose of the Commission under this Decree the Head of the Federal Military Government, on the application of the Commission and after such enquiry as he may think fit, may declare that the land is required for the service of the Commission.

Compulsory acquisition of land.

(2) Where a declaration is made under subsection (1) above, the land to which the declaration relates shall be deemed to be land required for a public purpose of the Federation within the meaning of the Public Lands Acquisition Act, and the Head of the Federal Military Government—

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(a) may cause action to be taken under that Act for acquiring the land for the Federal Military Government, or

(b) if the land is native land, may issue a requisition under the appropriate law for the revocation of any rights relating to the land.

(3) Where a declaration has been made under subsection (1) above in respect of any land other than native land and—

(a) the land has been acquired pursuant to subsection (2) (a) above or

(b) the Head of the Federal Military Government is satisfied that there are no rights subsisting in respect of the land,
the Head of the Federal Military Government may vest the land in the Commission by means of a certificate under the hand and seal of the Chief Federal Lands Officer.

(4) Where a declaration has been made under subsection (1) above in respect of any native land and—

(a) the rights relating thereto have been revoked pursuant to subsection (2) (b) above, or

(b) the Military Governor of the State in which the land is situated is satisfied that there are no rights subsisting in respect of the land,
the Military Governor in question may grant to the Commission a right of occupancy of the land on such terms and conditions as he thinks fit.

(5) The compensation, if any, payable under the Public Lands Acquisition Act for the acquisition of any land under this section or payable under the appropriate law for the revocation of any rights relating to the land, as the case may be, shall in the first instance be paid by the Federal Military Government, but the Commission shall refund to that Government any compensation so paid and all incidental expenses incurred by that Government.

(6) A plan of any land referred to in subsection (1) above—

(a) containing measurements of the boundaries of the land ;

(b) showing the relationship of the land to any sufficient identifying mark ; and

(c) signed by the Chairman of the Commission ;

shall be a sufficient description of the land for the purposes of an application under that subsection.

Restriction
on disclosure
of information
relating
to nuclear
installation,
etc.

9.—(1) Without prejudice to the generality of the application of the Official Secrets Act 1962, any person who without the consent of the Head of the Federal Military Government communicates to any other person except an authorised person any document, drawing, photograph, plan, model or other information whatsoever which to his knowledge describes, represents or illustrates—

(a) any existing or proposed nuclear installation operated or proposed to be operated by or on behalf of the Commission ;

(b) the purpose or method of operation of any such existing or proposed nuclear installation ;

(c) any process operated or proposed to be operated in any such existing or proposed nuclear installation,

shall be guilty of an offence under this Decree and shall on conviction be liable to imprisonment for a term not exceeding ten years.

(2) In this section "authorised person" means, in relation to information on any subject to which this section applies, a person to whom, by virtue of a general authority granted by the Head of the Federal Military Government, information on that subject may be communicated.

10. It shall be the duty of the Commission to secure that no nuclear damage results from—

(a) anything on any premises occupied by the Commission (whether such damage is suffered on such premises or elsewhere) ; or

Duty to
prevent
nuclear
damage.

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(b) anything which is in the course of carriage by or on behalf of the Commission to or from such premises ; or

(c) any waste discharged (in whatever form) on or from such premises :

Provided that the liability of the Commission for nuclear damage under paragraph (b) of this section shall be subject to the terms of any agreement relating to the carriage referred to in that paragraph.

11. The Head of the Federal Military Government may make regulations generally for the purposes of this Decree, and, without prejudice to the generality of the foregoing, the regulations may make provisions for—

Regulations.

(a) securing the safe operation of any nuclear installation operated by the Commission :

(b) securing the safe carriage of any nuclear fuel, radioactive products or waste ;

(c) regulating and controlling the disposal of waste on or from any premises on which there is a nuclear installation ;

(d) securing the maintenance of efficient system for detecting and recording the presence and intensity of any ionising radiation from anything discharged on or from such premises or from anything in the course of carriage to or from such premises ;

(e) prohibiting or restricting access by persons to any land or premises held or occupied by the Commission.

12. In this Decree, unless the context otherwise requires—

“atomic energy” means the energy released from atomic nuclei as a result of any process, including the fission process, but does not include energy released in any process of natural transmutation or radioactive decay which is not accelerated or influenced by external means ;

“Commission” means the Nigeria Atomic Energy Commission established under section 1 of this Decree ;

“Chairman” means the chairman of the Commission ;

“member” means any member of the Commission and includes the Chairman ;

“nuclear damage” means the death of or injury to any person or any loss of or damage to property which results from the radioactive properties, or from a combination of such properties with the toxic, explosive or other hazardous properties, of nuclear fuel or radioactive products or waste ;

“nuclear fuel” means any material which is capable of producing energy by a self-sustaining process of nuclear fission ;

“nuclear installation” means a nuclear reactor or any installation designed or adapted for—

(i) the production or use of atomic energy ;

(ii) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiation, or

(iii) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter, being matter which has been produced or irradiated in the course of the production or use of nuclear fuel ;

Interpretation.

"nuclear reactor" means any plant (including any machinery, equipment or appliance whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons ;

"public officer" means a member of the public service of the Federation or of a State ;

"radioactive minerals" means any minerals from which can be obtained any of the following substances, that is to say, uranium, thorium, plutonium, neptunium or any of their respective compounds or any other substance which may be used for the production or use of atomic energy or research into matters connected therewith ;

"radioactive products" means any radioactive material produced in, or any material made radioactive by exposure to the radiation incidental to, the process of utilizing nuclear fuel ;

"waste" means such radioactive products as constitute scrap material or an effluent or other unwanted surplus substance.

Citation.

13. This Decree may be cited as the Nigeria Atomic Energy Commission Decree 1976.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE PROCEEDINGS OF THE COMMISSION

Proceedings

1. Subject to this Decree and to section 26 of the Interpretation Act 1964 (which provides for decisions of a statutory body to be taken by a majority of its members and for the chairman to have a second or casting vote) the Commission may make standing orders regulating the proceedings of the Commission or any committee thereof.

2. Every meeting of the Commission shall be presided over by the Chairman or, if the Chairman is unable to attend any particular meeting, by another member appointed by the Head of the Federal Military Government to act as Chairman for that particular meeting.

3. The quorum at a meeting of the Commission shall be the Chairman (or, in an appropriate case, the person appointed to act as Chairman under paragraph 2 above) and three other members.

4.—(1) Subject to its standing orders, the Commission may appoint committees as the Commission may think fit to consider and report on any matter with which the Commission is concerned.

(2) Except with the approval of the Head of the Federal Military Government a committee of the Commission shall not include persons who are not members of the Commission.

5. Without prejudice to paragraph 4 above, where standing orders made under paragraph 1 above provide for a committee of the Commission to consist of or co-opt persons who are not members of the Commission the committee may advise the Commission on any matter referred to it by the Commission but members of the committee who are not members of the Commission shall not be entitled to vote at a meeting of the committee.

Miscellaneous

6. The fixing of the seal of the Commission shall be authenticated by the signature of the Chairman or of any other member authorised in that behalf by the Commission.

7. Any contract or instrument which, if made or executed by a person not being a body corporate would not be required to be under seal may be made or executed on behalf of the Commission by any person generally or specially authorised to act for that purpose by the Commission.

8. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Commission shall be received in evidence and, unless the contrary is proved be presumed without further proof to have been so signed or sealed.

9. The validity of any proceedings of the Commission or a committee thereof shall not be affected—

(a) by any vacancy in the membership of the Commission or committee

(b) by any defect in the appointment of a member of the Commission or committee, or

(c) by reason that a person not entitled to do so took part in the proceedings.

10. Any member of the Commission or a committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Commission or committee shall forthwith disclose his interest to the Commission or committee and shall not vote on any question relating to the contract or arrangement.

MADE at Lagos the 24th day of August 1976.

LT.-GENERAL O. OBASANJO,
Head of the Federal Military Government
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria

EXPLANATORY NOTE

(This note does not form part of the above Decree but is intended to explain its purpose)

The Decree establishes the Nigeria Atomic Energy Commission and charges it with responsibility for the development of atomic energy and all matters relating to the peaceful uses of atomic energy.

TRADE (EEC PREFERENCES UNDER THE LOME CONVENTION) DECREE 1976



Decree No. 47

[24th August 1976]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Director of the Department of Customs and Excise (hereinafter referred to as "the Director") is hereby appointed as the certifying authority in Nigeria for the purpose of certification of goods exported from Nigeria under the African, Caribbean and Pacific-European Economic Community Convention of Lome on trade co-operation between the contracting parties.

Appoint-
ment of
certifying
authority.

2. The Director shall on application therefor on the prescribed form by an exporter, and if satisfied after inspection and valuation of the goods in respect of which the application is made as to the correctness of the matters stated in the application, issue a certificate in the prescribed form—

Verification
of applica-
tion and
issue of
certificates.

(a) stating the value of the goods, and

(b) certifying that the goods satisfy the rules of origin requirements specified by the country to which the goods are to be exported.

3. The Director may for the purposes of section 2 of this Decree require any exporter to furnish to the Director in such form as the Director may require such information as in the opinion of the Director is necessary for the purpose of certification under this Decree and to produce any book of accounts or other document of whatever nature relating to the sale by the exporter of the goods concerned.

Power to
require
supply of
further
information.

4.—(1) The Commissioner may make such regulations as may be required from time to time for carrying into effect the objects of this Decree and, without prejudice to the generality of the foregoing, he may by the regulations prescribe—

Regula-
tions.

(a) the form in which applications are to be made under this Decree and the documents to accompany such applications ;

(b) the form of the certificate to be issued under this Decree ; and

(c) the fees to be paid for the issue of certificates.

(2) The Commissioner may by order published in the *Gazette* delegate to the Director the power to make regulations with respect to any of the matters mentioned in subsection (1) of this section but nothing in such order shall be construed as precluding the Commissioner from making regulations with respect to any such matters.

Offences.

5.—(1) If any person—

(a) makes or signs or causes to be made or signed or delivers or causes to be delivered to the Director any declaration or document pursuant to any provision of this Decree ; or

(b) makes or gives any information or statement to the Director pursuant to section 3 of this Decree,

which he knows to be false or untrue in any material particular, he shall be guilty of an offence and liable upon conviction to a fine of ₦400 or imprisonment for two years, or in the case of a second or subsequent offence to a fine of ₦1,000 or imprisonment for five years.

(2) If any person—

(a) alters any document after it has been issued under or pursuant to this Decree, or

(b) counterfeits any seal of the Director or signature, initials or other mark of any official of the Department of Customs and Excise for the certification of such a document,

he shall be guilty of an offence and liable on conviction to a fine of ₦1,000 or imprisonment for five years.

(3) Where an offence under this Decree committed by a body corporate is proved to have been committed with the consent or connivance of, or attributable to any neglect on the part of any director, manager, secretary or other official of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Interpretation.

6. In this Decree unless the context otherwise requires—

“the Commissioner” means the Federal Commissioner charged with responsibility for trade ;

“the Director” means the Director of the Department of Customs and Excise.

Citation.

7. This Decree may be cited as the Trade (EEC Preferences Under The Lome Convention) Decree 1976.

MADE at Lagos this 24th day of August 1976.

Lt.-GENERAL O. OBASANJO,
Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria

EXPLANATORY NOTE

*(This note does not form part of the above Decree but
is intended to explain its purpose)*

The Decree implements the provisions of Protocol No. 1 of the ACP-EEC Convention of Lome and appoints the Director, Department of Customs and Excise, as the certifying authority in Nigeria to certify goods exported from Nigeria under the Lome Convention. The Decree further provides sanctions in case of any fraudulent practice on the part of any exporter in completing forms relevant under the Convention.