



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 3 January 2013

**17350/1/12
REV 1**

ATO 168

NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Convention on Nuclear Safety - Working Group on Transparency and Effectiveness - Negotiating Directives

Delegations will find attached a revised text on the above for discussion at the next Working Party on Atomic Questions on 9 January 2013.

The changes to doc. 17350/12 are in **bold underline**; deletions are marked with ~~strikethrough~~.

It is recalled that the current negotiating directives for the 2nd Extraordinary Meeting of the Convention held in Vienna from 27 to 31 August 2012 are set out in doc. 12753/12.

COUNCIL DECISION

of

~~issuing directives to the Commission for the negotiation of the review of the Convention on Nuclear Safety~~

[...]

ANNEX

NEGOTIATION DIRECTIVES

As the prolongation of their work, the Contracting Parties to the Convention have agreed, at the 2nd Extraordinary Meeting of the Convention held in Vienna from 27 to 31 August 2012, to establish a Working Group on Transparency and Effectiveness (hereinafter referred to as "the Working Group"), open to all Contracting Parties, with the task of reporting to the next review meeting on a list of actions to strengthen the Convention and on proposals to amend it, where necessary.

The Working Group will take into account the overall output of the 2nd Extraordinary Meeting, in particular the initial proposals to amend the Convention itself submitted by Switzerland and by the Russian Federation, as well as the agreed set of action-oriented objectives for strengthening nuclear safety and the proposals to change the Convention procedures which were not accepted and not implemented into the revised Convention procedures approved at the 2nd Extraordinary Meeting.

The Commission shall participate, on behalf of the Euratom Community, in the work, activities and discussions of the Working Group, in close cooperation with the Member States, with a view to achieving unity in their international representation, ~~without that preventing the Member States in exercising their right as Contracting Parties to make any amendment proposal to strengthen or to improve the Convention procedures or the Convention itself that they deem appropriate, while not being in contradiction with the following negotiation directives given to the Commission:~~

The Commission participation at the works of the Working Group shall take into account the outcome from the 2nd Extraordinary Meeting on ways to improve the Convention and its effectiveness based on the main lessons learned from the Fukushima Daiichi accident. Should the enhancement of the transparency and effectiveness ~~enhancement~~ of the Convention ~~is~~ be undertaken through new revisions to procedures and practices and through the implementation of its those provisions by the Contracting Parties (INFCIRC/571-572-573), the Commission shall participate in the discussions with a view to improving the Convention procedures and guidance documents:

- ~~Through~~ amendments to encourage Contracting Parties to consider reporting on all types of reactors within their national programmes;
- ~~Through~~ encouraging Contracting Parties to take into account the latest ~~international safety standards and in particular the~~ International Atomic Energy Agency's **(IAEA) safety standards; Safety fundamentals and requirements;**
- ~~Through~~ ensuring effective and coherent preparedness and response in case of an emergency or through initiating additional **amendments to current** instruments in complementing the existing Convention on Early Notification of a Nuclear Accident INFCIRC/335 and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency INFCIRC/336; this objective also includes assessments of risks and potential significant consequences, as well as enhancement of the internal and external cooperation and communication, especially between neighbouring countries;
- ~~Through~~ amendments to ensure the reinforcement of the functional separation between the competent authority and any other body or organisation concerned with the promotion, or utilisation of nuclear energy, in order to ensure **the independence of the competent authority.** ~~that the competent authority is effectively independent in its safety related decision making.~~
- ~~Through~~ ensuring an increased openness and transparency for all stakeholders, ~~in particular the safety competent authorities.~~

- Through encouraging the use of national and international peer review missions, including the IAEA missions, and the inclusion of reporting on the content and findings of review reports to further enhance the robustness of national reports and the existing peer review process, in particular addressing the results and the progress made by the Contracting Parties in implementing any findings ~~of the peer review~~ and future plans for follow up.

Concerning the amendments tabled by the other Contracting Parties to the Convention on Nuclear Safety itself, the Commission analyses them, **in close cooperation with Euratom Member States,** with a view to achieving the following:

- (1) To ensure that any amendments to the Convention are evidence-based.
- (2) To extend the scope of application of the Convention by providing for an enlarged definition of the term "nuclear installation" included in Article 20) of the Convention.

The definition of the term "nuclear installation" should be extended to two types of civil reactors excluding those intended to marine propulsion:

- research reactors;
- mobile reactors.

- (3) To update the Convention in line with the latest **IAEA safety standards;** ~~international safety standards (such as the International Atomic Energy Agency Safety Fundamentals), considering to foster incentives for their use in implementing the obligations of the Contracting Parties under the Convention on Nuclear Safety in practice; a number of Articles of the Convention could be affected by this review and especially Articles 14 to 19 of the Convention;~~

- (4) To ensure effective and coherent emergency preparedness planning and information exchange systems (including information about **national plans** ~~procedures~~) as well as emergency response, supplementing the existing provisions of Article 16 of the Convention on emergency preparedness; this objective includes enhancement of the internal and external cooperation and communication, especially between neighbouring countries;

(5) To ensure increased openness and transparency for all stakeholders;~~in particular the safety competent authorities.~~

(6) To strengthen **use of** the peer review mechanism which would enhance the existing review process, in particular as regards the content and the findings in the national reports;

During the discussions, the Commission, in close cooperation with Euratom Member States, takes care to ensure the compatibility of amendments proposed to the text of the Convention, or to the Convention procedures and practices, **or any other proposal by the working group** with the objectives and provisions of the Treaty and secondary legislation.

The Commission shall present to Contracting Parties the associated Euratom legislative framework and in particular the provisions of Directive 2009/71/Euratom.

~~In addition to the amendments to the Convention itself and the revision of the CNS procedures and guidance documents, the Commission could consider other means to resolve the possible issues to be discussed by the Working Group.~~