



**COUNCIL OF
THE EUROPEAN UNION**

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**ATO 3
ENV 13**

OUTCOME OF PROCEEDINGS

from: Working Party on Atomic Questions
on 6 January 2012

Subject: - Presidency's work programme
- Commission's work programme
- Proposal for a Council Directive laying down the requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption
- Proposal for a Council Directive laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation

1. Presidency's work programme

The Chairman outlined the work programme of the Danish Presidency.

From the internal point of view the Presidency's main priorities will be:

- Stress tests (track 1 on nuclear safety) and follow-up of Track 2 (Nuclear Security, developed by the Ad Hoc group on Nuclear Security);
- Basic Safety Standards Directive;
- Financial Assistance to Decommissioning;
- Instrument for Nuclear Safety Cooperation;
- Radioactive Substances in Water Directive (finalisation after receiving the EP opinion);
- Regulation on food/feedstuffs following a nuclear accident (doc. 9200/10 - Recast);
- Follow-up of the following fora:
 - o ENSREG;
 - o WENRA;
 - o Forum on Nuclear Energy: (next meeting in Bratislava, 14-15 May 2012).
- Follow-up of the discussions on a European solution for ensuring mid and long term security of supply of Mo-99;
- Follow up of the Liaison Committee's meetings (HLLC and LLLC) with the IAEA.

Besides the above, various reports will be considered and the Presidency will deal with other subjects as they arise from the Commission programme.

On the international front the WPAQ will continue to follow dossiers:

- Euratom - Canada: Finalising a new Euratom agreement with Canada;
- Euratom - South Africa: Finalising a new Euratom agreement with South Africa (proposal expected in January);
- Euratom - Russia: following Commission's negotiations with Russia;
- KEDO: renewal or termination of the agreement (current expires on May 31, 2012);
- Protocol amending the 1960 Paris Convention on Third Party Liability: ratification processes will be kept under review;
- CPPNM ratification: expected to be completed by all Member States and Euratom before the summer;
- Preparations for the extraordinary meeting of the CNS Review Conference and possible mandate for amending the CNS.

2. Commission's work programme

The Commission's representative outlined the following elements, which largely support the Presidency work programme:

- Follow-up of March Mandate of European Council on Stress Tests:
 - Stress tests – peer review process;
 - Final report on the stress tests;
 - Review legislative framework on nuclear safety.
- Implementation of the Nuclear Safety and Waste Management Directives;
- Revision and consolidation of the Euratom Basic Safety Standards (ongoing);
- Council Regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia;
- Council Regulation establishing a Community system for registration of carriers of radioactive materials;
- Drinking Water Directive - Proposal under Euratom Legal Basis;
- Harmonisation of design licensing;
- International relations:
 - Euratom - Australia agreement. Entry into force and publication;
 - Euratom - Canada agreement. Finalising agreement;
 - Euratom - South Africa agreement. Starting negotiations within the Council and finalising agreement;
 - Euratom - Russia agreement. Negotiations with Russia;
 - Euratom-China: proposal for a mandate if Chinese interest confirmed;
 - Euratom-South Korea: a mandate could be proposed if Korean interest confirmed;
- Preparations for the extraordinary meeting of the CNS Review Conference and possible mandate for amending the CNS;
- Finalisation of Euratom ratification process of the CPPNM;
- 4th Review meeting of the Joint Convention (to be held in May 2012);
- PINC, as part of the Energy Roadmap 2050 and of decarbonisation plans;
- Regulation on food/feedstuffs following a nuclear accident (doc. 9200/10 - Recast);
- Proposal for Initiative on Supply of Radioisotopes (establishment of an Observatory);
- KEDO: recommendation on renewal or withdrawal of the membership (in May 2012);
- Follow up of the Liaison Committee's meetings with the IAEA.

In reply to SE, the Presidency noted that safety related aspects of the INSC will be addressed at the WPAQ, while financial aspects will be dealt with by the relevant working party (budget/finance).

In reply to FR/UK, the Commission's representative assured that the Commission will continue reporting progress on Stress Tests to the WPAQ, and that new proposals on nuclear safety could be considered only after completion of public consultations and peer review process. He also noted that work on harmonisation of design licensing will involve ENSREG and public consultations.

In reply to EL, the Commission's representative noted that involvement of neighbouring countries in the Stress Tests process depends on the partners' level of interest. Ukraine and Swiss are fully involved in the Stress Tests process, Turkey and Belarus have only plans to build NPPs, Armenia is setting up a framework to finance and to undertake Stress Tests exercise, Russian Federation shown interest in the exercise and signed a political declaration with the Commission, while process in Croatia is related to work on Slovenian side.

In reply to SK, the Commission's representative noted that the existing regime for the third party liability could be one of the possible issues to be addressed when reviewing the legislative framework on nuclear safety. It should be noted that some Member States are party either to Vienna or Paris Conventions, while some are not party to neither. Regime for damage compensation may have an impact on competitiveness in the internal market.

3. Proposal for a Council Regulation establishing an Instrument for Nuclear Safety Cooperation

- Presentation by the Commission and exchange of views
doc. 18450/11 ATO 159 RELEX 1328 PESC 1642 FIN 1043

The Commission presented its Proposal for a Council Regulation establishing an Instrument for Nuclear Safety Cooperation, which was adopted and sent to delegations on 9 December. Delegations were reminded that the Council will have to ask the European Parliament's opinion before it can adopt this Council Regulation.

This Regulation is the only instrument providing direct support for the European Union's external policies in the area of nuclear safety, waste management and safeguards. It will replace Regulation 300/2007 of 19 February 2007, which expires on 31 December 2013.

The Commission's representative recalled that the new Proposal is prepared aiming at simplification of the instrument and taking into account lessons learned, including international developments. The instrument focuses on three basic areas of priority.

The proposal follows closely the current INSC with some changes introduced:

- Scope of the Regulation is extended to all third countries, consolidating also pre-accession support and the stability instrument;
- Articles of horizontal nature were deleted as they will be covered by a horizontal Regulation establishing common implementation rules for external relations financing instruments (doc. 18725/11). This is in particular the case for Implementation-related provisions (Title III);

- Criteria for cooperation and priorities for the selection of projects are provided in an Annex, which largely follows the current INSC with one procedural change that the Annex can be amended by comitology instead of having to revise the legal act itself. This responds to criticism about the excessive rigidities of the current INSC.

The Commission's representative noted that it will work more closely with the national experts and the ENSREG group in the implementation process.

In reply to further questions from CZ/FR/DE/LT/SK/IT/AT/NL/BE/UK, the Commission's representative noted:

- The Commission is proposing seven instruments within the context of the Multiannual Financial Framework (MFF) and, in order to simplify the regulatory environment and facilitate the availability of Union's assistance to partner countries, the Commission decided to transfer horizontal articles of each Regulation to a horizontal Regulation.
- Scope for cooperation: the Commission continue to work with 4-5 countries from the TACIS programme, but have now also extended cooperation to other countries. New partner countries should demonstrate their clear interest in order to start successful cooperation.
- Pre-accession support will continue, focusing mainly on Turkey.
- In order to avoid a double legal basis, only parts related to conventional issues under safeguards were transferred from the Instrument for Stability (IFS), which also includes measures countering illicit trafficking of nuclear and radiological materials and border control.
- INSC instrument will follow one overall strategy where multiannual indicative programmes shall set out the priority areas and specific projects will be programmed for each year.
- Reporting requirements may need to be further discussed at the WPAQ. Requirements for evaluation of actions and evaluation and review of the instrument were not changed, but annual report requirement replaced by a bi-annual reporting.
- Cooperation with the IAEA is under discussion in order to work out arrangements to avoid duplication, ensure value for taxpayers money and proper use of available funds. While the IAEA has allocated funds for "stress tests", the Commission's priority is to ensure that Euratom's approach is followed on a global scale.
- Cooperation on nuclear safety should involve many partners, including G-8, the IAEA, and national countries.
- It should be noted that nuclear safety concerns not only nuclear power plants, but also include contaminated sites, mining industries, etc.
- While ability to amend the Annex by comitology instead of having to revise the legal act itself provides greater flexibility, the Commission is open to discuss which provisions should be moved to the operative part (Art. 1 and Art. 4).
- Performance indicators are set at the project and instrument level. Impact of these indicators is still under evaluation as very few projects are so far completed under the current INSC instrument.

The Presidency informed on the planned working method regarding this dossier, recalling that WPAQ will deal only with the safety related issues, while financial matters will be addressed by the Budget or Financial Counsellors working party and horizontal programming provisions will have to be consistent with what comes from the horizontal Regulation (18725/11).

Delegations were invited to provide written comments by 16 January. On this basis, the text could be revised with a view to continuing discussions at the next WPAQ meeting on 25 January.

4. Proposal for a Council Directive laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation

- Exchange of views on issues linked to natural radiation, appearing in Chapter VI, VIII together with relevant annexes: NORM industries; Building material; Radon.
doc. 14450/11 ATO 112 SOC 791 SAN 183
DS 1739/11

The Commission's representative indicated that ECOSOC opinion is expected in February 2012 and, based on a preliminary draft, should contain no changes to the Commission's proposal.

The Presidency invited to start discussions Article by Article, starting with the first chapter, noting that article such as scope and definitions will have to be revisited as the work progress.

The Commission undertook to provide a draft Euratom BSS table of correspondence with a disclaimer that it should serve as a background document to allow easy comparison of the text in the Commission Proposal COM(2011)593 with requirements in existing Council Directives and that the document may contain typing errors and mistakes.

The Commission's representative invited discussions to focus on identifying which are the issues that need to be discussed in detail later on.

Some delegations reiterated their preference to delete all references to "environment". Delegations were invited to come back to this issue once the opinion of the Legal Service and, possibly, the forthcoming IRCP recommendation on this issue are available.

Diverging references to 'member of the public', 'general public', 'man', 'human body', etc. should be clarified and harmonised in the whole text.

Reference to the Code of Conduct on the Safety and Security of Radioactive Sources may be added in a recital or an explanatory memorandum, as this is an IAEA instrument which cannot become directly applicable in the Euratom framework.

Delegations made the following comments:

- Art. 1(2), add "possible" before "exposure of man".
- Art. 1(3), delete reference to "security", as security in this context should not mean 'security of sources'. An alternative would be to expand definition of 'safety', including reference to safety control of the physical containment of sources.
- Art. 2(1), add reference to "as set out in Art. 1(2)".
- Art. 2(2)(a), delete reference to 'shipment' and replace 'material' with 'substances'. The Commission's representative recalled that HASS Directive covered shipment of sources from one owner to another.
- Art. 2(2)(b), one suggestion was to keep the text of the existing Directive; another proposal was to avoid an explicit reference to '5 kV' and to add a reference to 'emitting energy and ionising radiation'.
- Art. 2(2)(c)(i), it should be clarified if passengers are covered or not by this provision.
- Art. 2(4), add reference to "as set out in Art. 1(2)".
- Art. 3, clarify reference to "naturally" or retain text of the existing Directive.

- Art. 4, 'Definitions', the Commission's representative noted that current definitions are either unchanged or amended in line with the international developments. Besides, on the advice of legal service, definitions are no longer in an alphabetical order.

Delegations made the following comments on definitions:

- List definitions in an alphabetical order;
 - Add reference to 'unsealed sources' in definitions 11 and 88;
 - Cover category B workers in definition 30;
 - Further discuss and clarify definitions 10, 31, 44, 53, 81;
 - Reference required level of expertise in definition 42;
 - Use definition from the Waste Management Directive in definition 62. Commission's representative noted that the scope of WM Directive is very different and a different definition for 'radioactive waste' might be justified.
- Art. 5, reasoning to delete any reference to 'economic factors' should be further explained.
 - Art. 5(a), text could be further revised.
 - Art. 5(b), concepts of 'as low as reasonably achievable' vs. 'optimisation' should be further clarified.
 - Art. 5(c), explain reference to 'all regulated radiation sources'.

Section 1, 'Tools for Optimisation', 'diagnostic tools' are missing in this section.

The Presidency concluded by inviting delegations to send written comments on the chapters discussed, while also welcoming comments on any other part of the proposal.

The WPAQ would continue discussions of the text at the WPAQ meeting on 25 January.

5. Other business

- Euratom - US Nuclear Cooperation Agreement: the Commission informed that it was agreed to have a formal meeting of the Joint Technical Working Group in Luxembourg end of February 2012. Thus, prior to the formal meeting with the US, the Commission seeks the views of concerned member states on the HEU supply issue and the issue of physical protection visits. To this end, the Commission invited to a meeting to be held on 12 January.
- HLLC meeting on 11 January 2011: Shortly before the meeting a non-paper was circulated to delegations, addressing an issue Euratom would like to raise with the IAEA and for which they would like MSs support namely "How could the IAEA make better use of Euratom safeguards system?". Following a background section its operative paragraph essentially states that "The EU MS are fully supporting the initiative of having the IAEA exploring the practical ways of making more extended use of the verification results of the Euratom Safeguards System". This approach would contribute to making better use of limited resources and recognising the specificities of Euratom safeguard system. Member States were invited to provide their reaction to this statement of principle by 10 January noon so that some feedback is available in time for 11 January.

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The next WPAQ meetings will take place on **25 January, 22 February, 23 March, 13 April, 21 May, and 6 June.**