



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 26 April 2012

8953/12

ATO 58

OUTCOME OF PROCEEDINGS

from: Working Party on Atomic Questions
on 13 April 2012

Subject: - Recommendation from the Commission to the Council authorising the Commission to negotiate renewal of the Agreement between the Euratom and KEDO

- Preparation for the Second Extraordinary Review Meeting of the Convention on Nuclear Safety, 27-31 August 2012, Vienna

- Proposal for a Council Regulation establishing an Instrument for Nuclear Safety Cooperation

- Proposal for a Council Regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia

- 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. Recommendation from the Commission to the Council authorising the Commission to negotiate renewal of the Agreement between the European Atomic Energy Community (Euratom) and the Korean Peninsula Energy Development Organisation (KEDO)

- Adoption of the text
doc. 8518/12 ATO 50 CONOP 69 EU RESTRICTED

On 23 March, the Commission presented a Recommendation for a Council Decision for the negotiation mandate between the Euratom and KEDO (doc. 7663/12) asking for a renewal of the Agreement between the Euratom and the KEDO.

Based on the comments received, on 11 April the Presidency distributed to delegations a revised draft proposal (doc. 8518/12) containing Council Decision with attached Negotiating Directives and a Draft Joint Statement.

The revised text foresees annual automatic renewals until 31 May 2015 and provides a draft Joint Statement, which follows the language used in the Joint Statement made on the occasion of approving the Council Decision on the KEDO Agreement in 2007.

FR and the Commission indicated that the Presidency's text is acceptable.

FR/UK noted parliamentary reservations.

Pending the lifting of the parliamentary reservations, the Presidency announced that the proposal is endorsed by the WPAQ and will be submitted to Coreper/Council for adoption as an I/A item afterwards.

2. **Convention on Nuclear Safety, 27-31 August 2012, Vienna**

- Preparation for the Second Extraordinary Review Meeting of the Contracting Parties
- = Presentation by the Commission of the Euratom Report under the CNS

During the 5th Review Meeting of the Convention on Nuclear Safety (CNS), held in Vienna in April 2011, the Contracting Parties in attendance agreed to hold an Extraordinary Meeting of the CNS in accordance with Article 23. The Extraordinary Meeting will be conducted as a focused review meeting. To support this Extraordinary Meeting, a short and concise National Report will be developed by each Contracting Party by topic, rather than by individual articles of the Convention.

The Euratom's draft report was circulated to delegations on 29 March. The Commission presented its content and noted that the deadline for submitting the report to the IAEA is 13 May. Delegations were invited to provide their comments by 20 April.

The Euratom report is short and concise, as Euratom has no installations managed under the CNS scope. On substance, the draft report covers the main topics raised in the wake of the Fukushima accident and what has been done in the EU, including "stress tests".

The Commission informed that it is planning to organise a side event at the CNS review meeting to present a final EU "stress-tests" report.

In reply to LT, the Commission's representative noted that shared commitment to carry out safety reassessments by the end of 2012 will be reviewed at the next meeting with the EU neighbouring countries that are signatories to a joint statement of 23 June 2011.

FR welcomed the draft report and supported proposal for a side event to present results of the EU "stress tests". FR noted that the Community is only an observer on the 'security track' and the report should be revised accordingly. FR needs more clarification on the reference to work in progress to create a European Emergency Response Capacity of Member States' assets. It is too premature to talk about main objective of the emergency preparedness track and it is not in the powers of the Community to extend safety assessments to the EU neighbouring countries: one can only try to bring other countries into the process.

In reply to IT, the Commission's representative noted that it is premature to give more clear indications on considerations regarding legislative framework.

IT noted that further deliberations are needed in preparation of launching a track on emergency preparedness as it needs to assess how to involve other governing and regulatory agencies with competencies in this field. In regards of paragraph 3.3.2., IT noted that it seems the Commission is reporting on issues outside of its competence.

UK recalled that full consultation with the Member States is needed before deciding on legislative proposals.

LU representative, also as vice-president of the 2nd extraordinary CNS review meeting, reminded delegations and the Commission to fill in the agreed tables before submitting their reports.

Delegations were invited to provide their comments by 20 April 2012. Afterwards, Delegations will be invited to note the final Euratom report.

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

- Examination of the text

doc. 6095/2/12 REV 2 ATO 10 RELEX 83 PESC 108 FIN 71

Based on the oral and written comments received and further advice of the legal service, on 3 April the Presidency distributed to the delegations a revised draft proposal (doc. 6095/2/12).

The Presidency recalled that the WPAQ is discussing this instrument for the fifth time under the Danish Presidency and, as the consensus is emerging, should now aim to finalise discussions on this dossier at the WPAQ and provide a technically sound report to the WP dealing with the MFF.

The Presidency pointed out that it does not see any advantage of copying specific articles from other legislative acts into the INSC, instead of cross-referencing.

The Commission's representative briefed the WPAQ on the work progress in the working group dealing with the Common Implementing Regulation (CIR). The Commission's representative confirmed that it could accept the Presidency's proposal to remove all references to the INSC from the CIR, while keeping a reference to the CIR in the INSC Regulation (Article 4).

Whenever the CIR refers to the Union, it should mean Community under the Euratom Treaty. Reference in the CIR to the European Parliament should also not apply to the INSC. The Commission's representative believes that other provisions of the CIR should be applicable to the INSC to ensure that the same rules and procedures apply to all instruments. Thus, in the Commission's view only Art. 6, 10 and 11 of the CIR would not apply to the INSC.

Besides, the Commission's representative insisted to reinstate references to "nuclear safeguards" in the text.

Afterwards, delegations were invited to discuss this proposal Article by Article and the Commission to respond.

Recitals

p. 2-4

recital 6, the Commission's representative noted that "responsible and safe" is the term copied from the Directive on Nuclear Safety.

recital 11, in order to meet the concerns of FR/UK and comply with legal drafting requirements, SE proposed to delete reference to "should".

recital 16, the Commission's representative noted that FoP WP agreed to move back reference to the EEAS to an Article.

Articles

p.5-7

Art. 1b(1)(a), UK proposed to delete "continuous".

Art. 1b(1)(c), BE/EI/AT requested to develop a more clear text.

Art. 1b(2)(b), FI objected to UK proposal to delete reference to "sunken radioactive objects and material at sea".

Art. 1b(2)(d), BE/FR/CY/IT and the Commission requested to reinstate this paragraph. The Presidency suggested to combine this paragraph with the last paragraph.

Art. 1b(2), last para., UK proposed to replace "know-how" by "knowledge".

Art. 1c(1), BE suggested to replace "specific indicators" by "essential indicators".

Art. 1c(3), BE suggested to delete reference to "development cooperation".

Art. 1c(4), BE/FR supported to keep reference to ENSREG, while IT/DE/ES requested to have at least a reference to ENSREG's role in a recital. The Commission maintained its position that an obligatory consultation with the ENSREG is not an appropriate requirement.

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Art. 2(1), the Commission's representative suggested to delete reference to "which includes specific sections ...".

Art. 2(2), BE, supported by IT, proposed to add text on "the added value of cooperation, and how to avoid duplication...". BE proposed to replace "main partner countries" by "third countries".

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Art. 3(2), the Commission's representative suggested to replace "rules" by "guidelines".

Art. 3(3), FR, supported by BE, suggested to add "a request of and on" in the first sentence. CZ/FR proposed to refer also to work programmes of other international organisations in the second sentence and FR proposed to replace "in the field of nuclear safety and waste management" by "in the fields set out in Article 1a".

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Art. 3a(1), FR requested to set out that action programmes are adopted in close cooperation with the Member States.

Art. 3a(2), CZ requested further clarification between the use of 'measures', 'projects', and 'actions'.

Art. 3a(3), CZ/BE/UK requested further clarification on whether 20% of the initial budget refers to budget of individual projects or the overall budget of the INSC instrument. CZ also requested to set an obligation to inform the INSC committee.

Art. 3a(5), CZ requested to set the period at 6 months.

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Art. 4, FR, supported by BE, would prefer to have the INSC as a more independent text from the CIR. FR proposed to add reference to Art. 3, delete reference to Art. 12 and 16 of the CIR, and copy Art. 8 and 9 of the CIR into the INSC.

Art. 6, FR/BE maintained their reservation on the use of a committee procedure in this Instrument and cross referencing Regulation (EU) 182/2011.

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Art. 9, AT/BE/DE requested to introduce an end date for the Instrument.

Annex

p.13-16

BE suggested to limit the scope from 'worldwide' to 'emerging' world in the chapeau.

FR suggested to replace 'will' by 'would' in second point of para. 1.

NL/BE maintained their request to delete reference to 'have taken steps demonstrating a firm undertaking to accede to such conventions' in fifth point of para. 1. In reply to LT/NL, FR noted that second last sentence of this point is useful and should be retained in the text.

BE suggested to delete reference to 'beneficiary' in sixth point of para. 1 and cautioned that the last point of this para. might be in contradiction with the Euratom Treaty.

FR proposed to delete section on 'priorities', while BE proposed to move this section before paragraph 2.

The Presidency announced that the comments received will be consolidated into a revised text with a view to pass it as an acceptable compromise to the relevant group dealing with the financial matters.

4. Proposal for a Council Regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia

- Examination of the text
doc. 6094/2/12 REV 2 ATO 9 CADREFIN 60

Based on oral comments made at the last WPAQ meeting, written comments received from BE/AT/DE/BG/LT/SK, and further advice of the legal service, on 10 April the Presidency distributed to the delegations a revised draft proposal (doc. 6094/2/12).

The Presidency stated that the aim of the meeting is to finalise discussions on this dossier at the WPAQ and report to the WP dealing with the MFF.

The Presidency identified key concerns to be addressed:

- Duration of the assistance: LT/SK requested to extend implementation period from 2017 to 2020 for SK/LT programmes.
- Legal framework: the current legal basis provides simplification of the procedure and limits the EP role to the one foreseen under the Euratom Treaty (opinion). The CLS is preparing a reply to the LT question.
- Ex ante conditionalities (art. 4).

Afterwards, the Presidency invited delegations to go through the text article by article and recitals.

Recitals

p. 2-7

recital 4a: while NL suggested to replace "exceptional" by "important", LT delegation, supported by the Commission, pointed out that the actual text used in Protocol No. 4 should be retained in this recital.

recital 4b: SK asked to retain the deleted part of the recital.

recital 4c: BG supported Presidency's text.

recital 5: LT asked either to delete the last sentence or to clarify that it refers only to the instruments for the period of 2007-2013.

recital 6: The Commission's representative pointed out that the continuing Union's commitments are set in Protocol No 4 concerning Ignalina programme.

recital 6a: BG/SK requested further explanation of this recital.

recital 7, the Commission, supported by BG/LT, requested to delete reference to "provide added value to the region and the countries concerned". SK, supported by LT/BG, requested to add reference to the EU's support solidarity.

recital 13a, DE/BG/SK requested to clarify this recital. The Commission's representative proposed to clarify that high level of co-financing refers to the Union financing.

Articles

p. 7-8

Art. 1, LT requested to keep "further" in brackets until CLS provides comments on the interpretation of seamlessly continued programme according to commitment set in Protocol No. 4.

Art. 2(2), LT objected to AT proposal to delete "main" in the chapeau. BG requested to delete reference to "including through selecting an appropriate container for the type of waste" in 3rd intends of paragraphs (a), (b), and (c).

Art. 2(3), several delegations requested to clarify reference to "operational safety". DE proposed to replace it by adding "during a transitional period", which was objected by LT. The Commission's representative proposed to replace "operational" by "shutdown".

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Art. 3(1), within the currently foreseen budgetary amounts, it was suggested, with a reservation from BE, to extend the Programmes period for Lithuania and Slovakia to 2020. BE recalled its written proposal for a new text to be added after the first sentence.

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Art. 4(1)(a), BG/LT/SK, supported by HU, objected to this conditionality.

Art. 4(1)(b), LT suggested to require to submit to the Commission a strategic decommissioning planning document. LT/BG suggested to limit the required period of financing plan to 2014-2020. The Commission's representative requested to add reference to "national" funding sources.

The Commission's representative recalled report of the European Court of Auditors, which was supported by the European Parliament, and the need to be pro-active in meeting those recommendations given the budgetary powers of the European Parliament.

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Art. 4(2), LT requested to use examination procedure for deciding on suspension of the Union financial support. FR requested to keep Council involved, and at least keep informed, on these decisions. The Commission's representative noted that comitology procedure could be used and ensured that the Member States shall be properly involved in every step of the procedure.

Art. 5a(2), "evaluation report" should be replaced by "progress report".

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Art. 5a(3), NL inquired who will prepare "Joint annual work programmes".

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Art. 8(1), BG/SK requested to clarify the text by referring to "beneficiary Member States". The Commission's representative requested to move back to Art. 3(2) sentence on "Based on the results of this assessment,..." and defended reference to "distribution amongst programmes" as providing flexibility to use the whole financial envelope even in case all or part of Union assistance is suspended for one of the beneficiary countries. BG maintained a scrutiny reservation on this sentence.

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Art. 8a, the Commission's representative noted that it is not feasible to establish a final evaluation report before December 31, 2021. The Commission is in principle not against establishing a second progress report by the set date, but it will have in any case to make an ex-post evaluation report after completion of the Programme.

Art. 9, FR entered a scrutiny reservation on this article and the use of comitology, for which confirmation from the CLS has been sought..

The Presidency announced that the comments received will be consolidated into a revised text with a view to pass it as an acceptable compromise to the relevant group dealing with the financial matters.

5. 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 Chapter VII
doc. 14450/11 ATO 112 SOC 791 SAN 183

The Presidency invited to continue discussions Article by Article on Chapters VII and the delegations made the following comments:

CHAPTER VII

- Art. 54(1), some delegations reject the concept of "well-being", while others suggested cases when this concept could apply. The Commission's representative argued that this concept should be retained.
- Art. 54(4), provisions are not clear.
- Art. 55(1), delete "imaging" as it is not the only available method.
- Art. 56(3), reference to "informed consent" is not necessary.
- Art. 57(1), should require tailoring this requirement to each type of patients.
- Art. 57(3)(a), reference to "expert shall be closely involved" is vague and unclear.
- Art. 59(1)(a), reference to "strict surveillance" is not clear.
- Art. 59(3), criteria could be developed at the European level.
- Art. 59(5), add requirement for "all the parameters required for assessing patient doses". A reasonable timeframe is needed to bring equipment in line with new requirements. More clarity on what equipment might be needed.
- Art. 60(1), add text "and which is especially adapted".
- Art. 62(d), add requirement to inform the patient about the results (also in para. (e)). Reference to "significant events" is not clear.
- Art. 62(e), need to discuss further requirements to inform.

On Art. 57, the Commission noted that guidelines should be prepared before end of 2012.

The Presidency concluded by inviting delegations to send written comments on Chapter VII, while also welcoming comments on any other part of the proposal. The Presidency hopes to give some suggestions on topics for expert groups and expects to have a (partial) revision of the first chapters of the draft BBS prepared for the WPAQ meeting on **21 May**, where a presentation of the CLS's contribution on chapter IX (Environment) is also expected.

6. Other business

- Co-sponsorship of the international Basic Safety Standards (IBSS), it was confirmed to the WPAQ that Euratom's co-sponsorship of the IBSS would not mean that they would become binding within the Euratom legal framework: at that basis the Commission could proceed to the co-sponsoring of the IBSS.
- 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 (doc. 8483/12): The Commission's representative informed that the ECOSOC's opinion was received on 27 October 2011. The official proposal was adopted by the Commission on 28 March 2012. However, there was no legal basis to take into account the agreement (doc. 18744/11) reached on the preliminary proposal by Coreper on 15 December 2011. This does not imply that the Commission will not follow the agreement of December 2011. The new technical elements that the Commission requested to retain are the deleted Table B in Annex II and added reference to Regulation (EC) No 852/2004 in Art. 5 and recital 8. The WPAQ shall endorse the final proposal, following the text agreed on 14 December 2011, with the above mentioned new technical provisions, at one of its meetings after the EP opinion is received and send it to Coreper/Council as an I/A item note for adoption.
- Euratom - South Africa: the Presidency noted that silence procedure was not broken by the set deadline on 4 April and the Commission was informed that the WPAQ has now reached an agreement on the recommendation. The Commission informed that the revised text was sent to its counterpart in South Africa for confirmation. Afterwards the Coreper/Council will be invited to adopt the recommendation as an I/A item.
- Euratom - Australia: The Commission's representative informed that the administrative arrangements are foreseen to be established by the end of May and are currently undergoing inter-service consultation at the Commission. These administrative arrangements will update existing provisions, but would also foresee transfers in both directions, although Community imports will remain predominant. Accountancy obligations on MOX will be reflected in the administrative arrangements once an agreement is concluded in Canada-US-Australia-EU talks. The Commission shall keep the WPAQ informed on any amendments.

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The next WPAQ meeting will take place on **21 May**.