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COMMUNICATION FROM THE COMMISSION

**Summary of Commission (DG TREN) activities carried out during 2006 in
implementation of Title II, Chapters 3 to 10, of the Euratom Treaty**

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Summary of Commission (DG TREN) activities carried out during 2006 in implementation of Title II, Chapters 3 to 10, of the Euratom Treaty

1. INTRODUCTION

This Communication describes the activities carried out by the Directorate General for Energy and Transport (DG TREN), Directorate H (Nuclear Energy) and Directorate I (Nuclear Safeguards), as part of the Commission's activities under the Euratom Treaty (hereinafter "the Treaty"). DG TREN has responsibilities for the implementation of the majority of the provisions of the Euratom Treaty Title II, (Chapters 3 to 10). The Commission's work programme is based on its obligations under that Treaty covering Nuclear Safety, Investment, Joint Undertakings, Safeguards and External Relations. This communication also includes a summary of the activities of the Euratom Supply Agency (ESA)¹. Activities related to research and research policy, which are the responsibility of DG RTD² and JRC³, are not covered. The preparation and implementation of the TACIS programme falls under the responsibility of both DG RELEX and DG AIDCO⁴, PHARE is managed by DG ELARG⁵. Euratom loans attribution is managed by DG ECFIN⁶. The work of two on-site laboratories (at La Hague and Sellafield) in reprocessing plants is supervised by JRC and financed by DG TREN.

2. POLICY AND LEGAL DEVELOPMENTS

2.1. Status of Commission Legislative Proposals

2.1.1. *Nuclear Safety and Management of Radioactive Waste and Spent Fuel*

In the framework of the debate on energy within the EU, the Commission prepared a "Nuclear Illustrative Programme"⁷, based on art.40 of the Treaty. It provides an economic analysis of the role of nuclear in the energy mix and its relative competitiveness. It highlights the extent of the contribution of nuclear energy to the security of supply and the fight against the CO₂ emissions as well as the conditions of societal acceptability deemed necessary for the continued use of nuclear energy. Coherent proposals for action are presented: in particular the establishment of a High Level Group on nuclear safety and waste management and a Nuclear Forum to foster the dialogue.

¹ Annual Report available on request or at http://europa.eu.int/comm/euratom/index_en.html

² DG RTD: Research

³ JRC: Joint Research Centre

⁴ DG RELEX: External Relations, DG AIDCO: Europe Aid and Cooperation

⁵ DG ELARG: Enlargement

⁶ DG ECFIN: Economic and Financial Affairs

⁷ COM(2006) 844

No progress was made on the two revised Commission's proposals for Council Directives on the safety of nuclear facilities and the safe management of spent fuel and radioactive waste, submitted to Council in September 2004⁸. Whereas ten Member States out of twenty-five were in favour of these modified proposals, all successive Presidencies refused to re-examine them.

Instead, an "Action Plan on Nuclear Safety and the Safe Management of Spent Fuel and Radioactive Waste" was set out, based on the Council Conclusions of June 2004. Its Working Party on Nuclear Safety prepared a report⁹. The main outcome of the report is to suggest the creation of an EU expert group in nuclear safety, a proposal taken up by the Nuclear Illustrative Programme and by the Council Presidency.

A Eurobarometer survey¹⁰ revealed that citizens consider routine operation of nuclear power plants safe, but remain concerned about issues such as plant security, disposal of radioactive waste and possible misuse of radioactive materials. Most of them wish EU wide legislation on nuclear safety and to facilitate cooperation and exchange of best practices among experts.

2.1.2. *Shipments Directive*

The Commission's proposal on the supervision and control of shipments of radioactive waste and spent fuel¹¹ was adopted by the Council.

This new Directive will replace Directive 92/3/Euratom¹² containing rules applicable for authorising the movement of radioactive waste from one country to another. It extends these rules to spent nuclear fuel while making them easier to apply and more consistent with other EU and international provisions.

The Directive has to be transposed by Member States by 25 December 2008. By then, the Commission, assisted by an Advisory Committee, shall revise the standard form to authorise shipments.

2.1.3. *Decommissioning in Ignalina and Bohunice*

The Council adopted a Regulation on the implementation of the Decommissioning Assistance Programme for Ignalina¹³ covering 837 M€.

A similar Regulation for Slovakia¹⁴ covers 423 M€.

Both Council Regulations offer a new legal base for the Decommissioning Assistance Programme provided by the EU over the financial perspective 2007 – 2013, and require the creation of a management committee to assist the Commission.

⁸ COM(2004) 526 of 8.9.2004.

⁹ CS/2006/16737-1 of 15.12.2006

¹⁰ Report published in February 2007: http://ec.europa.eu/public_opinion/archives/ebs/ebs_271_en.pdf

¹¹ Council Directive No 2006/117/Euratom of 20.11.2006; OJ L 337/21, 5.12.2006.

¹² Council Directive No 92/3/Euratom of 3.2.1992; OJ L 35, 12.2.1992.

¹³ Council Regulation (EC) No 1990/2006 of 21.12.2006; OJ L 411/10, 30.12.2006.

¹⁴ Council Regulation (Euratom) No 549/2007 of 14.5.2007; OJ L 131, 23.5.2007.

2.2. Implementation of legislation – Infringements

Twenty infringement cases were opened for non communication of the transposition measures of the Council Directive on the control of high-activity sealed sources (HASS) and orphan sources¹⁵. Twelve of them were closed after notification of the relevant measures. A reasoned opinion was issued in four cases; one case was referred to the Court of Justice. One complaint on the national transposition measures was registered.

Five letters of formal notice were sent to the new Member States that still did not adhere to the tri-partite agreement INFCIRC 193¹⁶, as required by their Act of Accession to the EU.

Under art.83 of the Treaty (failure of the operator of a nuclear installation to satisfactorily fulfil its obligations), the Commission issued a warning¹⁷ to one operator, based on shortcomings in the accounting and reporting procedures presently in place.

On 9 March 2006, the Court of Justice dismissed the Commission's application for the Tireless case¹⁸. That case was opened following a series of complaints originating in the repair operations of the Tireless submarine (UK) taking place in Gibraltar in 2000-2001. The Court ruling expressly declared that the use of nuclear energy for military purposes falls outside the scope of the Treaty provisions and its secondary legislation.

2.3. 50 years of Euratom Treaty

In preparation of the 50th Anniversary of the Euratom Treaty¹⁹, the Commission drafted a document and a publication which gave an overview of nuclear activities since 1958.

3. ENLARGEMENT

At the end of 2005, the Commission informed Bulgaria and Romania on their future obligations under the Treaty. In 2006, it started verification of the transposition of Euratom *acquis* in these two countries.

Following European Council conclusions²⁰, the Commission has continued to emphasise the importance of a high level of nuclear safety in the context of enlargement. Nuclear safety issues were taken into account in the "Monitoring report

¹⁵ Council Directive 2003/122/Euratom of 22.12.2003; OJ L 346, 31.12.2003.

¹⁶ Information Circular 193, Agreement between the European Atomic Energy Community, its non nuclear weapon Member States and the International Atomic Energy Agency in implementation of Article III (1) and (4) of the Treaty on the Non-Proliferation of Nuclear Weapons of 1977 as supplemented by the Additional Protocol to this agreement.

¹⁷ Commission Decision 2006/626/Euratom of 15 February.

¹⁸ Case 65/04 *Commission v United Kingdom*, 9 March 2006.

¹⁹ 25.3.1957.

²⁰ European Council conclusions of December 1998, Vienna, point 67.

European Council conclusions of December 1999, Helsinki, point 7.

on the state of preparedness for EU membership of Bulgaria and Romania"²¹. Special attention was paid to Bulgaria's commitment to the early definitive closure and decommissioning of reactors 3 and 4 of the Kozloduy Nuclear Power Plant (NPP). In accordance with the Accession Protocol of Bulgaria and Romania, these reactors were shut down on the 31 December 2006 while significant financial assistance, implemented through the "Kozloduy International Decommissioning Support Fund", is provided to Bulgaria.

Following the formal opening of accession negotiations with both Turkey and Croatia in October 2005, the analytical examination of the *acquis* ("screening") started. The Commission is due to adopt screening reports, containing recommendations whether to open negotiations on the Energy Chapter.

Special attention has to be given to Croatia on fulfilling its obligation of setting up a decommissioning fund for the NPP shared with Slovenia.

The Commission has also monitored the progress of the Former Yugoslav Republic of Macedonia (FYROM), as well as of potential candidate countries in the region of Western Balkans²² towards implementation of the European *acquis*. The respective Reports²³, highlight the need for improvements in nuclear safety and radiation protection.

4. GENERAL DEVELOPMENTS IN THE NUCLEAR FIELD WITHIN THE EU

4.1. Decommissioning, Waste Management and Transport

4.1.1. Decommissioning

The Commission has continued to follow the implementation of the Ignalina and Bohunice Programmes, working closely with the European Bank for Reconstruction and Development and the National Agency in Lithuania. In 2006 a total of 109 M€ was committed to the Ignalina Programme and 34 M€ to the Bohunice one. As foreseen in the Protocols of the Treaty of Accession, implementing rules for continued assistance in 2007-2013 are being finalised. According to the principles of management laid down in the Financial Regulations, the Commission has started a mid-term evaluation on the status of the Bohunice and Ignalina decommissioning assistance.

Following consultations with Member States experts, a recommendation on decommissioning funding was adopted in October²⁴ presenting different measures to ensure adequate funds are available when required for a safe decommissioning. A first assessment to which degree Member States provisions match the requirements of this Recommendation will be provided in the second Decommissioning Report to be published in 2007.

²¹ COM(2006) 549 final of September 2006.

²² Albania, Bosnia and Herzegovina, Montenegro, Serbia including Kosovo (under UNSCR 1244).

²³ COM(2006) 649 final of 8.11.2006.

²⁴ Commission Recommendation No 2006/851/Euratom; OJ L 330, 28.11.2006.

4.1.2. *Radioactive waste management*

- 6th Situation Report on Radioactive Waste Management

The sustainable long term management of high level waste and spent fuel is still not satisfactory. Some progress towards implementation of deep geological repositories can be noted. The Commission continues to encourage Member States to develop a long term management strategy for all categories of waste. Political decisions needs to be taken on high-active and medium-active long-lived waste in the majority of EU Member States with NPPs.

- A European Strategic Energy Technology Plan

In its communication "An Energy Policy for Europe"²⁵, the Commission gives an overview of aim, challenges and priorities of a European Strategic Energy Technology Plan. In particular, it points out that "the EU should maintain its technological lead in fourth generation fission nuclear reactors and future fusion technology to boost the competitiveness, safety and security of nuclear electricity, as well as reduce the level of waste".

4.1.3. *Transport of radioactive material*

The Commission transmitted to the Council and the European Parliament the fifth report of the standing working group on safe transport of radioactive materials in the EU²⁶. The report informs on the high level of transport safety and stresses the importance of the transport of radioactive materials for the smooth operation of several sectors of the economy. It collects information on the present and on the evolution of the sector and identifies possible subjects for a Community initiative.

Preparatory work started for the codification of the EU regulatory framework by harmonising safety and security procedures.

4.2. **Nuclear Safeguards**

4.2.1. *Safeguards inspections*

The Commission submitted to the Council its revised approach for implementing nuclear safeguards in the EU. This working document, "Implementing Euratom Treaty Safeguards", provides a framework for and outlines the principles of a revised approach. This has been subject of detailed consultation and consensus by Member States experts. It was finalised²⁷ in 2007 and will become the cornerstone for further developments in the safeguards area.

The Commission carried out its programme of safeguards controls bearing in mind the revised approach. The inspection effort increased slightly compared to 2005, as a result of new activities such as audits of the operators. The Commission was satisfied that in the territories of the Member States, nuclear materials were not diverted from

²⁵ COM(2007) 1 final of 10.1.2007.

²⁶ COM(2006) 102 final of 8.3.2006.

²⁷ SEC(2007) 293 (EU restricted)

their intended use as declared by the users and that the international safeguards obligations assumed by Euratom were complied with.

4.2.2. *Additional Protocols (AP)*

The Commission prepared reports on nuclear material related information under the AP for the EU-15, Estonia and Slovakia, and submitted them to the IAEA²⁸.

The Commission inspectors participated in the IAEA verification activities (complementary accesses).

4.2.3. *Nuclear Material Accountancy and Agreements*

The periodic reporting of Accountancy data on the basis of the received Accountancy reports to the IAEA was done, including the reports for the new Member States that acceded to the Euratom Safeguards Agreement.

The procedure for Slovenia's accession to the Safeguards Agreement and its AP was finalized²⁹. The procedure for Poland is also being finalised.

4.3. **Radiation Protection**

4.3.1. *Activities under articles 31, 35 and 37 of the Treaty*

Intensive preparation for the revision and recast of the Euratom Basic Safety Standards (BSS) started in close cooperation with the Group of Scientific Experts (GoE)³⁰. This revision is based on the Draft Recommendation of the International Commission on Radiological Protection (ICRP). The GoE met twice with the participation of IAEA, ICRP, and NEA as observers. It established Working Parties (WP) to deal with natural sources, medicine, exemption and clearance, and a graded approach to regulatory control under the co-ordination of a WP BSS.

The Commission supported the efforts to revise and harmonise the international BSS through close co-operation with different international organisations, participation in the Inter-Agency Committee on Radiation Safety, and as full member in the IAEA-hosted international Co-Sponsors' Secretariat.

In order to further the ALARA³¹ concept, networks were set up for occupational radiation protection in NORM³² and NDT³³ industries.

With respect to a better harmonisation and mutual recognition in the field of education and training the project on a EUTERP³⁴ network was started.

²⁸ International Atomic Energy Agency

²⁹ Date of Accession 1.9.2006.

³⁰ Art. 31 of the Treaty.

³¹ As Low As Reasonable Achievable

³² Naturally Occurring Radioactive Materials

³³ Non-Destructive Testing

³⁴ European Education and Training in Radiation Protection

The Commission services conducted eight verification missions under art.35 of the Treaty³⁵: one in Latvia, Cyprus, Malta, Slovenia, Portugal, Poland and two in Italy. The purpose is to provide an independent assessment on the adequacy of the monitoring facilities, their set-up and use, for:

- Liquid and airborne discharges of radioactivity from nuclear sites into the environment
- Levels of environmental radioactivity

These verifications have been conducted with due respect to subsidiarity. In few cases the findings pointed out the need for a better separation of functions within the Member State, for transparency of procedures, to strengthen national verification procedures. An added value of these verifications is that neighbouring Member States receive independent confirmation that installations discharging radioactivity into the environment are adequately monitored. For MT and CY, the verifications became an opportunity to set up national programmes and to implement the corresponding systems of environmental radioactivity monitoring on their respective territories.

The Commission published a Communication on the practical arrangements for the conduct of art.35 verifications in the Member States³⁶.

Under art.37³⁷, four Commission's opinions were adopted on plans for the disposal of radioactive waste submitted by Member States.

4.3.2. *Emergency preparedness*

There were no actual radiological emergency situations in 2006. The Polonium-210 event in the UK was followed by the Commission, but not considered as an actual international emergency situation.

The annual nuclear emergency exercise was hosted by Sweden at the Ringhals NPP. For the first time the exercise involved also the Commission's new internal emergency communication system ARGUS. The feedback on using this new tool was positive.

The technical basis of the emergency systems in the Commission was improved by installation of a new Uninterruptible Power Supply system and a new data exchange mirror server in the DG TREN emergency room in Luxembourg.

The Commission participated in the emergency preparedness workgroups of the IAEA, OECD and Council of the Baltic Sea States.

³⁵ Art. 35 requires that each Member State shall establish facilities necessary to carry out a continuous monitoring of the levels of radioactivity in the air, water and soil and to ensure compliance with the basic safety standards.

³⁶ OJ C 155/2 of 4.7.2006.

³⁷ Art. 37 requires the Commission to deliver its opinion (after consulting the group of experts) on all data sent by Member States on their plans on the disposal of radioactive waste if the implementation of such plans might result in the radioactive contamination of other Member States.

Croatia and Turkey are in the process of joining the Community early information exchange system for radiological emergencies (ECURIE³⁸). Preliminary contacts have been established also with the FYROM.

The functionality of the ECURIE system was subject to an internal audit. The results of the audit indicated that the system is operational and fit for purpose, and provided a few recommendations for further improvement.

4.3.3. *Foodstuffs*

A recast of the legislation on the radioactive contamination of foodstuffs simplifying the procedure for publishing the list of entry points in the Community started.

A study was started to update Commission's information basis on the potential radioactive contamination of specific foodstuffs originating from third countries.

WHO-FAO³⁹ Codex Alimentarius Commission: Codex Guideline levels for radionuclides in foods contaminated following a nuclear or radiological emergency for use in international trade were adopted in July 2006.

4.4. **Supply of nuclear materials**

The European Court of Justice ruled in joint cases C-123/04 and C/124/04 on the interpretation of uranium enrichment (product vs service). Accordingly, the Euratom Supply Agency (ESA) is to revise its policy on contract management regarding enrichment. New Statutes and a Financial regulation for the ESA have been prepared and were submitted to the Council for adoption.

Security of supply continues to be a central issue worldwide. More primary uranium production is needed. Higher prices have led to increased exploration and mining activity, but global uranium production decreased slightly in 2006 compared to 2005, due to problems occurred at various mines. Canada, Russia and Australia remain the largest suppliers of nuclear materials to the EU. While spot prices and new long-term contract prices have increased quite dramatically, the increase under existing long-term contracts has so far been moderate.

4.5. **Multilateral approaches to the fuel cycle**

The IAEA published earlier in 2005 a report entitled "Multilateral Approaches to the Nuclear Fuel Cycle". The first theme addressed states voluntarily renouncing their right to operate sensitive fuel cycle facilities (i.e. enrichment plant and reprocessing) in return for which they would receive some form of guaranteed supply of fuel cycle services. The second theme was mechanisms for placing sensitive fuel cycle facilities under some form of multilateral control.

Some EU countries (DE, FR, NL, UK), besides to the US and Russia, having enrichment technology, proposed different initiatives on the establishment of a standing multilateral mechanism at the IAEA.

³⁸ European Commission Urgent Radiological Information Exchange.

³⁹ World Health Organisation – Food and Agriculture Organisation.

The Commission has followed carefully these proposals and insists that in cases where EU countries or companies are involved in an international supply mechanism, their rights and obligations as well as those of Euratom under the Treaty, notably its chapter VI (Supplies), must also be taken into consideration.

5. INTERNATIONAL COOPERATION

5.1. Agreements with Third Countries

Euratom signed cooperation agreements in the peaceful uses of nuclear energy with Japan⁴⁰ and Kazakhstan⁴¹. The agreement with Japan, as well as the one with Ukraine⁴², entered into force on 20.12.2006 and 1.9.2006 respectively. The administrative procedure for the entry into force of the Kazakhstan agreement is ongoing.

Technical Talks between Euratom and the Russian Federation on a possible agreement in the field of trade in nuclear materials are ongoing.

5.2. International Conventions

5.2.1. Joint Convention

Euratom became a contracting party of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management on 2 January 2006. In May 2006 Euratom, represented by the Commission, participated in the Second Review meeting.

Euratom submitted its first report providing an overview of the activities in the area of radioactive waste and spent fuel management, such as ensuring compliance with the Euratom BSS, preparation of emergency plans.

5.2.2. Convention on the Physical Protection of Nuclear Material (CPPNM)

The Council⁴³ had authorised the Commission to negotiate amendments to the CPPNM with regard to matters covered by Community competence.

To achieve a more comprehensive physical protection of nuclear materials the amended CPPNM not only covers the materials as such, but also the relevant nuclear facilities. The CPPNM was renamed the Convention on the physical protection of nuclear materials and nuclear facilities.

The Commission tabled a "Proposal for a Council decision approving the accession of the Euratom Community to the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities"⁴⁴.

⁴⁰ Signed on 27 February 2006; OJ L 32, 6.2.2007.

⁴¹ Signed on 6 December 2006, COM(2006) 617 final.

⁴² Council Decision of 28.6.2005, COM(2003) 129 final, OJ L 261, 22.9.2006.

⁴³ COM(2005) 199.

⁴⁴ COM(2006) 518.

5.2.3. *Convention on Early Notification of a Nuclear Accident and Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency*

The instruments of accession⁴⁵ by the Euratom Community to these two Conventions were deposited with the IAEA on 14 November 2006, with entry into force on 14 December. The accession provides the Community with a firm basis for further development of the international radiological emergency preparedness arrangements.

5.2.4. *Inter-institutional Agreement on participation in International Conventions*

The Commission proposed an Inter-institutional Agreement on participation in International Conventions⁴⁶. After discussions in the Council, the proposal was turned into a set of non binding guidelines⁴⁷ for both institutions on how to cooperate to prepare review meetings of international conventions or amendment conferences of new conventions. These guidelines will be implemented for the first time on the occasion of the fourth review meeting of the safety convention in 2008.

5.2.5. *Paris Convention*

A Proposal for a Council Decision⁴⁸ authorising the Republic of Slovenia to ratify, in the interest of the European Community, the Protocol of 12 February 2004 amending the Paris Convention of 29 July 1960 on Third-Party Liability in the Field of Nuclear Energy, was adopted on 13.12.2006.

The objective of the proposal is to place Slovenia in the same position as those Member States that were authorised by Decision 2003/882/EC and Decision 2004/294/EC, adopted before Slovenia acceded to the European Union, so that Slovenia ratify that Protocol simultaneously with those Member States.

5.3. Cooperation with IAEA

5.3.1. *Communication on enhancing the status of the Euratom at the IAEA*

A Commission proposal to enhance the status of the Euratom Community within the IAEA was presented to the Council⁴⁹. Following initial discussions, Member States did not endorse to hold exploratory talks with the IAEA.

In order to foster an enhanced cooperation between the two institutions, preparatory work has started in the form of a "Charter" that covers all areas of work covered.

⁴⁵ Commission Decisions 2005/844/Euratom and 2005/845/Euratom.

⁴⁶ COM(2006) 179 final.

⁴⁷ Council document 13876/4/06 REV 4.

⁴⁸ COM(2006) 793 final.

⁴⁹ COM(2006) 121 final of 16.3.2006.

5.3.2. *Cooperation with IAEA*

The Commission administrated the “Community System of Accountancy and Control” in accordance with the safeguards verification agreements with the IAEA. Under these agreements, the IAEA carries out its inspections simultaneously with the inspection activities of the Commission, developing complementarities, whilst facilitating the implementation of international safeguards. The IAEA successfully met its verification objectives for the EU.

The Commission kept supporting the IAEA in its safeguards duties by making available technical equipment and providing expert training to the IAEA inspectors.

High-level discussions with the IAEA in the frame of the safeguards verification agreements were intensified. A reinforced cooperation between the Commission and the IAEA constitutes an important step towards promoting non-proliferation, nuclear safety and security, which are key priorities of the EU's external energy policy for the forthcoming years.