



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 25 June 2004

10823/04

**ATO 65
ENER 181
ENV 368**

“A” ITEM NOTE

from : Coreper
to : Council

Subject : Nuclear Safety and Safe management of spent fuel and radioactive waste
- draft Council conclusions

1. On 13 May last Coreper held a discussion on the Commission proposals for Council Directives (Euratom) setting out the basic obligations and general principles on the safety of nuclear installations and on the management of spent nuclear fuel and radioactive waste. Following this discussion the Working Party on Atomic Questions was mandated with developing Council conclusions on the above and reporting on its work in good time before the end of June.
2. Pursuant to this mandate the Presidency tabled draft conclusions which were agreed by Coreper on 23 June.
3. In light of the above, Council is invited to adopt the conclusions as set out at Annex A, as an "A" item, at one of its sessions and record in its minutes the statement set out at Annex B.

**Draft Council conclusions on nuclear safety and on the
safety of the management of spent nuclear fuel and radioactive waste**

Reaffirming the commitment of the Community and its Member States to a high level of nuclear safety and to the safe management of spent fuel and radioactive waste as reflected, in particular, in the existing Community legislative framework¹ adopted under the Euratom Treaty as well as in the relevant Council Resolutions and conclusions², and in the conclusions of the 2001 Laeken European Council³,

Stressing that any action should fully respect the provisions of the Euratom Treaty, including as regards the Community's competence and the Commission's right of initiative,

Recalling the Commission proposals for Council Directives (Euratom) setting out the basic obligations and general principles on the safety of nuclear installations and on the management of spent nuclear fuel and radioactive waste, as well as the opinions of the European Parliament and the Economic and Social Committee,

Reaffirming the importance of adequate financial resources to support the safety of nuclear installations throughout their life and during their decommissioning,⁴

¹ Including notably Directive 96/29/Euratom laying down basic safety standards for the protection of the health of the workers and the general public against the dangers arising from ionizing radiation; Directive 92/3/Euratom on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community; Directive 89/618/Euratom on informing the general public about health protection measures to be applied and steps to be taken in the event of radiological emergency; Directive 2003/122/Euratom on the control of high activity sealed sources and orphan sources. The ECJ judgement of 10.12.02 in case C-29/99 is also noted.

² In particular, Resolutions of 1975 and 1992 on “The technological problems of nuclear safety”, Resolutions of 1992 on the Action Plan on radioactive waste and of 1994 on the management of radioactive waste; conclusions regarding Special Report No 25/98 of the Court of Auditors concerning operations undertaken in the field of nuclear safety in Central and Eastern Europe and in the New Independent States; conclusions of 1999 on “The present situation and prospects for radioactive waste management in the Community” and conclusions of 2001 entitled “Towards a European strategy for the security of energy supply” in response to the Commission Green Paper.

³ Paragraph 59, which reads: “The European Council undertakes to maintain a high level of nuclear safety in the Union. It stresses the need to monitor the security and safety of nuclear power stations. It calls for regular reports from Member States' atomic energy experts, who will maintain close contact with the Commission”.

⁴ In this respect the interinstitutional statement recorded in OJ L 173, 2003, p. 56 highlights the importance of such resources.

the Council,

with a view to further improving nuclear safety and the safety of the management of spent nuclear fuel and radioactive waste

1. stresses that national responsibility for the safety of nuclear installations is the fundamental principle on which the regulation of nuclear safety and of radioactive waste management has been developed by the international community as endorsed by the Convention on Nuclear Safety and its Parties including the European Atomic Energy Community and reflected in the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management,
2. acknowledges that International Atomic Energy Agency's (IAEA) standards and approaches, as reflected notably in the IAEA Safety Fundamentals and Safety Requirements Series, constitute an internationally recognised framework which national safety requirements use as a reference level and to the improvement of which Member States have made considerable contributions, as well as to the work within other relevant fora such as the Nuclear Energy Agency (NEA) and the Western European Nuclear Regulators Association (WENRA),
3. notes with appreciation, in addition to the long-standing contributions of Member States in the various international fora, the intensive efforts in the Community framework put into considering ways and means to meet better the commitments to safety, including the work of the Working Party on Atomic Questions and of the ad hoc Working Party on Nuclear Safety (WPNS), the work done pursuant to the relevant Council Resolutions and through the Euratom Framework Research Programme on the safety of nuclear installations and on the management of radioactive waste. In this respect the contributions of expert groups, such as the Nuclear Regulators Working Group (NRWG), the Reactor Safety Working Group (RSWG) and the CONCERT Group, should be noted.
4. calls on Member States, who have not yet done so, to accede, as a matter of urgency, to the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management,
5. is of the view that instruments in this field should be developed following extensive consultations with stakeholders and, particularly in the field of harmonised safety approaches, should take account of the work conducted by national nuclear regulatory authorities in this respect,

6. urges Member States together with the Commission:
- to avail themselves in particular of the possibilities offered by the review meetings under the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management in 2005 and 2006 respectively,
 - to assess the results achieved under these Conventions, including at previous Conferences of the Parties,
 - to take stock of the outcome of the work conducted by national nuclear regulatory authorities in multinational fora, including in the WENRA framework,
- and on that basis
- to engage in a wide ranging consultation process facilitating the choice of instrument(s), in the framework of the Euratom Treaty, that can contribute more effectively to achieving nuclear safety and the safe management of spent fuel and radioactive waste, without excluding any instrument and in line with the principles of Better law making⁵,
7. invites the relevant Working Parties⁶ of the Council to keep this process under regular review,
8. invites the Commission to report on and, together with Member States, assess the outcome of this process, and
9. in the light of the high importance it attaches to nuclear safety and to the safe management of spent fuel and radioactive waste, the Council decides to return to this matter in a timely manner.

⁵ As reflected for instance in the European Parliament, Council and Commission Interinstitutional Agreement on better law making, OJEU, C 321, p. 1, 31.12.2003.

⁶ At present these Working Parties are the Working Party on Atomic Questions and the ad hoc Working Party on Nuclear Safety.

Declaration for the minutes of the Council by Austria, Italy and Luxembourg

"Austria, Italy and Luxembourg express their concern about recent developments regarding the Commission proposals for Council Directives (Euratom) setting out the basic obligations and general principles on the safety of nuclear installations and on the management of spent nuclear fuel and radioactive waste. We deeply regret that the work of more than 18 months could not be crowned with success.

Austria, Italy and Luxembourg contributed constructively to the draft Council conclusions on Nuclear Safety and safe management of spent fuel and radioactive waste.

Nevertheless, these Council conclusions on Nuclear Safety and safe management of spent fuel and radioactive waste as set out in doc. 10823/04 display a lack of essential aspects to which Austria, Italy and Luxembourg attach the highest importance.

- We do see a strong need to continue work on Community level on these important issues in accordance with a firm schedule and with responsibilities clearly assigned.
- We consider all outcome of work conducted in this field to be relevant to actions on Community level, which would imply to assess, take stock of respectively, the results of other relevant fora. While acknowledging pertinent activities, Austria, Italy and Luxembourg call for a transparent and clearly structured procedure in which all Member States participate on equal footing.
- We call upon the Commission to renew her initiative towards common safety standards. In order to actually foster the efforts to achieve a high and uniform level of nuclear safety throughout the Union, and to be of added value in comparison with existing international instruments, a European regime should be legally binding, involving adequate settlement of disputes and compliance procedures, and should cover all kinds of nuclear installations and activities, i.e. the full life- and fuel-cycle of nuclear power to ensure the highest possible level of protection of health and the environment."