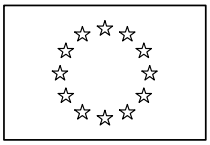

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 3.7.2008
COM(2008) 417 final

COMMUNICATION FROM THE COMMISSION

Summary of Commission activities carried out in 2007 in implementation of Title II, Chapters 3 to 10, of the Euratom Treaty

1. INTRODUCTION

This Communication describes the activities carried out mainly by the Directorate General for Energy and Transport (DG TREN), as part of the Commission's responsibilities 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, 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, under the responsibility of DG RTD[2] and JRC[3], are covered in their respective reports[4]. The preparation and implementation of the new Instrument for Nuclear Safety Cooperation falls under the responsibility of both DG RELEX[5] and DG AIDCO[6]. The Instrument for Pre-Accession Assistance (IPA) is managed by DG ELARG[7] while Euratom loans by DG ECFIN[8]. The work of two on-site laboratories (at La Hague and Sellafield) in reprocessing plants is supervised by the JRC and financed by DG TREN.

2. POLICY AND LEGAL DEVELOPMENTS

2.1. Nuclear policy

2.1.1. 50 years of Euratom Treaty

In March 1957, the six founding states signed the Euratom Treaty with the objectives of minimising Europe's energy dependence and contributing to its economic growth, technological development and improved standards of living. To commemorate its 50th Anniversary, the Commission adopted a Communication[9], offering an overview of essential aspects of its implementation in the past half century, and issued a commemorative publication[10]. The Communication concluded that the Treaty remains an indispensable legal framework for the EU and its citizens.

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1 Annual Report available on request or at http://ec.europa.eu/euratom/anreport_en.html

2 DG RTD: Research

3 JRC: Joint Research Centre

4 RTD: http://ec.europa.eu/research/reports/2007/index_en.html
JRC: http://ec.europa.eu/dgs/jrc/index.cfm?id=2530&lang=en

5 DG RELEX: External Relations

6 DG AIDCO: Europe Aid and Cooperation

7 DG ELARG: Enlargement

8 DG ECFIN: Economic and Financial Affairs

9 50 years of the Euratom Treaty COM(2007) 124 final of 20.03.2007

10 "Euratom, 50 years of nuclear energy serving Europe". It can be requested at the Commission's Publications Office

2.1.2. Energy policy and the Nuclear Illustrative Programme (PINC)

In the context of increasing interest in nuclear energy, at global level and in Europe, the Commission highlighted in its Communication on "An Energy Policy for Europe"[11] and its related "Nuclear Illustrative Programme[12]" the contribution of nuclear energy to limiting CO_2 emissions. The spring European Council noted the contribution of nuclear energy in meeting the growing concerns about security of energy supply and CO_2 emissions reductions.

The Nuclear Illustrative Programme, based on art. 40 of the Treaty, reviewed investments in the nuclear sector carried out in the Member States since the previous PINC in 1997, as well as the implications of the phase out policies adopted by some countries. Public acceptability of nuclear power in terms of security and safety of the installations, waste management and decommissioning were highlighted. Both the European Economic and Social Committee and the European Parliament adopted opinions on the paper[13].

"An Energy Policy for Europe" and the PINC propose to improve the framework for nuclear energy in Europe mainly by the establishment of a High Level Group on nuclear safety and waste management, and the European Nuclear Energy Forum. Other proposals include the establishment of technology platforms, though this is outside the scope of the current Communication. Nonetheless, the Sustainable Nuclear Energy Technology Platform (SNET-TP)[14] was recently launched by DG RTD and aims, *inter alia*, at fostering and enhancing European cooperation in research and development.

In addition, and in the context of meeting the 2020 targets for reduction of greenhouse gas emissions set at the 2007 spring European Council as well as the 2050 vision for a low carbon economy, a European Strategic Energy Technology (SET) Plan[15] was adopted in November 2007. It proposes a general policy framework to improve research and innovation and ultimately market insertion for all low carbon energy technologies. It firmly recognises nuclear fission (and fusion) as one of these technologies.

2.1.3. European High Level Group on nuclear safety and waste management (HLG)

The Commission established the HLG[16], composed of senior national regulators and officials dealing with nuclear safety. The creation of the Group was endorsed by the 2007 spring European Council and received support from the EU Institutions. The aim of the Group is to develop common approaches in nuclear safety and waste management and swiftly identify safety issues for priority handling and recommend actions to be taken at EU level. A high level representation from both nuclear and non-nuclear EU Member States should facilitate an EU-wide understanding.

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11 COM(2007) 1 of 10.01.2007

12 COM (2007) 565 of 04.10.2007

13 TEN/283 - CESE 990/2007 of 12.07.2007 and ITRE report A6-0348/2007 of 26.09.2007, respectively

14 www.snetp.eu

15 COM(2007) 723 of 22.11.2007

16 Commission Decision 2007/530/Euratom of 17.07.2007, OJ L 195/44 of 27.07.2007

The HLG met for the first time in October 2007. Three subgroups were established on 1) Improvements of nuclear safety arrangements; 2) Improvements in the decommissioning, radioactive waste management and spent fuel arrangements; 3) Improvements in transparency arrangements.

In order to ensure transparency, a website[17] was created.

2.1.4. European Nuclear Energy Forum (Forum)

In line with the conclusions of the spring European Council, the Commission set up the Forum to facilitate dialogue between different stakeholders (EU governments, Members of the European Parliament, the nuclear industry, industrial energy consumers and civil society) on the opportunities and risks of nuclear energy. Meetings of the Forum will be organised alternatively in Bratislava and Prague.

The inaugural meeting of the Forum was held in November, in Bratislava, in the presence of the Prime Ministers of the host countries, several ministers and Members of the European Parliament as well as other key actors in the nuclear energy field[18]. Three working groups on opportunities, risks and transparency were set up.

2.2. Commission's legislative proposals

2.2.1. Supervision and control of shipments of radioactive waste and spent fuel

Following the Council's adoption of a Directive on the supervision and control of shipments of radioactive waste and spent fuel[19], an advisory committee to assist the Commission by providing opinions on the draft of a standard document to be used for all shipments within the scope of the Directive, the criteria allowing Member States to evaluate whether requirements for exports of radioactive waste and spent fuel are met, and on recommendations for a secure and effective system of transmission of the documents and information.

The committee gave a favourable opinion to the draft of the standard document for adoption by the Commission in early 2008[20].

2.2.2. Decommissioning in Bohunice

The Council adopted a Regulation on the implementation of the Decommissioning Assistance Programme for Slovakia[21] covering 423 M€.

The Regulation provides a legal base for the EU Decommissioning Assistance Programme for the period 2007 – 2013, and require the creation of a management committee to assist the Commission. This committee (Nuclear Decommissioning Assistance Programme Committee) met for the first time in June 2007.

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17 http://circa.europa.eu/Public/irc/tren/nuclear_safety_and_waste/home

18 http://ec.europa.eu/energy/nuclear/forum/bratislava_prague/index_en.htm

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

20 C (2008) 793 final of 05.03.2008

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

3. GENERAL DEVELOPMENTS IN THE NUCLEAR FIELD WITHIN THE EU

3.1. Implementation of legislation – Infringements

With one exception (the Czech Republic), all procedures involving the new Member States that did not adhere to the tri-partite agreement INFCIRC 193[22], as required by their Acts of Accession to the EU, were closed because of compliance.

Negotiations continued with the Sellafield (United Kingdom) operators on the rectification of the shortcomings that formed the basis of the warning[23] issued according to art. 83 of the Treaty (failure of the operator of a nuclear installation satisfactorily to fulfil its obligations) by the Commission. Furthermore, the progress in the case of a Commission Directive according to art. 82[24] of the Treaty, concerning another installation on the same site, was monitored.

On 18 July, the European Court of Justice[25] ruled that the United Kingdom had failed to fulfil its obligations under art. 53 of Directive 96/29/Euratom of 13 May 1996 (Basic Safety Standards). The Commission invited the United Kingdom to outline the legislative measures planned to rectify the situation.

3.2. Belene NPP notification

On 27 February a notification about constructing a new nuclear power plant was submitted by a Bulgarian investor, as required by art. 41 of the Treaty.

Following analysis and extensive discussions with the investor, the Commission concluded on 7 December that all aspects of this investment were in line with the objectives of the Treaty.

3.3. Decommissioning, waste management and transport

3.3.1. Decommissioning

The Commission continued to monitor the implementation of the Ignalina and Bohunice Programmes, together with the European Bank for Reconstruction[26]. Since January 2007, DG TREN has been responsible for the implementation and follow-up of the Community assistance of the Kozloduy Programme in Bulgaria. In 2007, a total of 113 M€ was committed to the Ignalina Programme, 56.72 M€ to the Bohunice Programme and 74.28 M€ to the Kozloduy Programme. As foreseen in the

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22 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.

23 Commission Decision 2006/626/Euratom of 15.02.2007

24 Art.82 gives right to the Commission to issue a Directive calling upon the Member State concerned to t take necessary measures to bring an infringement to an end. Non respect of this Directive may bring the case to the Court of Justice.

25 Case C-155/06

26 In the case of Ignalina, the National Agency of Lithuania is also involved.

Protocols of the Treaties of Accession, implementing rules for continued assistance in 2007-2013 were adopted by the Commission[27].

The Commission published its second report[28] on the use of financial resources earmarked for the decommissioning of nuclear installations, spent fuel and radioactive waste.

The report compared EU nuclear operators and Member States' funding practices with those detailed in the Commission Recommendation[29]. Whereas the first report[30] was limited to power reactors, the second report covered all nuclear installations, with emphasis on those that are at greatest risk should decommissioning funding be inadequately addressed. The report highlights examples of good practice in countries where the polluter pays principle is enshrined in national legislation and where funds show a demonstrable performance by providing adequate resources when needed. Nevertheless, despite specific national legislation, there are grounds for progress in several aspects of fund adequacy, management and use, in particular through detailed monitoring and reporting at both national and EU level.

The Commission will address these issues as a follow-up action to the publication of the Recommendation, with the assistance of the Member States advisory group.

3.3.2. Radioactive waste management

The sustainable long term management of high level waste and spent fuel is still not satisfactory. The Commission therefore continues to encourage Member States to develop long term waste management programmes with precise milestones for all categories of waste, in particular high-active and long-lived waste.

The need to make progress on long-term waste management solutions was also underlined during the meeting of the Forum (see point 2.1.4). Its working groups on risk management and transparency will address this issue and come up with recommendations.

3.3.3. Transport of radioactive material

The current EU regulatory system provides adequate safety and health protection for the public for the Transport of Radioactive Materials (TRAM). Nevertheless, the TRAM Standing Working Group's report[31] underlines some weaknesses, in particular the possible delay in transboundary shipments or the denial of shipments.

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27 C(2007)5538

28 COM(2007) 794 final of 12.12.2007. Commission Staff Working Document SEC(2007)1654 of 12.12.2007

29 OJ L 330 of 28.11.2006, p.31

30 COM(2004) 719 final of 26.10.2004: Communication from the Commission to the European Parliament and the Council, Report on the use of financial resources earmarked for the decommissioning of nuclear power plants

31 COM(2006) 102 of 08.03.06

Work on an impact assessment to decide on the most appropriate regulatory measure to complete the transport nuclear market, ensure availability of lifesaving medical radiosotopes and increase information and transparency in TRAM transboundary activities is under way.

3.4. Nuclear safeguards

3.4.1. Safeguards inspections

The Commission submitted to the Council its revised approach for implementing nuclear safeguards in the EU in a working document, "Implementing Euratom Treaty Safeguards"[32]. The framework provided has been built upon installation specific guideline documents drafted and presented at dedicated meetings with stakeholders. A draft recommendation on operator nuclear material and accounting systems was presented at these meetings which, when adopted will provide the relevant criteria for future audit activities.

The Commission was satisfied that in the territories of the Member States nuclear materials were not diverted from their intended use as declared by the users and that the international safeguards obligations assumed by Euratom were complied with.

3.4.2. Additional Protocols (AP)

The Commission prepared reports on nuclear material related information for the EU-15, Estonia, Slovakia and Poland, and submitted them to the IAEA[33].

Commission inspectors participated in the IAEA verification activities in the form of complementary accesses.

3.4.3. Nuclear Material Accountancy and Agreements

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

The procedure for the accession of Poland, Malta, Hungary and Lithuania to the Safeguards Agreement and its AP was finalised[34]. The procedure for Cyprus was also prepared for finalisation.

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32 SEC(2007) 293 (EU restricted)

33 International Atomic Energy Agency

34 Dates of Accession: Poland 01.03.2007, Malta and Hungary 01.07.2007, Lithuania 01.01.2008

3.5. Radiation protection

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

Work on the revision and recast of the Euratom Basic Safety Standards (BSS) was carried out in close cooperation with the Group of Scientific Experts (GoE)[35]. This revision was based on the Draft Recommendations[36] of the International Commission on Radiological Protection (ICRP). The GoE met twice with the participation of the IAEA, ICRP, and Nuclear Energy Agency as observers. The Working Parties dealing with natural sources, medicine, exemption and clearance, and a graded approach to regulatory control have to a large extent completed their work on the key issues to be resolved for the revised BSS.

Commission services conducted seven verification missions under art. 35 of the Treaty[37] in Bulgaria, Germany, Ireland, Finland, Luxembourg, Romania and Spain. The purpose was 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 (site-related and nationwide).

All verifications started with a preliminary audit of the monitoring and inspection activities carried out by the relevant national authorities and of the legal framework in force.

The Commission provided an overview of all art. 35 verifications carried out since 1990[38] and elaborated on the added value of these verifications for European citizens, concerned national competent authorities and the Commission itself.

Under art.37[39], twelve Commission opinions were adopted on plans for the disposal of radioactive waste submitted by Member States.

3.5.2. Emergency preparedness

There were no radiological emergency situations needing the activation of the ECURIE[40] system. The annual nuclear emergency exercise was hosted by Ireland. The exercise involved all Member States and several Commission emergency services.

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35 Art. 31 of the Treaty

36 ICRP, Publication 103, December 2007

37 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

38 COM(2007) 847 final of 20.12.2007

39 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

40 Early information exchange system for radiological emergencies

Croatia joined ECURIE in September 2007. Contacts have also been established with the former Yugoslav Republic of Macedonia (FYROM) in order to prepare for its accession. The geographical coverage of the EURDEP[41] radiation monitoring data exchange system was extended to Turkey and Croatia.

3.5.3. Foodstuffs

The Commission made codification proposals[42] for the post–Chernobyl legislation on conditions governing imports of agricultural products and for the legislation laying down maximum permitted levels of radioactive contamination of foodstuffs and of feeding stuffs in the case of a future accident.

The results of the study to update the Commission information basis on the potential radioactive contamination of specific foodstuffs originating from third countries were presented to the Committee under art. 7 of Council Regulation 737/90/EEC. The study indicated that, for a number of agricultural products, controls of the radioactive caesium contamination at the border of the EU will remain necessary for at least 20 years.

3.5.4. Thule petition

Following a non-legislative resolution[43] of the European Parliament, the Commission was examining the possibility of proposing radiation protection requirements in situations arising from any source of emission or contamination.

The compatibility of such a provision with the established case-law needs to be further assessed, in the light of the Court of Justice case-law which excludes military uses of nuclear energy from the scope of Euratom law[44].

3.6. Supply of nuclear fuel and nuclear materials

Agreement on the text of the New Statutes of the ESA was reached in the Council after consultation of the European Parliament. ESA has changed its procedures for handling enrichment contracts in accordance with the European Court of Justice ruling in joint cases C-123/04 and C-124/04. ESA also started to prepare a draft of its rules determining the manner in which demand is to be balanced against the supply of ores, source materials and special fissile materials.

Diversification of supply sources continues to be important. Canada, Australia and Russia remain the largest suppliers of uranium to the EU. However, Russia has now re-established a dominant position as nuclear material supplier for VVER reactors.

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41 EUropean Radiological Data Exchange Platform

42 COM(2007) 291 final of 04.06.2007 and COM(2007) 302 final of 05.06.2007

43 Resolution 2006/2012(INI) of 10.05.2007

44 Judgment of the Court of 12.04.2005, Commission v UK, Case C-61/03, ECR 2005 p. I-2477, as confirmed by the Court on 09.03.2006, Commission v UK, Case C-65/04, ECR 2006 p. I-2239.

3.7. Non-proliferation and multilateral approaches to the fuel cycle

The number of countries having declared an interest in developing peaceful uses of nuclear energy has risen considerably, and the international community has made various proposals to address the most proliferation-sensitive parts of the nuclear fuel cycle – i.e. uranium enrichment and reprocessing – by offering guarantees of fuel supplies to countries that voluntarily renounce having their own fuel cycle activities. The IAEA and several EU Member States have continued to work on these proposals, with the Commission closely following developments. The Commission insisted that in cases where EU countries or companies are involved in an international fuel supply mechanism, rights and obligations under the Treaty must be taken into consideration. Competition and the normal functioning of the nuclear fuel market should not be distorted by these initiatives.

4. INTERNATIONAL COOPERATION

4.1. Enlargement

In line with European Council conclusions[45], the Commission has continued to emphasise the importance of a high level of nuclear safety in the context of EU enlargement.

It insisted on the need for candidate and potential candidate countries to align their legislations, and to implement the Euratom *acquis*, including the international nuclear safety conventions to which the Community has acceded.

Special attention continued to be given to Croatia on fulfilling its obligations of setting up a decommissioning and waste management fund for the nuclear power plant shared with Slovenia.

The Commission has also monitored the progress of the FYROM, Turkey, and of potential candidate countries[46] towards implementation of the EU *acquis*. The respective regular reports[47] highlight the need to improve nuclear safety and radiation protection.

4.2. The new Instrument for Nuclear Safety Cooperation (INSC)

Support to the promotion of a high level of nuclear safety during the period 2007-2013 will be provided under the new **INSC**[48]. The new instrument finances measures in *third countries* (no longer limited to CIS, as was the case for the Tacis programme that ended in 2006).

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45 European Council conclusions of December 1998, Vienna, point 67.
European Council conclusions of December 1999, Helsinki, point 7.

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

47 COM(2007) 663 final of 07.11.2007.

48 Council Regulation (EURATOM) No 300/2007 of 19.02.2007

The modalities of the extension of the assistance given to the CIS into other geographical areas, as provided for by the Instrument, will depend on the policy orientations and priorities to be decided according to the programme modalities.

The new programmes will involve a gradual phasing out of "technical assistance" (involving supply of hardware) and a shift towards more collaborative programming and implementation. Beneficiary countries will be required to take a more proactive role in the definition, management and implementation of the activities. Projects will be designed to achieve precise objectives and will look for co-financing while coordination with other Community instruments such as the Euratom Research and Training Framework Programme will be privileged.

Assistance will be coordinated with other instruments such as the European Neighbourhood and Partnership Instrument (ENPI) and the Instrument for Pre-Accession (IPA).

4.3. Agreements with Third Countries

The Commission started technical talks with Canada on a possible simplification or recasting of the bilateral cooperation agreement on peaceful uses of atomic energy[49] that was signed in 1959, amended several times.

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

4.4. International Conventions

4.4.1. Convention on the Physical Protection of Nuclear Material and Nuclear Facilities (CPPNM)

Following the Council's approval[50] and the Commission's decision[51] on the accession of the Euratom Community to the CPPNM, necessary steps for the accession started.

4.4.2. Convention on Nuclear Safety (CNS)

The Report of the Euratom Community for the 4th Review meeting of Contracting Parties to the CNS to be held in April 2008 was adopted by the Commission[52] and submitted to the IAEA Secretariat for peer review by other contracting parties at the 4th Review meeting.

4.4.3. Paris Convention on Third Party Liability in the Field of Nuclear Energy

Work on an impact assessment was started for the possible accession of Euratom to the Paris Convention. After drafting the terms of reference, a contractor was chosen to carry out the study. The report is expected in 2008.

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49 OJ No.59 of 24.11.59, p. 1165-1180

50 Council Decision 2007/513 Euratom of 10.07.2007, OJ L 190 of 21.7.2007, p. 12

51 C/2007/6385 of 19.12.2007

52 C(2007) 4492 final of 01.10.2007

4.5. Cooperation with the IAEA

Preparatory work started for a political statement to foster enhanced cooperation between Euratom and the IAEA. To this end, a Joint Statement of the European Commission and the IAEA reinforcing cooperation on nuclear energy for peace and development was prepared and signed on 7 May 2008.

The Commission administrated the “Community System of Accountancy and Control” in accordance with the safeguards verification agreements with the IAEA, under which the IAEA carries out its inspections simultaneously with the Commission. The IAEA successfully met its verification objectives for the EU.

High level discussions with the IAEA on the safeguards verification agreements led to significant progress in the development of the common safeguards verification scheme at operational level.

A Commission Staff Working Document[53] on the Euratom co-sponsorship of the "Fundamental Safety Principles"[54] was submitted to the Council for information.

[53] SEC(2007) 1443 of 23.10.2007

[54] Safety Fundamentals No. SF-1, IAEA, Vienna 2006