



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Senát for its Opinion concerning the Draft proposal for a Council Directive amending Directive 2009/71/EURATOM establishing a Community framework for the nuclear safety of nuclear installations - Draft presented under Article 31 Euratom Treaty for the Opinion of the European Economic and Social Committee {COM(2013) 343 final}.

In the aftermath of the Fukushima nuclear accident of 11 March 2011, the European Council in its Conclusions of 24-25 March 2011 mandated the Commission, to "review the existing legal and regulatory framework for the safety of nuclear installations" and to "propose by the end of 2011 any improvements that may be necessary". The European Parliament (EP) also asked for a regulatory review in its Resolution of 6 July 2011 on the Commission Work Programme 2012, where it "calls for an urgent revision of the Nuclear Safety Directive with a view to its strengthening, namely by taking into account the results of the Stress Tests implemented in the aftermath of the Fukushima accident".

The Commission therefore engaged in an extensive process of analysis and consultation with a view to identifying potential areas of legislative improvement. The current Nuclear Safety Directive (NSD) represented a key advancement in the construction of a European nuclear safety area but remained limited to core requirements and basic principles only. Its provisions are therefore not sufficient and effective enough to address the issues identified as key risk contributors in the Fukushima nuclear accident and the Stress Tests.

Whilst one could argue that it is too early to consider a revision of the current NSD, i.e. before the first reporting on its implementation, following the philosophy of continuous improvement of nuclear safety, the regulatory framework should always reflect the current state of knowledge about nuclear safety issues worldwide and in the EU. The European legislative framework in place should therefore reflect the lessons learned from the Fukushima accident and the outcome of Stress Tests. It should also ensure that the necessary common EU-wide safety improvements would be effectively implemented throughout the EU and updated in the future if appropriate.

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The aspect of enforceability of safety measures is even more important in the light of Fukushima and the Stress Tests which showed that not all the lessons learned from accidents decades ago have been taken up and sufficiently enforced. Moreover, the April 2012 ENSREG Stress Tests Peer Review report recognises that there are continued differences between Member States in ensuring comprehensive and transparent identification and management of key safety issues¹.

The current proposal is based on various sources of expertise, such as corresponding initiatives by the International Atomic Energy Agency and Western European Nuclear Regulators Association. It also takes into account the key input of the European Nuclear Safety Regulators Group, the views expressed by the public² and various stakeholders³. Furthermore, the proposed amendments take account of issues arising from a prima facie check of the transposition measures of the existing NSD at Member State level.

The proposal also takes into consideration the views of the EP and in particular those expressed in the recent EP resolution on Stress Tests of 14 March 2013⁴. Moreover, the opinion of the European Economic and Social Committee (EESC) on the Commission's draft proposal adopted on 18 September 2013 has also been taken into consideration. The EESC strongly supports the proposed revision of the NSD.

The proposal does not interfere with the prerogative of Member States to decide on their energy mix. The provisions on peer review would not undermine state sovereignty in this field but would only extend the scope of the already existing⁵ peer reviews to nuclear installations. They are based on the principles of enhanced cooperation and coordination between Member States. The European peer reviews would serve as an excellent means of building confidence and trust in the identification and management of safety issues in the EU, with the aim of developing and exchanging experience and ensuring highest safety standards.

The proposed Directive is under discussion in both the Council and the European Parliament which thus have the opportunity to present their views and to contribute positively to the shaping of its provisions.

The Commission hopes that these clarifications address the concerns raised by the Senát and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

¹ Peer review report, Stress tests performed on European nuclear power plants: http://www.ensreg.eu/sites/default/files/EU%20Stress%20Test%20Peer%20Review%20Final%20Report_0.pdf

² In line with its general principles of consultation and dialogue, the Commission launched an (on-line) public consultation, open from 21 December 2011 to 29 February 2012.

³ The European social partners for the electricity industry, the (Euratom Article 31) scientific experts in the field of radiation protection as well as operators and vendors of nuclear power plants.

⁴ European Parliament resolution on risk and safety assessments ('stress tests') of nuclear power plants in the European Union and related activities (2012/2830(RSP)).

⁵ The concept of peer reviews is not new; it already exists in the current NSD as well as Directive 2011/70/Euratom establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste.