



SCREENING MEETING WITH CROATIA AND TURKEY

Supply of nuclear fuels in the European Atomic Energy Community

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I. LEGAL BASE AND MAIN TASKS

MAIN TASKS:

- To ensure regular and equitable supply of nuclear fuels to all users (nuclear power plants and research reactors) in the Community – Article 2(d) of the Treaty

RESPONSIBLE:

- The Agency, which is established by Chapter VI of the Treaty and operates under the supervision of the European Commission

PRINCIPLES OF SUPPLY POLICY:

- Equal access to sources of supply (Article 52 of the Treaty)
- Diversification (KLE vs Commission, T-149/94 and T-181/94)



I. LEGAL BASE AND MAIN TASKS

POWERS:

Exclusive right to conclude contracts for the supply of nuclear materials (Article 52 of the Treaty)

> *Nuclear materials*: uranium, plutonium and thorium (Article 197 of the Treaty)

> *Supply*: e.g. transfer of ownership, exchange or loan of nuclear materials

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II. CONCLUSION OF SUPPLY CONTRACTS

Conclusion:

- required for all contracts which provides for the transfer, import or export of nuclear materials within, into or from the Community (with exceptions)
- parties may negotiate their supply contracts without involving the Agency and then submit the signed contract for conclusion
- trilateral contract among the seller, the purchaser and the Agency
- condition for the contract to be valid under Community law



II. CONCLUSION OF SUPPLY CONTRACTS

The formal decision of the Agency on the conclusion:

Approval: attribution of reference number, returns signed originals

Refusal of conclusion: remedies (Commission, European Court of Justice)



III. THE RIGHT OF OPTION

The Agency has a *right of option* on nuclear materials produced within the Community (Article 52(2)(b) of the Treaty).

The right of option:

- is applicable only to nuclear materials produced *within* the Community.
- is exercised through the conclusion of supply contracts; by the conclusion of the contract the Agency waives its right of option on the materials concerned.



IV. EXEMPTIONS (1): NOTIFICATION OF CONTRACTS FOR SMALL QUANTITIES

Notification of contracts as an exception to their conclusion

Article 74 of the Treaty contains specific provisions for small quantities of nuclear materials

The Agency shall be notified *quarterly* of

transfer }
import } of small quantities of nuclear materials
export }

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IV. EXEMPTIONS (1): NOTIFICATION OF CONTRACTS FOR SMALL QUANTITIES

Regulation No. 66/2006 – in OJ No. L 011 of 17 January 2006

- Ores and source materials (e.g. natural uranium, thorium)
 - max. 1 ton U and/or Th per transaction
 - max. 5 tons/user/year
- Special fissile materials (e.g. enriched uranium, plutonium)
 - max. 200 g U_{235} , U_{233} or Pu per transaction
 - max. 1 Kg/user/year

But: respect international agreements (USA)

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IV. EXEMPTIONS (2): NOTIFICATION OF "TRANSFORMATION" CONTRACTS

The Agency's right to conclude contracts shall *not* extend to the contracts falling under Article 75 of the Treaty.

The Agency shall be notified of:

- processing (U-ore – U_3O_8)
 - conversion (U_3O_8 – UF_6) or
 - shaping (UO_2 pellets)
- } of nuclear materials

Provided that the material is *returned* to the party requesting the above "transformations".



V. ENLARGEMENT ISSUES

Existing supply contracts and international agreements (Article 105 of the Treaty):

- The provisions of supply contracts that were concluded before accession will take precedence over the rules of the Treaty, if they are communicated to the Commission within *30 days* after entry into force of the Treaty
- However, if a contract is signed between the date of signature of the Act of Accession and the entry into force of the Treaty *with the intention to evade the application of the Treaty's rules* (Art. 105, second sentence), the Court of Justice will decide on the precedence between the conflicting provisions.

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V. ENLARGEMENT ISSUES

Further obligations for New Member States:

- Nomination of members of the Advisory Committee
- Contribution to ESA capital: 10 % installment
- Providing data for ESA Annual Report



VI. QUESTIONS TO THE DELEGATIONS

1. Are there persons, undertakings or other entities within the territory of the respective states who/which may be concerned, directly or indirectly, in transactions relating to nuclear materials?
2. If yes, have such persons/undertakings/entities concluded any contract which may possibly fall under the scope of Chapter VI of the Treaty?