Council Regulation (Euratom) No 237/2014 of 13 December 2013 establishing an Instrument for Nuclear Safety Cooperation

COUNCIL REGULATION (EURATOM) No 237/2014

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establishing an Instrument for Nuclear Safety Cooperation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament[(1)],

Whereas:

(1) The Instrument for Nuclear Safety Cooperation, established by Council Regulation (Euratom) No 300/2007[(2)], constitutes one of the instruments providing direct support for the external policies of the European Union and the European Atomic Energy Community.

(2) The Union is a major provider of economic, financial, technical, humanitarian and macroeconomic assistance to third countries. This Regulation forms part of the framework devised for the planning of cooperation and the provision of assistance aimed at supporting the promotion of a high level of nuclear safety, radiation protection and the application of efficient and effective safeguards of nuclear material in third countries.

(3) The Chernobyl accident in 1986 highlighted the global importance of nuclear safety. The Fukushima Daiichi accident in 2011 confirmed the need for continued efforts to improve nuclear safety and reach the highest standards. To create the conditions of safety necessary in order to eliminate hazards to the life and health of the public, the Community should be able to support nuclear safety in third countries.

(4) By acting within common policies and strategies with its Member States, the Union alone has the critical mass to respond to global challenges and is also best placed to coordinate cooperation with third countries.

(5) By Commission Decision 1999/819/Euratom[(3)], the Community acceded to the 1994 Convention on Nuclear Safety. By Commission Decision 2005/510/Euratom[(4)], the Community also acceded to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

(6) In order to maintain and promote the continuous improvement of nuclear safety and its regulation, the Council adopted Directive 2009/71/Euratom[(5)] and Directive 2011/70/Euratom[(6)]. These Directives and the high standards of nuclear safety and of radioactive

waste and spent fuel management implemented in the Community are examples to be used in order to encourage third countries to adopt similar high standards.

(7) The promotion of regulatory and other forms of cooperation with emerging economies and the promotion of Union approaches, rules, standards and practices are external policy objectives of the Europe 2020 strategy.

(8) The Community Member States are signatory parties of the Non Proliferation Treaty and the Additional Protocol.

(9) The Community already pursues close cooperation, in accordance with Chapter 10 of the Treaty establishing the European Atomic Energy Community ('Euratom Treaty'), with the International Atomic Energy Agency (IAEA), both in relation to nuclear safeguards, in furtherance of the objectives of Chapter 7 of Title Two of the Euratom Treaty, and in relation to nuclear safety.

(10) There are a number of international organisations and programmes pursuing objectives similar to those of this Regulation, such as the IAEA, Organisation for Economic Cooperation and Development/Nuclear Energy Agency (OECD/NEA), European Bank of Reconstruction and Development (EBRD) and the Northern Dimension Environmental Partnership (NDEP).

(11) There is a particular need for the Community to continue its efforts in support of the application of effective safeguards of nuclear material in third countries, building on its own safeguard activities within the Union.

(12) In the application of this Regulation, the Commission should consult the European Nuclear Safety Regulators Group (ENSREG) prior to the elaboration and adoption of the strategy paper and multiannual indicative programmes. The action programmes should be based on consultation, where relevant, with the national regulatory bodies of the Member States, and on a dialogue with the partner countries.

(13) The measures supporting the objectives of this Regulation should also be supported by exploiting further synergies with the direct and indirect actions of the Euratom Framework Programmes in nuclear research and training.

(14) It is understood that the responsibility for the safety of the installation rests with the operator and the State having the jurisdiction over the installation.

(15) While Union external assistance has increasing financing needs, the economic and budgetary situation of the Union limits the resources available for such assistance. The Commission should therefore seek the most efficient use of available resources through, in particular, the use of financial instruments with leverage effect. Such leverage effect is increased by allowing the possibility to use and re-use the funds invested and generated by those financial instruments.

(16) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission.

(17) The implementing powers relating to the programming and financing of the actions supported under this Regulation, should be exercised in accordance with Regulation

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (Euratom) No 237/2014. (See end of Document for details)*

(EU) No 182/2011[7], which is to apply for the purpose of this Regulation, notwithstanding the fact that it does not refer to Article 106a of the Euratom Treaty. Taking into account the nature of those implementing acts, in particular their policy orientation nature or their financial implications, the examination procedure provided for in that Regulation is to, in principle, be used for their adoption, except for technical implementing measures on a small financial scale. The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to a nuclear or radiological accident, including accidental exposure, the need for a swift response from the Community to mitigate its consequences or imperative grounds of urgency so require.

(18) The rules and procedures laid down in Regulation (EU) No 236/2014 of the European Parliament and of the Council[8], should apply for the implementation of this Regulation, as appropriate.

(19) The Union and the Community continue to be served by a single institutional framework. It is therefore essential to ensure consistency between the external action of both. The European External Action Service is to be involved, where appropriate, in the programming of this instrument, in accordance with Council Decision 2010/427/EU[9].

(20) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. This should be achieved through coherence and complementarity between Instruments for external action, as well as the creation of synergies between this Instrument, other Instruments for external action and other policies of the Union. This should further entail mutual reinforcement of the programmes devised under these Instruments.

(21) This Regulation replaces Regulation (Euratom) No 300/2007, which expires on 31 December 2013.

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

General objective

The Union shall finance measures to support the promotion of a high level of nuclear safety, radiation protection, and the application of efficient and effective safeguards of nuclear material in third countries, in line with the provisions of this Regulation and the Annex thereto.

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Article 2

Specific objectives

Cooperation under this Regulation shall pursue the following specific objectives:

(1) the promotion of an effective nuclear safety culture and implementation of the highest nuclear safety and radiation protection standards, and continuous improvement of nuclear safety;

(2) responsible and safe management of spent fuel and radioactive waste, namely transport, pre-treatment, treatment, processing, storage and disposal, and the decommissioning and remediation of former nuclear sites and installations;

(3) the establishment of frameworks and methodologies for the application of efficient and effective safeguards for nuclear material in third countries.

Article 3

Specific measures

1 The objectives set out in point 1 of Article 2 shall be pursued through, in particular, the following measures:

a support for regulatory bodies, technical support organisations;

b reinforcement of the regulatory framework, in particular with regard to review and assessment, licensing and oversight activities for nuclear power plants and other nuclear installations;

c promotion of effective regulatory frameworks, procedures and systems to ensure adequate protection against ionising radiations from radioactive materials, in particular from high activity radioactive sources, and their safe disposal;

d establishment of effective arrangements for the prevention of accidents with radiological consequences, including accidental exposure, as well as the mitigation of such consequences should they occur, for example, monitoring the environment in case of radioactive releases, design and implementation of mitigation and remediation activities and cooperation with national and international organisations in the case of accidental exposure, and for emergency-planning, preparedness and response, civil protection and rehabilitation measures;

e support for ensuring safety of nuclear installations and sites regarding practical protective measures designed to reduce existing radiation risks to the health of workers and of the general public.

2 The objectives set out in point 2 of Article 2 shall be pursued through, in particular, the following measures:

a support for regulatory bodies, technical support organisations, and the reinforcement of the regulatory framework, in particular with regard to the responsible and safe management of spent nuclear fuel and radioactive waste;

b development and implementation of specific strategies and frameworks for the responsible and safe management of spent nuclear fuel and radioactive waste;

c development and implementation of strategies and frameworks for decommissioning existing installations, for the remediation of former nuclear sites and legacy sites related

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to uranium mining, and for the recovery and management of sunken radioactive objects and material at sea.

3 The objective set out in point 3 of Article 2 shall be limited to the technical aspects that ensure that ores, source material and special fissile material are not diverted from their intended uses as declared by the users. It shall be pursued through, in particular, the following measures:

a the establishment of the necessary regulatory framework, methodologies, technology and approaches for the implementation of nuclear safeguards, including for the proper accounting and control of fissile materials at State and operators' level;

b support for the infrastructure and training of personnel.

4 The measures referred to in paragraphs 1 and 2 may include actions to promote international cooperation, including implementation and monitoring of international Conventions and Treaties. They shall also include a substantial element of knowledge transfer, such as exchange of information, capacity building and training in the area of nuclear safety and research, in order to reinforce the sustainability of the results achieved. They shall be implemented through cooperation with the competent authorities of Member States of the Union and/or with third countries' authorities, nuclear regulators and their technical support organisations, and/or relevant international organisations, in particular the IAEA. In specific and duly justified cases, the measures concerning points (b) and (c) of paragraph 1 shall be implemented through cooperation with operators and/or competent organisations from the Member States and third countries' operators of nuclear installations, as defined in Article 3(1) of Directive 2009/71/Euratom, and nuclear sites.

Article 4

Compliance, coherence and complementarity

1 Progress towards the achievement of the specific objectives set out in Article 2 shall be assessed, respectively, through the following performance indicators:

a the number and importance of issues identified during the implementation of the cooperation;

b the status of development of the spent fuel, nuclear waste and decommissioning strategies, of the respective legislative and regulatory framework and of implementation of projects;

c the number and importance of issues identified in relevant nuclear safeguards reports.

Prior to the implementation of the projects, and taking into account the particularities of each action, specific indicators for monitoring, evaluation and review of performance shall be defined as referred to in Article 7(2).

2 The Commission shall ensure that the measures adopted are consistent with the Union's overall strategic policy framework for the partner country concerned, and in particular with the objectives of that partner country's development and economic cooperation policies and programmes.

3 The financial, economic and technical cooperation provided under this Regulation shall be complementary to that provided by the Union under other instruments.