

COMMENTS OF **AUSTRIA** to the
ISSUES PAPER No. 10



Austria follows the preparation works of the European Commission aimed at implementing the new SET Plan¹ in the nuclear field with growing concerns. The documents circulated for comment and review „*Set Plan Actions*“ (version 14. October 2015)² and „*Issue Paper No. 10 – Nuclear*“ (version 6. April 2016)³ together with the list of „*Stakeholders for SET-plan Action 10, Nuclear*“ are reinforcing these concerns, as they display a distinct promotional bias.

The pertinent Communication from the European Commission **has not even been formally transmitted to the Council up to now and thus Council has not acted on this communication so far. Therefore, the 2015 SET Plan cannot be taken as an accepted European policy guideline.**

Austria is fully aware of the fact that the SET-Plan aims at strengthening cooperation among Member States interested in technologies it addresses and, of course, Austria respects each Member States' right to do so. But the involvement of the EU, namely the European Commission, has implications to the community budget. This is in particular relevant regarding the involvement of the JRC, which is mainly financed from the community budget, direct and indirect actions in particular.

There is an ongoing “Open public online consultation on the development of a comprehensive, integrated Research, Innovation, and Competitiveness Strategy for the Energy Union”⁴ which covers the “Communication on accelerating energy system transformation – an integrated SET Plan” also⁵ (Consultation period: From 04.03.2016 to 31.05.2016).

In addition to that, a separate stakeholder consultation has taken place until 26 April 2016 involving a limited number of institutions from the nuclear filed.

According to the European Commission, stakeholder consultations should “help the EU to become more transparent, accountable and effective”. They should be of “high quality, transparent, and reach all stakeholders”.⁶

As stated in the *White Paper on European Governance*⁷ and in the *General principles and minimum standards for consultation of interested parties*⁸ the Commission intends to *reduce*

¹ C(2015)6317, SET Plan Communication of the Commission, 15 September 2015

² Set Plan Actions - Implementation process and expected outcomes, 14 October 2015, SET Plan Secretariat

³ Issue Paper No. 10, Nuclear, 6. April 2016, SET Plan Secretariat

⁴ http://ec.europa.eu/research/consultations/euric/consultation_en.htm

⁵ http://ec.europa.eu/smart-regulation/roadmaps/docs/2014_ener_030_integrated_set_plan_en.pdf

⁶ http://ec.europa.eu/smart-regulation/stakeholder-consultation/index_en.htm

⁷ COM(2001) 428, Brussels, 25.7.2001

⁸ COM(2002) 704 final, Brussels, 11.12.2002,

the risk of the policy-makers just listening to one side of the argument or of particular groups getting privileged access on the basis of sectoral interests.

While not questioning whether or not having a separate stakeholder consultation in addition to an ongoing public consultation is appropriate, the selection of “Stakeholders for SET-plan Action 10, Nuclear” distributed together with the “Issue Paper” is rather selective, not to say biased, and therefore in clear contradiction with the above mentioned principles.

The new SET Plan itself is in contradiction with an essential common position by the Commission and Euratom Member States: **The concept of continuous improvement of nuclear safety.** As set out, inter alia, the revised “Euratom Nuclear Safety Directive”⁹ stipulates that not only the highest safety standards should be applied for new nuclear power plants, but safety should be continuously improved and upgraded also at existing plants. Austria furthermore refers to the negotiations under the “CNS Vienna Declaration”¹⁰, where EU-Europe pursued the concept of continuous improvement of nuclear safety against resistance of almost all other parties to the Convention.

While the second additional priority in Chapter 2.5 - *An Energy Union for Research, Innovation and Competitiveness - in the Communication on the Energy Union*¹¹ is also summarized in the SET Plan with “increase safety” Action 10 in the SET Plan mentions “Maintaining ... safety” only. This contradiction is also to be found in the document “*SET Plan Actions - Implementation process and expected outcomes ANNEX I - Energy Union priorities / Research and Innovation and Competitiveness SET plan related actions*” (p4, heading): “1. *Maintaining high level safety and security*”, and in the “*Issue Paper No. 10 - Nuclear*”: “*To achieve the above top-level targets, and to enable nuclear to remain a safe and competitive option in the future energy mix, ...*”.

With this, the SET-Plan process clearly undermines a fundamental European safety principle that is the *continuous improvement of nuclear safety*.

Acknowledging that nuclear energy plays different roles in different Member States, European research and development in the nuclear field has to put “*emphasis on continuous improvement of nuclear safety, security and radiation protection*” as well as on *non-proliferation* in accordance with the Research Framework Programme¹². The objectives of the “Sustainable Nuclear Energy Technology Platform” (SNETP, <http://www.snetp.eu/>), are not at all in accordance with those principles of Research Framework Programme.

Existing binding legal framework such as the Research Framework Programme cannot and may not be undermined by the European Commissions’ communications or other documents. This is in particular relevant if and when pertinent activities are financed out of the community budget.

⁹ Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations and its amendment, Directive 2014/87/Euratom

¹⁰ Vienna Declaration on Nuclear Safety - On principles for the implementation of the objective of the Convention on Nuclear Safety to prevent accidents and mitigate radiological consequences, INFIRC/872, 18. February 2015, <https://www.iaea.org/sites/default/files/infirc872.pdf>

¹¹ COM(2015) 80 final, Energy Union Package - Communication from the Commission to the European Parliament, the Council, the European and Social Committee, the Committee of the Regions and the European Investment Bank, A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy, Brussels 25. 2. 2015

¹² Council Regulation (Euratom) No 1314/2013 of 16 December 2013 on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 Framework Programme for Research and Innovation, Art. 3

In addition to the main points of concern Austria would like to comment on some more specific aspects of “Issue Paper No.10”:

p.2, 2nd section: The claim that “14 EU MS currently operate NPPs, though all MS benefit through the electricity grid from nuclear generated electricity...” is incorrect. Millions of customers and a number of MS are actively avoiding the use of nuclear generated electricity for various reasons, i.e. risk of accidents, unsolved waste problem, external costs, legacy for future generations, incompatibility with requirements in modern energy systems, import dependency. The question whether the use of nuclear electricity can be seen as a benefit is highly disputed among Member States.

p.2, 3rd section, 1st sentence: Indeed, it is one of the deficits of EC’s Energy Roadmap 2050 that it contains only scenarios with continued reliance on nuclear power. Ignoring other highly relevant scenarios with discontinued use of nuclear power has to be judged as unbalanced. To pick out only scenarios with reliance on nuclear power as a basis for argumentation should be rejected from a scientific point of view. Therefore, whilst taking account of existing reactor fleet’s age “*an increasing role of LTO*” is not necessarily a logical consequence. On the one hand indeed, many operators are heading for LTO, but on the other hand there is an increasing number of reactors shut down because operators are not ready to make the investment needed to meet the regulatory requirements for LTO.

p.2, 3rd section, last part: To quote PINC figures as a kind of future prognosis seems to be not convincing. What could ensure that LTO could really bridge “*the gap between now and the availability of new plants*”? At least that statement is highly questionable if one is regarding the current development of the European nuclear electricity market, EU’s nuclear reactor industry and plans for construction of new reactors inside EU.

p.3, 1st sentence: The role of Annex 2 is not made sufficiently transparent. Is Annex 2 – together with the more detailed descriptions which one can find in the source given in footnote 10 – an integral part of the paper?

p.4, section 1. “Maintaining....”: The above mentioned alarming shift of language can also be observed, when comparing earlier EC papers out of the Energy Union Package¹³ with the updated SET-Plan¹⁴ reiterated in this part of the paper: the original language can be summarized with “*The EU must ensure that Member States use the highest standards of safety, security, waste management and non-proliferation.*” or even “*and the world’s safest nuclear generation, is central*”, whereas now one reads “*maintaining high level of safety and security*” suggesting that the highest possible standard is already achieved.

Furthermore, addressing safety and security of “*current fleet, LTO, new-build*” in the same way is not appropriate. Nearly all NPPs inside EU (and CH) are of Gen. II and 2/3 of them are elder than 30 years, therefore safety and security of the current fleet must be of highest concern for EU and, accordingly, should have the highest attention when EU research funding is planned.

p.6, 1st item “stable / predictable investment conditions”: Given the fact that only one consortium in the EU is left over, which is able to construct new NPPs, it is foreseeable that “*contracts for difference*” in the nuclear sector will not support the objective of maintaining “*European technological leadership*”, which is postulated at other places in the paper, instead of that it is much more probable that non EU companies will profit from such financing schemes. Why, then, such schemes could be appropriate?

¹³ EC Communication “A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy” COM(2015) 80 final, dated from 25.2.2015

¹⁴ EC Communication “*Towards an Integrated Strategic Energy Technology (SET) Plan....*” (C(2015)6317 final, dated from 15.9.2015)

p.6, item 2 “diversification of nuclear fuel supplies”: When “*diversification of nuclear fuel supplies*” is mentioned as an important “*cross-cutting challenge*”, one misses the much more important and challenging diversification of uranium suppliers and uranium resources. Only 2 % of uranium used in European reactors is of European origin.

p.6, item 4 “harmonisation of licensing rules and standards”: Austria notes that the PINC¹⁵ deals extensively with the harmonisation of licensing and standardisation. Indeed, harmonisation of licensing and standardisation could contribute to continuously increasing nuclear safety all over Europe in a consistent manner. However, this is a complex and truly controversial issue. While fully acknowledging related activities in the framework of the MDEP (OECD-NEA) and WENRA, “*mutual recognition by regulatory authorities*” is hard to imagine given the fundamental differences of Member States’ regulatory systems and approaches. More importantly, it would require rather detailed and legally binding European “safety standards”, something the Euratom-Treaty does not provide for.

p.7, p.12-13, Annex 2: In general, it is hard to see how a broad European R&D programme aiming at the commercialisation of new nuclear reactor types can be deduced from the introduction of ten R&I actions in the EC Communication “Towards an Integrated SET Plan...” (C(2015)6317 final). On page 8 of this Communication, it is clearly stated that 8 actions are grouped around four core priorities (renewables, consumer, energy efficiency, sustainable transport), and CCS and nuclear “*could be added for those Member States interested in those technologies*”. This is a clear indication that such a programme is not in the interest of ALL EU Member States. This becomes definitely evident by the fact that Annex 2 of the Issue Paper is taken from the JRC publication “*Strategic Energy Technology (SET) Plan. Towards an Integrated Roadmap.... Annex I: Research and innovation actions, Part II: Competitive, Efficient, Secure, Sustainable and Flexible Energy System*”, from the list of “*Drafters and contributors*” referred to on page 2 of this document in particular. While noting the interest of entities like the European Sustainable Nuclear Industry Initiative (ESNII) and the Sustainable Nuclear Energy Technology Platform (SNETP) to convert their agenda into a European R&D programme, the **vested interests of such entities must not replace decision making by competent European Institutions, the Council in particular. Austria has to highlight the fact that the JRC publication referred to above, and in footnote 10 of the Issue Paper, has been endorsed by the SET-Plan Steering Group in November 2014 “as it provides the framework to develop an Action Plan promoting cooperation between Member States and the European Union in areas of common interests” only.**

Even if one assumes that the European Commission’s objective of maintaining technological leadership in the nuclear domain has become an agreed EU-policy by the fact that the European Council has committed to build an Energy Union on the Basis of the Commissions’ framework strategy¹⁶ it is hard to see how this objective should be reached by relying on the advice of vested interests but circumventing European decision making as enshrined in European Legislation.

With best regards,

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¹⁵ EC-Communication Nuclear Illustrative Programme (COM(2016) 177 final)

¹⁶ Conclusions, European Council meeting (19 and 20 March 2015), EUCO 11/15