CROATIAN NATIONAL SYSTEM OF NUCLEAR MATERIALS CONTROL

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Abstract:

In the process of economic and technological development of Croatia by using or introducing nuclear power or in the case of international co-operation in the field of peaceful nuclear activities, including international exchange of nuclear material, Croatia should establish and implement National System of Nuclear Materials Control.

Croatian National System of accounting for and control of all nuclear material will be subjected to safeguards under requirements of Agreement and Additional Protocol between the Republic of Croatia and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

The decision by NPT parties at the 1995 NPT Review and Extension Conference to endorse the Fullscope IAEA Safeguards Standard (FSS) as a necessary precondition of nuclear supply means that states are obliged to ensure that the recipient country has a FSS agreement in place before any nuclear transfer can take place (Ref.1.). The FSS standard of nuclear supply is a central element of the Nuclear Suppliers Group (NSG) Guidelines which the NSG adopted in 1992 and should be applied to members and non-members of the NSG. The FSS standard of nuclear supply in general allows for NPT parties or countries which have undertaken the same obligations through other treaty arrangements, to receive favourable treatment in nuclear supply arrangements. However, the Iraqi experience demonstrate that trade in nuclear and dual-use items, if not properly monitored, can contribute to a nuclear weapons program in countries acting contrary to their non-proliferation obligation. Multilateral nuclear export control mechanisms, including the FSS supply standard, provide the basis for co-ordination and standardisation of export control measures.

EU APPROACH ON NUCLEAR MATERIALS EXPORT CONTROLS

In 1992 the Commission of the EU conducted an investigation of the state of national export control systems. In the study the Directorate General III (DG III - Directorate charged with Community industrial policy) documented differences: licensing procedures and criteria, size of restricted countries and goods lists, penalties for export violations, export agencies personnel and technical capabilities, and the degree of information sharing amongst customs, enforcement, licensing and intelligence bureaus. DG XVII (Energy) surveyed member states

nuclear control lists. As all EU members were Nuclear Suppliers Group (NSG) identical lists were to be expected. The survey revealed extraordinary variances. The French list revealed the absence of fourteen items from a complete list of seventy-two, Belgium lacked twenty and Spain twenty-four.

The Commission concluded that if possible sources of diversion were to be eliminated and if equal competitive conditions were to be ensured, some of the elements which make up an export control system would need to be harmonised between member states in order to insure that each national control system was equally effective. The Commission submitted a proposal to the Council of the European Union on harmonising elements of national systems of control. The proposal was strictly limited to what is necessary at the Community level to meet essential requirements for the completion of the international market. Arms exports would not be included in the proposed system. The system would therefore address only trade in dual-use goods. On the basis of proposal the Council adopted a system of dual-use goods export controls consisting of two legal pillars:

I. Council Decision No 94/924/CFSP

Joint action adopted by the Council on the basis of article J3 of the Treaty on European Union is designed to protect member states essential security interests and to meet their international commitments. It establishes five lists:

Annex 1: contains a common list of dual-use goods which are subject to control when exported from the EU;

Annex 2: provides a non-exhaustive list of destinations to which simplified formalities can be used; it remains at the discretion of the member state to issue a licence or not;

Annex 3: provides a list of guidelines which will be taken into account by member states in making licensing decisions;

Annex 4: establishes a list of dual-use goods for which intra-Community trade remains subject to individual or global authorisations (items include especially designed or prepared nuclear goods and components;

Annex 5: lists some dual-use goods for which some member states will continue to requests for individual authorisation when the good in question is dispatched from one EU state to another.

II. Council Regulation (EC) No 3381/94

An EU Regulation is legislation which has general effect and is directly applicable in the member states. The key element of the Regulation is that for all dual-use goods listed in Annex 1 a license is required for exports from the EU. The responsibility for authorising such exports will remain with the competent national authorities. A license granted by the national authority is valid throughout the EU.

The Regulations contains numerous provisions addressing specific details regarding further policy harmonisation and interpretation. The Regulation provides for a transitional period, which will be re-examined within three years from the date of entry into force (July 1998), during which the member states are committed to exchanging information and co-operation closely whenever necessary in order to minimise the risk of diversion. The Regulation also stipulates the exercise "catch-all" provision. Regarding the transfer of certain nuclear items within the Community, the Regulation recognises the validity of the so-called Dublin declaration.

APPROACH IN THE REPUBLIC OF CROATIA

Nuclear materials control system in the Republic of Croatia is based on the IAEA approach. According to the international agreements and national legislation Republic of Croatia shall establish and maintain a system of accounting for and control of all nuclear material subject to safeguards under Agreement between RC and IAEA for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons. Furthermore, after signing of Additional Protocol to the Agreement, Croatia will implement Full Scope Safeguards System according to requirements for all activities and specified equipment and non-nuclear material listed in Model Protocol Annex 1 and Annex 2 (INFCIRC 540).

In the scope of international agreements the Republic of Croatia adopted (Act of 1993) the Former Yugoslav Act on the Treaty on the Non-Proliferation of Nuclear Weapons (Act of 1970), signed and ratified (Act of 1994) the Agreement between RC and IAEA for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation on Nuclear Weapons and signed and ratified (Act of 1995) the Convention on Nuclear Safety (Vienna 1994). Also, the Republic of Croatia adopted (Act of 1993) the Former Yugoslav Act on the Convention on the Physical Protection of Nuclear Material (Act of 1985)

On the IAEA General Assembly session in the September of the 1997 Republic of Croatia issued Statement to be ready for process of signing Additional Protocol to the Agreement for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation on Nuclear Weapons.

In the scope of national legislation the Republic of Croatia adopted (Act of 1991) the Former Yugoslav Act on Radiological Protection and the Safe Use of Nuclear Energy (Act of 1984) and Croatian Act on Ionising Radiation Protection and Nuclear Plants and Facilities Safety Measures (Act of 1981). The New Nuclear Safety Law is not finalised yet. Codes, regulations and standards for safeguards and physical protection measures for nuclear material should be prepared and issued after.

In this moment there is no nuclear facilities in the territory of the Republic of Croatia, neither nuclear material nor dual-use equipment have been reported to the IAEA for import or export control. Accounting and licensing of nuclear material is in the scope of Ministry of Economy. In the progress is feasibility study untitled "Nuclear Materials Control" which objectives are to present situation on nuclear materials control in the Republic of Croatia in correlation to international requirements adopted by signed and ratified agreements, in addition to prepare basic documentation in order to follow up process of accession to the international agreement untitled "Protocol Additional to the Agreement between the Republic of Croatia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons" notified by IAEA to the Resident Representative to the Permanent Mission of the Republic of Croatia in Vienna at the end of the year 1997 (Ref.2). Measures provided for in the Additional Protocol to safeguards agreements include:

- Information about, and inspector access to, all aspects of nuclear fuel cycles, from uranium mines to nuclear waste and locations where nuclear material intended for non-nuclear uses is present;

- Information on, and inspector access to, all buildings on a nuclear site;

- Information about, and inspector access to, fuel cycle related research and development;

- Information on the manufacture and export of sensitive nuclear related technologies and inspector access to manufacturing and import locations;

- The collection of environmental samples beyond declared locations when deemed necessary by the IAEA; and

- Administrative arrangements that improve the process of designating inspectors, the issuance of multy entry visas and IAEA access to modern means of communications.

The Additional Protocol in combination with the safeguards agreement provides for as complete a picture as practicable of a State's production and holding of nuclear source material, the activities for further processing of nuclear material (for both nuclear and non-nuclear application), and of specified elements of the infrastructure that directly support the State's current or planned nuclear fuel cycle. The elements of the reporting scheme are incorporated in the Additional Protocol as legal obligations. The safeguards agreement and the Additional Protocol are to be read as a single document with, in cases of conflict, the provisions of the Additional Protocol prevailing. Through December of the year 1997, seven States signed Additional Protocol that grants the IAEA legal authority to implement strengthened safeguards measures. States accepting the Protocol so far are Armenia, Australia, Georgia, Lithuania, Philippines, Poland, and Uruguay, Two of them, Armenia and Georgia, have undertaken the commitment to apply the Protocol provisionally, pending its ratification. A number of other States, including Japan and Canada, as well the European Union, have signalled they are moving towards acceptance of the Protocol (Ref.3.)

References:

1. Keynote Address at the International Seminar on the Role of Export Controls in Nuclear Non-Proliferation (Vienna, 7 October 1997);
2. Draft Protocol Additional to the Agreement between the Republic of Croatia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons;
3. IAEA Bulletin 39/4/1997