

(Acts adopted under Title V of the Treaty on European Union)

COUNCIL JOINT ACTION 2005/574/CFSP

of 18 July 2005

on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

Whereas:

- (1) On 12 December 2003, the European Council adopted the EU Strategy against the Proliferation of Weapons of Mass Destruction, which contains, in its Chapter III, a list of measures to combat such proliferation and which need to be taken both within the EU and in third countries.
- (2) The EU is actively implementing this Strategy and is giving effect to the measures listed in its Chapter III, in particular through releasing financial resources to support specific projects conducted by multilateral institutions, such as the International Atomic Energy Agency (IAEA).
- (3) On 17 November 2003, the Council adopted Common Position 2003/805/CFSP on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery ⁽¹⁾.
- (4) On 17 May 2004, the Council adopted Joint Action 2004/495/CFSP on support for IAEA activities under its Nuclear Security Programme and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction ⁽²⁾.
- (5) Since, as far as the EU is concerned, the Council adopted on 22 December 2003 Directive 2003/122/Euratom ⁽³⁾ on the control of high activity sealed radioactive sources and orphan sources, the strengthening of the control of high activity radioactive sources in all third countries, in accordance with the G-8 statement and Action Plan on securing radioactive sources, remains an important objective to be pursued.

- (6) The universalisation of the IAEA Additional Protocol ⁽⁴⁾ contributes to the strengthening of verification capabilities and the IAEA's safeguards system.
- (7) The IAEA pursues the same objectives as set out in Recitals 5 and 6. This is done in the context of the revised Code of Conduct on the Safety and Security of Radioactive Sources which was approved by the IAEA Board of Governors in September 2003 and the implementation of its Nuclear Security Plan which is financed through voluntary contributions to its Nuclear Security Fund. The IAEA is also engaged in efforts to strengthen the Convention on the Physical Protection of Nuclear Material and to promote the conclusion and implementation of the IAEA Additional Protocol.
- (8) The Commission has accepted to be entrusted with the supervision of the proper implementation of the EU contribution,

HAS ADOPTED THIS JOINT ACTION:

Article 1

1. For the purposes of giving immediate and practical implementation to some elements of the EU Strategy against the Proliferation of Weapons of Mass Destruction, the EU shall support the IAEA activities in the areas of nuclear security and verification in order to further the following objectives:
 - to enhance the protection of proliferation-sensitive materials and equipment and the relevant expertise,
 - to strengthen the detection of and response to illicit trafficking of nuclear materials and radioactive substances,
 - to work towards the reinforcement of the IAEA's safeguards and, in particular, the universalisation of the IAEA Additional Protocol.

⁽¹⁾ OJ L 302, 20.11.2003, p. 34.

⁽²⁾ OJ L 182, 19.5.2004, p. 46.

⁽³⁾ OJ L 346, 31.12.2003, p. 57.

⁽⁴⁾ Model Protocol Additional to the Agreement(s) between State(s) and the International Atomic Energy Agency for the Application of Safeguards, which was approved by the IAEA Board of Governors in 1997 (INFCIRC/540 (Corr.)).

2. The projects of the IAEA, corresponding to measures of the EU Strategy, are the projects which aim at:

- assisting States in strengthening Physical Protection of Nuclear Materials and other Radioactive Materials in Use, Storage and Transport, and of Nuclear Facilities,
- assisting States in strengthening Security of Radioactive Materials in non-Nuclear Applications,
- strengthening States' capabilities for Detection and Response to Illicit Trafficking,
- assisting States in drafting the necessary legislative measures for the implementation of the IAEA Additional Protocol.

These projects will be carried out in countries needing assistance in these areas.

A detailed description of the projects is set out in the Annex.

Article 2

1. The financial reference amount for the implementation of the four projects referred to in Article 1(2) is EUR 3 914 000.

2. The management of the expenditure financed by the general budget of the European Union specified in paragraph 1 shall be subject to the procedures and rules of the Community applying to budget matters with the exception that any pre-financing shall not remain the property of the Community.

3. For the purpose of implementing the projects referred to in Article 1(2), the Commission shall conclude a financial framework agreement with the IAEA on the conditions for the use of the EU contribution, which will take the form of a grant. A specific financing agreement to be concluded shall stipulate that the IAEA shall ensure visibility of the EU contribution, appropriate to its size.

4. The Commission shall supervise the proper implementation of the EU contribution referred to in this Article. To this end, the Commission shall be entrusted with the task of controlling and evaluating the financial aspects of the implementation of this Joint Action as referred to in this Article.

Article 3

The Presidency, assisted by the Secretary General of the Council/High Representative for the CFSP, shall be responsible for the implementation of this Joint Action, in full association with the Commission, and shall report to the Council on its implementation.

Article 4

The Council and the Commission shall ensure, within their respective powers, consistency between the implementation of this Joint Action and external activities of the Community in accordance with the second subparagraph of Article 3 of the Treaty. The Council and the Commission shall cooperate to this end.

Article 5

This Joint Action shall enter into force on the day of its adoption.

It shall expire 15 months after its adoption.

Article 6

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Brussels, 18 July 2005.

For the Council
The President
J. STRAW

ANNEX

EU support for the IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction**1. Description**

The Board of Governors of the International Atomic Energy Agency (IAEA) approved, in March 2002, a plan of activities to protect against nuclear terrorism (GOV/2002/10). Furthermore, the document: 'Measures to Strengthen International Cooperation in Nuclear, Radiation, Transport Safety and Waste Management: Promoting Effective and Sustainable National Regulatory Infrastructure for the Control of Radiation Sources' (GOV/2004/52-GC(48)/15) includes parts that are relevant to the IAEA-EU cooperation under the EU Strategy against the Proliferation of Weapons of Mass Destruction. This provides a comprehensive approach to nuclear security, including the regulatory controls, accountability and protection of nuclear and other radioactive materials in use, storage and transport, 'from cradle to grave', in the short term as well as in the long term. However, if protection should fail, or in the case of material that is not yet subject to protection at its location, measures must be established to detect theft or attempts to smuggle the material.

International safeguards, as implemented by the IAEA, represent a key means of verifying the fulfilment by states of commitments not to use nuclear material or technology to develop nuclear weapons or other nuclear explosive devices. Conclusion of a comprehensive safeguards agreement⁽¹⁾ and an additional protocol thereto⁽²⁾ is an important commitment by a state with respect to the security and control of nuclear material and nuclear-related material and activities within its territory, under its jurisdiction or carried out under its control anywhere. In this respect, it is of utmost importance that the required national implementing legislation is in place in order to enable authorised governmental entities to exercise the necessary regulatory functions and to govern the conduct of any person engaged in regulated activities.

Support for these efforts is in high demand in all IAEA Member States as well as in states which are not yet members of the IAEA. However, the projects related to strengthening nuclear security are primarily focused upon countries in south-eastern Europe: Bulgaria, Turkey, Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro, the Former Yugoslav Republic of Macedonia, Moldova and Romania, in the Central Asia region: Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan and Turkmenistan, in the Caucasus region: Armenia, Azerbaijan and Georgia, in Northern Africa: Morocco, Algeria, Tunisia, Libya and Egypt, and in the Mediterranean region and in the Middle East: Lebanon, Syria, Israel and Jordan. The activities under the project dealing with assistance in the development of national legislation related to the safeguards agreement and additional protocol (Project 4), will be implemented in the countries identified as a result of the political priorities set by the EU.

Initially, needs for improved nuclear security will be evaluated in the new countries coming under this Joint Action in order to identify priorities for support. For that purpose, a team of recognised experts will evaluate the present status of nuclear security measures already in place in these countries and give recommendations on improvements. The recommendations will constitute a platform for the definition of subsequent assistance, covering present status and need for improvement as regards prevention, detection of and response to malicious acts involving nuclear and other radioactive materials, including those in non-nuclear use, and of nuclear facilities.

As a result of this evaluation, priorities will be set in identifying a maximum number of countries for each project to be covered by the budget made available through EU support.

Subsequently, projects will be implemented in the selected countries in four fields:

1. *Strengthening the Physical Protection of Nuclear Materials and other Radioactive Materials in Use, Storage and Transport and of Nuclear Facilities*

The materials used or stored at nuclear facilities and locations must be adequately accounted for and protected in order to prevent theft or sabotage. An effective regulatory system should identify those elements requiring implementation at the level of the State and of the operator respectively.

A maximum of six countries will be selected for Project 1.

⁽¹⁾ The Structure and Content of Agreements Between the Agency and States Required in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, which was adopted by the IAEA Board of Governors in 1972 (INFCIRC/153 (Corr.)).

⁽²⁾ Model Protocol Additional to the Agreement(s) between State(s) and the International Atomic Energy Agency for the Application of Safeguards, which was approved by the IAEA Board of Governors in 1997 (INFCIRC/540 (Corr.)).

2. *Strengthening of Security of Radioactive Materials in Non-Nuclear Applications*

This project includes two different activity areas, one dealing with establishing/upgrading regulatory infrastructure and one dealing with dismantling and disposal of disused sources.

Radioactive materials are often used in non-nuclear applications, e.g. in medical or industrial use. Some of these sources are highly radioactive, and belong to categories 1 to 3, as defined in the IAEA document 'Categorisation of Radioactive Sources'. These sources, if not adequately under regulatory control and protected, may come into the wrong hands and be used in malicious activities. The radiation safety and security of radioactive sources as well as regulatory infrastructure must be effective and must function adequately in accordance with the international standards, the guidelines of the Code of Conduct on the Safety and Security of Radioactive Sources and the best practices. A maximum of six countries will be selected for this activity area of Project 2.

It is of vital importance that powerful and vulnerable sources are physically protected against malicious acts when used or stored, and when no longer required, they should be dismantled and disposed of as radioactive waste in a safe and secure storage. A maximum of six countries will be selected for this activity area of Project 2.

3. *Strengthening of States' Capabilities for Detection and Response to Illicit Trafficking*

Illicit trafficking is a situation which relates to the unauthorised receipt, provision, use, transfer or disposal of nuclear material and other radioactive materials, whether intentional or unintentional and with or without crossing international borders.

A terrorist-made, crude nuclear explosive device or a radiological dispersal device cannot be constructed without the material having been acquired as a result of illicit trafficking. In addition, sensitive equipment and technology to produce sensitive material for or to construct a crude nuclear explosive device may also have been acquired via illicit trafficking. It may be assumed that cross-border movement of material or technology is necessary for the material to reach its end destination. To combat illicit trafficking, states thus require the necessary regulatory systems to be in place, as well as technical systems (including user-friendly instruments) and available procedures and information at the border stations for detecting attempts at smuggling radioactive materials (including fissile, radioactive materials), or unauthorised trade with sensitive equipment and technology.

Effective measures must also be in place to respond to such acts and also to seizures of any radioactive materials. Law enforcement staff (customs, police, etc.) is frequently not trained in the use of detection equipment, and thus the sensitive equipment and technology may be unfamiliar. Training of this staff is therefore critical to the success of any measures put in place for detection of illicit trafficking. Different training should be offered to staff of different categories, both in using detection instruments and in understanding the reading of the instrument, to be able to decide on follow-up activities.

4. *Legislative Assistance for the Implementation of States' Obligations under IAEA Safeguards Agreements and Additional Protocols*

The conclusion of safeguards agreements and additional protocols with the IAEA is an effective measure that promotes stringent national and international control of nuclear material and related technologies. While there are some key commitments and elements that states are obliged to implement in national legislation with respect to safeguards, which are relevant to the security and control of nuclear material and nuclear-related material and activities, there are also other additional commitments that states are required to enact to enable them to comply with their international commitments under safeguards. In this respect national implementing legislation should actually provide a framework of principles and general provisions that enables authorised governmental entities to exercise the necessary regulatory functions and that regulates the conduct of any person engaged in regulated activities.

It is important that national implementing legislation clearly identify the nuclear activities, installations, facilities and material to which safeguards will be applied. In addition, states that have concluded an additional protocol need to ensure that their national implementing legislation has been enhanced to enable the state concerned to comply with the additional obligations under the additional protocol. In particular, the state's domestic legislation should be revised to expand the responsibilities and powers of the regulatory body, designated for the purposes of implementing and applying the safeguards agreements concluded.

The beneficiaries of the project will be the selected target countries.

2. Objectives

Overall objective: To strengthen nuclear security in selected countries.

2.1. Evaluation Phase: Financing International Nuclear Security Missions

Evaluation will be carried out by the IAEA to identify needs to strengthen the nuclear security in each of those countries mentioned in point 1, in which such evaluation has not been completed. The evaluation will cover, as appropriate, physical protection and security of nuclear and non-nuclear applications, the necessary regulatory infrastructure for radiation safety and security of radioactive sources, as well as established measures to combat illicit trafficking. The results of the overall evaluation will be used as a basis in selecting the countries in which the projects will be implemented.

The projects, as part of the broad-based nuclear security mission referred to above, will:

- evaluate, in each country, the status of physical protection of nuclear and other radioactive materials, and the protection of any nuclear or research installation or location in which these materials are used or stored, and identify a subset of facilities and locations containing these materials to be selected for subsequent upgrading and support,
- evaluate, in each country, any needs with respect to the upgrading of the security of radioactive sources, identify any weaknesses and shortcomings in implementing international standards and the Code of Conduct requiring improvement of regulatory infrastructure, and identify the need to provide additional protection of powerful, vulnerable sources. The specific equipment needed to provide protection would also be determined as a result of the evaluation,
- evaluate, in each country, the current status of the capability to combat illicit trafficking and identify needs for the required improvements.

2.2. Implementation of specific actions defined as priorities as a result of the evaluation phase

Project 1

Strengthening Physical Protection of Nuclear Materials and other Radioactive Materials in Use, Storage and Transport and in Nuclear Facilities

Project purpose: to strengthen physical protection of nuclear and other radioactive materials in the selected countries.

Project results:

- physical protection of selected facilities and priority locations upgraded,
- national regulatory infrastructure for physical protection improved through expert assistance,
- staff training provided in the selected countries.

Project 2

Strengthening of Security of Radioactive Materials in Non-Nuclear Applications

Project purpose: to strengthen the security of radioactive materials in non-nuclear applications in the selected countries.

Project results:

- establishment/upgrading of the national regulatory infrastructure for radiation safety and security of radioactive sources through the provision of the Radiation Safety, and Security of Radioactive Sources, Infrastructure Appraisal (RaSSIA), advisory services, equipment and training, in accordance with the international standards, the guidelines of the Code of Conduct on the Safety and Security of Radioactive Sources and the best practices,

- vulnerable sources protected or, as appropriate, dismantled or disposed in selected countries.

Project 3

Strengthening of States' Capabilities for Detection and Response to Illicit Trafficking

Project purpose: to strengthen the States' capacities for detection of and response to illicit trafficking in the selected countries.

Project results:

- enhanced information collected and evaluated on illicit nuclear trafficking, from open sources and from states' points of contact, to improve the knowledge about and circumstances of illicit nuclear trafficking. This information will also facilitate the prioritisation of the various activities undertaken to combat illicit trafficking,
- national frameworks established through expert assistance, to combat illicit trafficking and to improve the national coordination of control cross-border movements of radioactive materials, sensitive nuclear equipment and technology in the selected countries,
- border monitoring equipment upgraded at selected border crossings,
- training provided for law enforcement staff.

Project 4

Legislative Assistance for the Implementation of States' Obligations under IAEA Safeguards Agreements and Additional Protocols

Project purpose: to strengthen national legislative frameworks for the implementation of safeguards agreements and additional protocols concluded between states and the IAEA.

The project consists of two phases, namely a preparatory phase and an implementation phase:

- the preparatory phase consists of the identification of states that have not adopted the necessary implementing legislation pursuant to safeguards agreements and additional protocols concluded with the IAEA. This identification will be carried out by the EU. In addition, it includes the development of generic materials (i.e. 'legislative building blocks'), derived from examples of existing national legislation of various states, to be used as a basis for tailoring those examples to the respective national needs and conditions of the target countries,
- the implementing phase consists of the provision of bilateral legislative assistance to target countries in the drafting and/or revision of national legislation, using the building blocks developed during the preparatory phase.

Project results:

- Development and adoption in national languages of national legislation necessary to enable states to comply with their obligations under IAEA safeguards agreements and additional protocols.

3. Duration

The evaluation will be performed within a period of three months after entering into force of the EU Contribution Agreement between the Commission and the IAEA. The four projects will be performed in parallel during the 12 subsequent months.

The total estimated duration for the implementation of this Joint Action is 15 months.

4. Beneficiaries

The beneficiaries are the countries where the assessment and the subsequent projects will be implemented. Their authorities will be helped to identify weak points and receive support to find solutions for them and increase security.

5. Implementing Entity

The IAEA will be entrusted with the implementation of the projects. The international nuclear security missions will be performed following the standard mode of operation for missions of the IAEA, which will be carried out by IAEA Member States' experts. The implementation of the four projects will be done directly by the IAEA staff, IAEA Member States selected experts or contractors. In the case of contractors, the procurement of any goods, works or services by the IAEA in the context of this Joint Action shall be carried out in accordance with the applicable rules and procedures of the IAEA, as detailed in the EU Contribution Agreement with the IAEA.

6. Third Party Participants

The projects will be financed 100 % by this Joint Action. Experts of IAEA Member States may be considered as third party participants. They will work under the standard rules of operation for IAEA experts.

7. Estimated required means

The EU contribution will cover the evaluation and the implementation of the four projects as described in point 2.2. The estimated costs are as follows:

Nuclear security evaluation, including missions	EUR 140 000
Project 1	EUR 1 100 000
Project 2	EUR 1 250 000
Project 3	EUR 1 114 000
Project 4	EUR 200 000

In addition, a contingency reserve of about 3 % of eligible costs (for a total amount of EUR 110 000) is included for unforeseen costs.

8. Financial reference amount to cover the cost of the project

The total cost of the project is EUR 3 914 000.
