

Nuclear Safety outside the EU

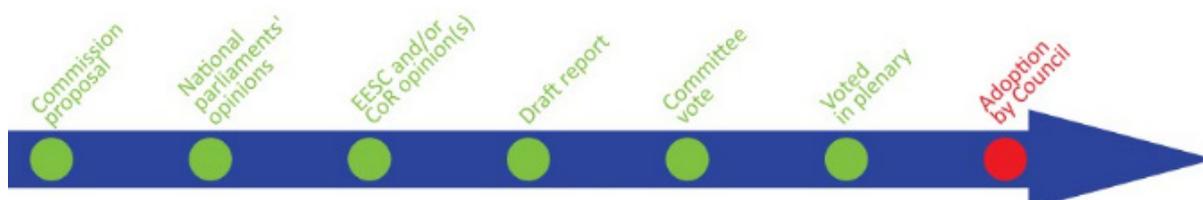
Proposal for a new Council regulation

OVERVIEW

In the context of the Commission's proposal for a multiannual financial framework (MFF) for the 2021-2027 period, the Commission published a proposal for a Council regulation establishing a European instrument for nuclear safety complementing the neighbourhood, development and international cooperation instrument on the basis of the Euratom Treaty on 14 June 2018. The proposed regulation will replace Council Regulation (Euratom) No 237/2014 of 13 December 2013 establishing an instrument for nuclear safety cooperation (INSC). The proposed regulation will continue to fund the important activities carried out under the current regulation, namely to support the promotion of a high level of nuclear safety and radiation protection and the application of effective and efficient safeguards of nuclear materials in third countries, building on the activities under the Euratom Treaty.

Proposal for a Council regulation establishing a European Instrument for Nuclear Safety complementing the Neighbourhood, Development and International Cooperation Instrument on the basis of the Euratom Treaty

Committee responsible:	Industry, Research and Energy (ITRE)	COM(2018) 462 14.6.2018
Rapporteur:	Vladimir Urutchev (EPP, Bulgaria)	2018/0245(NLE)
Shadow rapporteurs:	Jens Geier (S&D, Germany) Rupert Matthews (ECR, UK) Pavel Telička (ALDE, Czech Republic) Jaromir Kohlíček (GUE/NGL, Czech Republic) Michèle Rivasi (Greens/EFA, Italy) Dario Tamburrano (EFDD, Italy)	Consultation procedure – Parliament adopts only a non-binding opinion
Next steps expected:	Adoption by Council	



Introduction

In the context of the Commission's proposal for a multiannual financial framework (MFF) for the 2021-2027 period, the Commission adopted a [proposal](#) for a Council regulation establishing a European instrument for nuclear safety complementing the neighbourhood, development and international cooperation instrument, on the basis of the Euratom Treaty, on 14 June 2018. It comes under Heading 6 'Neighbourhood and the world' of the proposed MFF, which sets out the main priorities and overall budgetary framework for the EU's external action. The Commission proposes to allocate €300 million (in current prices) to the instrument for the 2021-2027 period. In constant prices, this represents an allocation of €266 million.

The European instrument for nuclear safety (EINS) will replace Council Regulation (Euratom) No [237/2014](#) of 13 December 2013 establishing an instrument for nuclear safety cooperation (INSC), which has a financial envelope of €225 million for the 2014-2020 period (in current, 2011 prices), representing an increase, in current prices, of 33 %.

The objective of the proposed instrument is to complement the nuclear cooperation activities that will be financed under the neighbourhood, development and international cooperation instrument (NDICI), in particular to support the promotion of a high level of nuclear safety, radiation protection and the application of effective and efficient safeguards of nuclear materials in third countries, building on the activities within the EU under the Euratom Treaty. Specifically, the proposed regulation aims first to promote an effective nuclear safety culture, including implementation of the highest nuclear safety and radiation standards. Second, the regulation aims to promote responsible and safe management of spent fuel and radioactive waste, as well as the decommissioning and remediation of former nuclear sites and installations. A third aim is to establish efficient and effective safeguard systems in third countries, through the establishment of frameworks and methodologies.

In the early 1990s, following the fall of the Berlin Wall and the disintegration of the USSR, the EU began to provide support, through its TACIS technical assistance programme, for structural adjustment and reform in 11 post-Soviet and post-communist countries. One form of support was to raise the safety and technical standards, of countries dealing with a Soviet-era nuclear legacy, to Western European standards. In the wake of the 1986 [Chernobyl disaster](#), this was a source of [particular concern](#). Support through TACIS ultimately paved the way for a formal EU external policy on nuclear safety cooperation around the world, financed by the INSC, the predecessor of the proposed regulation.

Context

The proposed regulation complements the proposed NDICI, the main instrument on external action, which the Commission also published on 14 June 2018.

Nuclear safety is an important part of the EU's external action, and the NDICI includes some nuclear cooperation measures. However, certain nuclear safety cooperation activities fall within the specific competence of the Euratom Treaty, and therefore are not founded on the same legal basis as the NDICI, especially Articles 209 and 212 of the Treaty on the Functioning of the European Union (TFEU). For that reason, the proposed regulation has to be a separate instrument with a separate legal basis, namely Article 203 of the [Treaty establishing the European Atomic Energy Community](#) (Euratom Treaty).

Article 203 of the Euratom Treaty states that 'If action by the Community should prove necessary to attain one of the objectives of the [European Atomic Energy] Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.'

Existing situation

Under the 2014-2020 multiannual financial framework, the financing instrument dedicated to the promotion of a high level of nuclear safety in third countries is Council Regulation (Euratom) 237/2014 establishing the INSC. It will expire on 31 December 2020. Some €225 million has been allocated to the INSC for the 2014-2020 MFF.

The INSC is used to promote the highest standards and practices in nuclear safety applied in the European Union in third countries. It is also used to promote alignment with EU policies and priorities in the field of nuclear safety in non-EU countries. Moreover, INSC funds have been used to address specific needs: for example, to remediate legacy mining waste in Central Asia, through the [multilateral environmental remediation account](#) set up in 2015; and to contribute to the priorities pursued by the International Atomic Energy Agency ([IAEA](#)) and the G7 Nuclear Safety and Security Group ([NSSG](#)). INSC funds were also used to finance follow-up to the Joint Comprehensive Plan of Action ([JCPOA](#)) the nuclear agreement between Iran and the E3/EU+3 (China, France, Germany, Russia, the United Kingdom and the United States, with the High Representative of the European Union for Foreign Affairs and Security Policy). Finally, funds were used to stress test nuclear power plants in various countries.

According to the Commission's [impact assessment](#) (IA) the INSC brings unique added value to 'nuclear safety cooperation with third countries, well beyond the capacities of Member States and other donors'. The IA notes that the institutional framework allows the Commission to act at a global level on nuclear safety cooperation, including through consultations with G7/8 partners. Moreover, the European Commission can draw on specialist know-how and expertise, and has 25 years of experience in applying the highest nuclear standards. The INSC allows the EU to assume the role of world leader in nuclear safety and engage in policy dialogue with partner countries. In the Commission's view, the activities under the INSC should continue as much as possible under the 2021-2027 MFF, through both the NDICI and the proposed regulation, which is designed to complement the NDICI.

Preparation of the proposal

The procedures and timeline leading up to the adoption of the proposed legislation are set out in the EPRS Briefing on [Post-2020 MFF and own resources - Ahead of the Commission's proposal](#).

On 1 March 2017, the Commission published a [white paper](#) on the future of Europe and the way forward, which set out possible paths for the future of Europe, offering five scenarios for how the Union could evolve. This was followed, in June 2017, by a [reflection paper on the future of EU finances](#). The paper looks at the challenge of the EU having to 'fund more with less', structured around the [five scenarios](#) set out in the white paper. In addition, the reflection paper sets out the basic features of the EU budget, and charts the principal trends and developments in key policy areas such as cohesion and agriculture.

On 2 May 2018, the Commission adopted proposals for a new MFF for the European Union for the years after 2020, accompanied by a [communication](#). The Commission also adopted a proposal for a new system of own resources to provide the EU with the means to finance its annual budgets. The proposals were published as a package; their publication was followed by the publication of a series of further legislative proposals in May and June for individual spending programmes, including, on 14 June 2018, the NDICI proposal.

Also on 14 June 2018, the Commission published the [impact assessment](#) accompanying a total of four legislative proposals, namely:

- 1 the proposal for a regulation establishing the neighbourhood, development and international cooperation instrument;

- 2 the proposal on the association of the overseas countries and territories with the European Union, including relations between the EU on the one hand, and Greenland and the Kingdom of Denmark on the other;
- 3 the proposal for a regulation establishing the instrument for pre-accession assistance;
- 4 and the proposal establishing a European instrument for nuclear safety.

EPRS has prepared an [initial appraisal](#) of that impact assessment.

The changes the proposal would bring

The proposed regulation has the same objectives as the INSC, the regulation which it will replace.

In the context of the Commission's MFF proposal for the 2021-2027 period, the Commission proposed to create a single regulation – the neighbourhood, development and international cooperation instrument (NDICI) – to replace several existing foreign policy instruments, including the INSC. The other instruments include:

- [Regulation \(EU\) 230/2014](#) establishing an instrument contributing to stability and peace (IcSP);
- [Regulation \(EU\) 232/2014](#) establishing a European neighbourhood instrument (ENI);
- [Regulation \(EU\) 233/2014](#) establishing a financing instrument for development cooperation for the period 2014-2020;
- [Regulation \(EU\) 234/2014](#) establishing a partnership instrument for cooperation with third countries (PI);
- [Regulation \(EU\) 235/2014](#) establishing a financing instrument for democracy and human rights worldwide (EIDHR);
- [Regulation \(EU\) 236/2014](#) laying down common rules and procedures for the implementation of the Union's instrument for financing external action;
- [Regulation \(EU\) 2017/1601](#) establishing the [European Fund for Sustainable Development](#) (EFSD), the EFSD Guarantee and the EFSD Guarantee Fund;
- [Decision \(EU\) 2018/412](#) of 14 March 2018 amending Decision No 466/2014/EU granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union ([External Lending Mandate](#), ELM);
- [Regulation \(EU\) 2018/409](#) amending [Council Regulation 480/2009](#) establishing a [Guarantee Fund for external actions](#);
- the extra-budgetary [European Development Fund](#) (EDF), including its African, Caribbean and Pacific (ACP) investment facility.

Advisory committees

The legal basis ([Article 203 Euratom](#)) for this proposal does not provide for consultation of the advisory committees.

National parliaments

The deadline for the submission of [reasoned opinions](#) on the grounds of subsidiarity was 24 September 2018. None of the 13 parliamentary chambers from 12 Member States that scrutinised the proposal submitted such opinion.

Legislative process

The legal basis for the proposal is the 'flexibility clause' in the Euratom Treaty ([Article 203 Euratom](#)), which follows the same principles as the 'flexibility clause' in the TFEU ([Article 352 TFEU](#)). Article 203 Euratom provides for consultation of the European Parliament.

The Committee for Industry, Research and Energy (ITRE) was responsible for this file and adopted its [report](#) on 3 December 2018. The Committee for Foreign Affairs (AFET) also prepared an opinion, which it adopted on 21 November 2018.

The ITRE report welcomes the simplification of the regulatory environment through the streamlining of a large number of external financing instruments into one broad instrument. Accordingly, it welcomes the creation of the NDICI, which will encompass 10 existing external action financing instruments. The report also welcomes the new EINS, as it complements the NDICI and shares the same rules for monitoring, reporting, evaluation, information, communication and publicity as laid down in the NDICI. The report notes that in terms of aligning rules, incorporating provisions from the common implementing regulation will give both the NDICI and the ENS a coherent set of principles across all its component parts, and will make it easier to understand for partners and implementing agents.

The report calls for the EINS to promote international cooperation based on conventions on nuclear safety and radioactive waste management, and the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The report would like to see partner countries become parties to these conventions, thus allowing for an IAEA-assisted periodic peer review of relevant national systems. The report points out that convention review reports provide an external view on the state-of-play and challenges in nuclear safety in third countries, which can be used in programming of high-level European support. The report calls for efforts to be made to ensure that the objectives of the EINS are relevant to the third-country partners' needs and priorities, through consultations, road maps, strategies and dedicated structures.

The report calls for increased measurability of effectiveness and impact, through results-oriented monitoring, review and evaluation of the result. Furthermore, the report calls for strong cooperation with the IAEA and the World Association of Nuclear Operators (WANO), to avoid duplication of effort. The report points out that centralised management of the EINS is a good arrangement to ensure that qualified assistance is provided on the basis of high-level nuclear expertise in a coordinated way with Member States' relevant authorities, which have the necessary know-how and expertise.

The plenary voted on the report and adopted Parliament's [legislative resolution](#) on 17 January 2019. The final adoption is thus now in the hands of the Council.

EP SUPPORTING ANALYSIS

Drachenberg R., [The European Council and the multiannual financial framework](#), European Council in action, EPRS, European Parliament, February 2018.

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Kononenko V., [Establishing the Neighbourhood, Development and International Cooperation Instrument](#), Initial appraisal of a European Commission impact assessment, EPRS, European Parliament, October 2018.

Parry M. and Sapała M., [2021-2027 multiannual financial framework and new own resources – Analysis of the Commission's proposal](#), EPRS, European Parliament, July 2018.

Parry M. and Sapała M., [Post-2020 MFF and own resources – Ahead of the Commission's proposal](#), EPRS, European Parliament, May 2018.

OTHER SOURCES

[European instrument for nuclear safety 2021-2027](#), European Parliament, Legislative Observatory (OEIL).

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