

FORATOM position paper on the Thematic Strategy on the Protection and Conservation of the Marine Environment

The European Atomic Forum (FORATOM) is the Brussels-based trade association for the nuclear industry in Europe. Its main purpose is to promote the use of nuclear energy in Europe by representing the interests of this important and multi-faceted industrial sector, primarily vis-à-vis the European institutions. The membership of FORATOM is made up of 16 national nuclear associations – active right across Europe – and the more than 800 companies that they represent – from Europe's (and the world's) largest nuclear utilities and nuclear fuel cycle companies to other undertakings engaged in the transport of nuclear materials and the management of radioactive waste.

FORATOM welcomes the initiative by the European Commission to develop a Thematic Strategy on the Protection and Conservation of the Marine Environment with the overall aim “to promote sustainable use of the seas and conserve marine ecosystems”. We also welcome the openness of the Commission in seeking and offering to take into account input from various stakeholders throughout the development of this thematic strategy.

As part of the stakeholder dialogue, we welcome the current opportunity for the nuclear industry to continue to contribute constructively to the preparation of the Commission's proposal for a Thematic Strategy on the Protection and Conservation of the Marine Environment, due for adoption later in 2005.

Nuclear power is one of the cleanest large-scale electricity-generating technologies which plays a key role in Europe without affecting the climate. We are, therefore, looking forward to a comprehensive marine strategy that treats the nuclear industry in the same way it does other major energy sources and industries.

FORATOM is concerned that the nuclear industry could be discriminated against in the Strategy on the pretext of “public concerns” about radioactive discharges. We would point out that there is no rigorous scientific evidence showing that such low-level discharges, which are legally authorised by national regulatory authorities and the European Commission, cause any harm to people or the environment. We would, therefore, urge that, in developing the Strategy, the Commission adhere to a strict scientific and risk-based approach.

In 2004, the nuclear industry participated in two consecutive meetings of the Commission's Working Group on Strategic Goals and Objectives (SGO), which ultimately led to the draft policy document that was circulated as a basis for discussion at the closing stakeholder conference held in Rotterdam (Netherlands) on 10-12 November 2004. Unfortunately, there are some important discrepancies between what was discussed and agreed on at the last SGO meeting in June 2004, and what was tabled for discussion at the stakeholder conference.

Consequently we believe it is important to re-state the major comments¹ that the nuclear industry made earlier:

1. Radioactive discharges from nuclear installations in normal operation do not classify as “pollution” under the definition² used by the Commission.
2. We believe that it is essential that the Strategy accurately transpose the OSPAR objectives on radioactive discharges. This must therefore include the three key conditions that were at the basis of the OSPAR 1998 Sintra Agreement, which have been omitted from the Commission’s draft policy document³. For full consistency, the following text should be added⁴:

“In achieving this objective, the following issues should, inter alia, be taken into account: (a) legitimate use of the sea; (b) technical feasibility; and (c) radiological impacts on man and biota.”

Furthermore, the Objective No.24 in Annex 2, should include the additional sentence “We shall pay particular attention to the safety of workers in nuclear installations”, in order to be consistent with OSPAR.

3. While “public concern” is an important factor to be taken into account, we question why the Thematic Strategy should highlight discharges from nuclear-fuel reprocessing plants when the Commission’s MARINA II Report clearly indicates that radioactive discharges from the phosphate industry and offshore oil and gas production are currently the major contributors to collective doses to the population.
4. We note in particular the radicalization of one of the overarching objectives of the thematic strategy: “To phase out pollution in the marine environment so as to ensure that there are no significant impacts or risk to human and/or on ecosystem health and/or on uses of the sea.” In June 2004, the draft policy document being prepared by the Commission’s SGO Working Group read as: “To ensure that levels of pollution in the marine environment do not give rise to significant

¹ Based on what is outlined in the Commission’s Communication entitled “Towards a Strategy to Protect and Conserve the Marine Environment” (COM(2002)539 final, 2 October 2002) and the results of the stakeholder process from 2002 to 2004.

² Pollution is defined in accordance with United Nations Convention of the Law of the Sea as “the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.”

³ The policy document entitled “Thematic Strategy for the Protection and Conservation of the European Marine Environment”, which was circulated as a basis for discussion at the Stakeholder Conference (Rotterdam, 10-12 November).

⁴ At the end of the paragraph of Strategic Goal B, Item 74, Related Objectives No. 6, and at the end of the 1st paragraph of Annex 2, Objective 24.

negative impacts or risk to human and/or ecosystem health and/or on uses of the sea.”

We do not believe that this change is appropriate for a strategy that aims to embrace regional conventions and that would seek the constructive involvement of multiple parties at the time of implementation.

5. We believe that too much stress is placed on the environmental pillar of sustainable development and that integration should be considered in the broader context of sustainable development, especially when taking into account the aims of the Lisbon Strategy.

If the Commission chooses to include legally binding instruments in its planned proposal for a Marine Framework Directive, we would like to stress that all matters relating to the release of radionuclides from nuclear installations should be addressed under Chapter III (Articles 30 and 31) of the EURATOM Treaty and not Article 175 of the EC Treaty. The EC Treaty clearly states in Article 305 § 2 that its provisions “shall not derogate from those of the Treaty establishing the European Atomic Energy Community”. We would like to point out that there is already existing legislation on this matter, specifically Council Directive 96/29/EURATOM.

Again, we appreciate this opportunity to contribute constructively to the drafting of the Thematic Strategy, and we look forward to the updated draft document and more generally, to continue contributing positively to the development of the strategy.