



Implementation Committee of the
Convention on Environmental Impact
Assessment in a Transboundary Context
Palais des Nations
CH – 1211 Geneva 10
Switzerland
Att.: Mr. Romas Svedas, Chair
Ms Elena Santer, Secretariat

S/ referência

Data

N/ referência

Data

S069904-201712-DAIA.DAP

Assunto: Reply to the letter of the Implementation Committee Ref EIC/IC/INFO/22 of 19 September 2017, regarding the construction of a temporary spent fuel storage facility at the Almaraz nuclear power plant

Dear Mr. Romas Svedas, Chair of the Implementation Committee,

Thank you for your letter of 19 September 2017 regarding the construction of a temporary spent fuel storage facility at the Almaraz nuclear power plant (NPP) in Spain.

The planned activity falls within the category set out in Annex I (3) (b) (v) to Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment (EIA Directive) as well as within Appendix I (3) (b) (bullet 5) of the Espoo Convention, both legal provisions reading as follows:

"Installations designed solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site."

As per the Spanish authorities, the aim of this project is to solve the storage needs of the spent fuel produced at the Almaraz NPP until it can be transported to Spain's Centralized Temporary Storage, which approval process is currently under way.



Acknowledging that the Spanish authorities were promoting an Environmental Impact Assessment (EIA) procedure for the planned activity/project at the domestic level, Portugal informed Spain, by letter of 29 September 2016, of its interest to participate in such procedure. The Portuguese authorities considered that the planned activity/project was likely to cause significant adverse transboundary environmental impacts, especially in the context of severe accidents, and therefore Portugal would constitute itself as an affected Party in the scope of both of the EIA Directive and of the Espoo Convention.

Not having received an answer to the first letter, Portugal sent a second letter on 19 October 2016, reinforcing the need to be notified as foreseen in the international legal instruments above mentioned.

The Spanish authorities answered on 11 November 2017, informing that Spain did not consider the planning activity/project as being likely to have significant adverse transboundary environmental impacts and therefore no notification to Portugal was needed. In the letter it was also stated that the EIA decision had already been issued on 7 November 2016 and the EIA procedure was thus concluded.

Considering the aforementioned framework of the project in the EIA Directive and in the respective legislation transposing it into the Spanish legal system, the Spanish State initiated an assessment of the environmental impacts of the ATI project, however without having taken the steps provided for in Article 7 of that Directive, namely consulting Portugal as a Member State potentially affected by the project.

In this context, the Portuguese Republic submitted a reasoned opinion to the European Commission in accordance with the second subparagraph of Article 4 (3) of the Treaty of the European Union and for the purposes of the second paragraph of Article 259 of the Treaty on the Functioning of the European Union.

On the basis of this, a set of conversations were taken between the European Commission, Portugal and Spain, which culminated in a February 2017 Amicable Settlement concerning the Almaraz case between the three abovementioned parties.

This Agreement was intended to promote a constructive dialogue and consultation process with the view to reaching a solution to the legal dispute underway, in order to take into account Portugal's legitimate concerns regarding the planned activity/ project and to agree on appropriate measures to respond to these concerns on a proportional basis.



**AGÊNCIA
PORTUGUESA
DO AMBIENTE**

For the purposes of the Amicable Settlement, the Portuguese Government created a Technical Working Group composed of members of the administration and external experts, with the mandate to review all technical information on the environment and nuclear safety provided by the Spanish authorities in accordance with the Amicable Settlement.

Under the Amicable Settlement, the Spanish authorities organized on 27 February 2017 a site visit to the temporary spent fuel storage facility location and to the Almaraz NPP.

All documentation sent by the Spanish authorities about the project and considered by the said authorities as being of a public nature was made available by the Portuguese authorities to the public from 20 March to 7 April 2017.

Based on the documentation provided by the Spanish authorities at the request of the Portuguese authorities and as a result of the Portuguese Technical Working Group's analysis, the said working group issued on 17 April 2017 a report, which includes 19 conclusions on: the EIA procedure; the place of deployment and the project; on the storage option; on the impact assessment; and on the interaction between the storage facility and the Almaraz NPP. In order to safeguard the concerns of Portugal expressed in the assessment developed by the Working Group, the report also included a set of 13 recommendations. Amongst others, the recommendations included the need for Portugal to be engaged in the further assessments to be carried out by the Spanish authorities during the following stages of authorization and operation of the temporary spent fuel storage facility. This report was communicated to the Spanish authorities by the end of April 2017.

The outcome of this process and the agreement reached on the Almaraz case was consolidated on the 29 April by a Joint Statement by European Commission President Juncker, Spanish Prime Minister Rajoy and Portuguese Prime Minister Costa, enclosed to the present communication.

Yours sincerely,

Nuno Lacasta

President, Executive Board

of the Portuguese Environment Agency