

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

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Assunto: Reply to the letter of the Implementation Committee Ref
EIC/IC/INFO/22 of 20 December 2018, 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 20 December 2018 regarding the construction of a temporary
spent fuel storage facility at the Almaraz nuclear power plant (NPP) in Spain.

As mentioned in our previous letter from 30 November 2017, acknowledging that the
Spanish authorities were promoting an Environmental Impact Assessment (EIA) procedure
at the domestic level for the construction of a temporary spent fuel storage facility at the
Almaraz NPP, Portugal informed Spain of its will to participate in such procedure as it
considered that the planned activity was likely to cause significant adverse transboundary
environmental impacts, especially in the context of severe accidents (letters from 29
September and 19 October 2016).

Spain answer both letters on the 11th November 2017, informing that the authorities 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 the 7th November 2016 and the EIA procedure was concluded.

Following this, and considering the provisions of article 7 of 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), Portugal submitted a reasoned opinion to the European Commission in accordance with the second subparagraph of Article 4 (3) of the Treaty on European Union and for the purposes of the second paragraph of Article 259 of the Treaty on the Functioning European Union.

Intending to encourage the settlement of the dispute in a consensual and cooperative manner, the Office of the President of the European Commission promoted an Amicable Settlement signed by the Parties in February 2017.

Under this Amicable Settlement, several steps were taken by both parties, including a joint visit to the site of the temporary spent fuel storage facility and to the Almaraz NPP, organized by the Spanish authorities. Spain also provided, as requested by Portugal, a set of documents concerning technical information on the environment and nuclear safety of the facility, which was assessed by the Technical Working Group (composed of members of the Administration and external experts) established by the Portuguese Government. These documents however corresponded to information that was already available for the EIA and nuclear safety procedures carried out by the Spanish authorities at a domestic level and therefore were not specifically prepared for the purposes of article 3 of the Espoo Convention.

Based on the documentation provided by Spain and in the light of the undertaken analysis, the working group issued, on the 17th April 2017, a report with conclusions on the EIA procedure, on the place of deployment and the project, on the storage option, on the impact assessment, and the interaction between the storage facility and the Almaraz NPP. The main conclusions of the report are transcribed below:

- From the available documentation it is possible to conclude that the absence of significant impacts of the project in Portugal was not analyzed nor determined.
- The approach adopted was not an integrated environmental assessment of the project. This limits the assessment of impacts, in particular in Portugal.



- The nuclear safety and radiological protection assessment refers to a moment prior to the authorization of operation, encompassing the study of certain components that are considered relevant for a possible assessment of transboundary impacts.
- Taking international standards and practices into account, the construction of the ATI is a suitable storage solution in terms of safety and security of SF.
- Nuclear and radiological safety relies mainly on the intrinsic and passive safety of the ENUN 32P container, which meets the safety requirements for Type B containers for the transport of high activity radioactive materials such as SF.

Following such conclusions, the report listed a set of recommendations that are transcribed below:

- Follow-up by the Portuguese authorities of the assessment to be carried out by the CSN and other Spanish authorities during the authorization and operation of the ATI, allowing the verification of the development of such issues as: emergency preparedness and response, security, environmental radiological surveillance and prevention, fire detection and firefighting procedures.
- Participation of the Portuguese authorities in the EIA procedure concerning the dismantling of the ATI.
- Carry out pumping tests and make their results available before the ATI starts operating in order to establish a hydrogeological model that allows, if necessary, to define and operationalize mitigating actions.
- More detailed characterization of existing underground aquifers and implementation of a network of piezometers properly segmented according to existing aquifers to monitor the levels and quality of groundwater.
- Demonstrate that the measures designed by the operator are sufficient to prevent the discharge of contaminated material into the basin of the Tagus River in the event of an accident with leakage from the containers, cumulative with a firefighting situation. In particular, CSN should establish all relevant measures in this regard, in the light of the best international practices.
- Identification of adequate means of surveillance, monitoring and intervention during all stages of the SF transport process and storage in the ATI.

- Presentation of the analysis of possible impacts to the ATI resulting from a rupture in the Valdecañas dam and identification of possible associated measures to be taken.
- Development / presentation of the assessment of the radiological impacts of the ATI in the event of a severe accident, including an estimate of the areas potentially affected by a release of radioactive material and the estimated quantification of the impact of this release.
- There are two ways in which impacts can occur in the national territory: by air, due to the release of gases, volatile compounds and SF aerosols in case of a severe accident and its atmospheric transport, and by the aquatic dynamics, due to the contamination of the Tejo river basin either by the deposition of volatile compounds and aerosols in the water or by the discharge of surface or subsurface water possibly contaminated.
- Follow-up by the Portuguese authorities of the implementation of specific improvement measures in relation to extreme events arising from ITC post-Fukushima identified in the CSN opinion.
- Identification of the relevant areas in terms of fire safety and updating of procedures and means to fight large fires.
- Review of the CNA radiological surveillance plan, based on the need to contemplate the inclusion of a new source of radiation and risk.
- Demonstration of the security analysis of the ATI, in articulation with the systems implemented for the CNA.
- Review of the internal and external emergency plans of the CNA to accommodate the emergency response procedures of the ATI and their possible repercussion off site.

It was also highlighted to the Spanish authorities the importance of further cooperation efforts between the two countries to build upon the constructive spirit and trust between the parties, reinforced by strengthening the implementation of existing bilateral instruments in order to reflect the lessons learned and improve procedures.

The report of the Technical Working Group was sent by the end of April 2017 to the Spanish authorities, who generally expressed their agreement with the recommendations made. A joint statement was then issued by the European Commission, Spain and Portugal, in which the Parties assumed that the compromise solution that was reached was satisfactory for all. The statement also underlined the importance of the follow-up by the Portuguese authorities in the subsequent stages of the activity/project, in order to monitor the implementation of the recommendations made in the report. In addition, a platform for constructive dialogue between the two countries was set up in order to promote joint cooperation for the implementation of EIA requirements, particularly in a transboundary context.

Under this framework, a Portuguese delegation has participated, by invitation of the Spanish authorities, in two meetings of the Information Committee of the Almaraz NPP, which took place in May 2017 and June 2018

On August 17th 2017 the Portuguese authorities sent a letter to Spain asking for an updated state of play regarding the implementation of the recommendations set in the report of the Technical Working Group. In response, the Spanish authorities sent a report on July 24th 2018, in which they have sought to comply with the recommendations made by the Portuguese authorities, pointing out the steps taken in order to achieve each recommendation. The Spanish authorities also underlined the fact that there was a great coincidence between the recommendations made by the Portuguese Technical Working Group and the actions that had been requested by the CSN (*Consejo de Seguridad Nuclear*) to the developer in the phase prior to the request for authorization.

Further to this process and taken the lessons learnt, both Parties agreed also to reinforce cooperation under the Bilateral Protocol signed in February 2008 between the Government of the Kingdom of Spain and the Government of the Republic of Portugal, regarding the environmental assessment of plans, programs and projects likely to have significant transboundary effects. This enhanced cooperation between Parties focused in particular on the effective exchange of information and on building common ground for criteria and practices for transboundary consultation. It was therefore agreed to organize bilateral meetings twice a year.

Since then two meetings have been organized, one in Madrid and one in Lisbon, with a view of discussing issues of common interest and exchanging information on a regular basis on projects under development in each country.

Taking into account the process that was carried out under the Amicable Settlement, as described above, Portugal recognizes that the initiatives conducted under such settlement allowed an important exchange of information between both countries and the relevant mitigation measures were foreseen.

However, Portugal considers that a formal notification would have been preferable or, at least, an effective discussion and agreement between both Parties at an early stage on whether the activity was likely to cause a significant adverse impact. Considering this, Portugal has accepted this alternative procedure on an exceptional basis but in the future, wishes to be formally notified under the EIA Directive and the Espoo Convention, whenever a similar case arises.

Yours sincerely,



Nuno Lacasta

President of the Directive Board of the Portuguese
Environment Agency