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Director-General

BETÉRKEZETT

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BRÜSSZEL, EU AK

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EURO-RESTRICTED

Subject: Communication, under Article 103 of the Treaty establishing the European Atomic Energy Community (Euratom), of a draft Agreement between the Government of the Russian Federation and the Government of Hungary on cooperation in peaceful use of nuclear energy

Your Excellency,

I refer to the letter of Mr János Lázár, dated 10 December 2013 (under the reference: 2205/T/EM/2013) concerning the notification, under Article 103 of the Euratom Treaty, of the abovementioned draft Agreement.

After examination of the draft Agreement, I would like to inform you that my services did not find any element that would as of itself impede the application of the Euratom Treaty in the meaning of its Article 103.

I take in particular good note of reference in the recitals and the provisions of Article 11 of the draft Agreement, according to which it is explicitly acknowledged that the Hungarian Party has obligations relating to the European Union and to the Euratom Community.

I take note of the Parties' intention to agree on the supply of nuclear fuel for the new Paks units for a period of not less than 20 (twenty) years. I would like to underline that contracts pertaining to the supply of nuclear materials are subject to the Euratom Supply Agency's exclusive rights and must therefore be submitted to the said Agency for conclusion.

Furthermore, regarding the intention of the Parties to the draft Agreement, as described in Article 7 (2), to transfer spent fuel to the Russian Federation for reprocessing and technical storage of the nuclear waste resulting therefrom, I would like to draw your attention to the need for obtaining the authorisation of the European Commission to export special fissile

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materials produced in the territories of the Member States, pursuant to Article 62 (1) c) of the Euratom Treaty.

Moreover, concerning the obligations of Hungary stemming from the Euratom safeguards regime (Chapter 7 of the Euratom Treaty) I would like to recommend to add under Article 11 (1) of the draft Agreement a reference to nuclear safeguards such as "international principles of nuclear and radiation safety, nuclear safeguards and environmental protection".

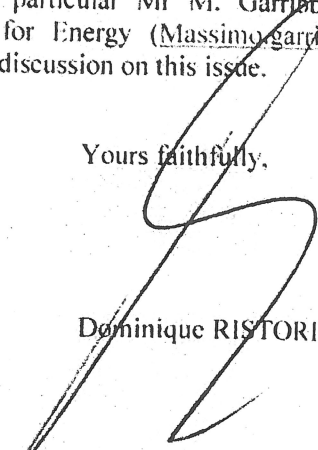
In addition, concerning the reference made to the safeguards agreement with the IAEA in Article 14, para. 2 (2), I have to inform you that INFCIRC/174, which was the bilateral safeguards agreement between IAEA and HU, has been suspended since 1.7.2007 due to accession of Hungary to the common safeguards agreement between all non-nuclear weapon states of the European Union, the IAEA and Euratom, and to its Additional protocol. Therefore, correct references have to be to INFCIRC/193¹¹ and INFCIRC/193 Add. 8¹² in connection with INFCIRC/193, Add. 15 and 16 (referring to the accession of Hungary to the aforementioned two agreements).

Finally, I would like to remind your authorities that modifications of the Agreement, provided for in Article 17, and any agreement or contract implementing the draft Agreement concerning matters within the purview of the Euratom Treaty are subject to notification to the Commission pursuant to Article 103 of the Euratom Treaty.

I would be grateful if you could inform the Commission of the specific measures taken to ensure that the signature and implementation of this draft Agreement will be fully in line with the obligations of Hungary as a Member State of the European Atomic Energy Community.

The services of the Commission, and in particular Mr M. Garribba, the Director of Directorate D of the Directorate General for Energy (Massimo.garribba@ec.europa.eu), remain at your entire disposal for any further discussion on this issue.

Yours faithfully,


Dominique RISTORI

¹ INFCIRC/193: Agreement Between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the European Atomic Energy Community and the International Atomic Energy Agency in Implementation of Article III, (1) and (4) of the Treaty on the Non-Proliferation of Nuclear Weapons

² INFCIRC/193, Add. 8: Protocol Additional to The Agreement Between The Republic Of Austria, The Kingdom Of Belgium, The Kingdom Of Denmark, The Republic Of Finland, The Federal Republic Of Germany, The Hellenic Republic, Ireland, The Italian Republic, The Grand Duchy Of Luxembourg, The Kingdom Of The Netherlands, The Portuguese Republic, The Kingdom Of Spain, The Kingdom Of Sweden, The European Atomic Energy Community And The International Atomic Energy Agency In Implementation Of Article Iii, (1) And (4) Of The Treaty On The Non-Proliferation Of Nuclear Weapons.