

(GROW)

From: [REDACTED] (GROW)
Sent: 12 July 2016 19:04
To: HUSAK Tomasz (CAB-BIENKOWSKA); SCHWIMANN Irmfried (GROW); EVANS Lowri (GROW); DRZEWOSKA Agnieszka (CAB-BIENKOWSKA)
Cc: [REDACTED] (GROW); [REDACTED] (CAB-BIENKOWSKA); NUNES DE ALMEIDA Joaquim (GROW); [REDACTED] (GROW); [REDACTED] (GROW)
Subject: Flash meeting with HU on 12 July 2016 on Paks - options for follow-up

Dear all,

As agreed upon in Budapest last week, we met today again with the HU authorities (Secretary of State Balasz Sonkodi) to discuss the commitments on subcontracting (please find below also our previous assessment, with proposals for follow-up, sent last Friday).

The main points today were the following:

1. Percentage of subcontracting

As previously proposed in writing, HU maintained its position of **subcontracting of (only) [REDACTED] of the contract value**. HU stressed the value of having a clear reference for the calculation of the percentage in the contract value, but could not move on the percentage itself.

2. Exclusion of Rosatom subsidiaries from bidding in the calls for tender for subcontracting

HU maintains that [REDACTED]

[REDACTED]

It seemed that HU [REDACTED] consider "subsidiary" all companies with any Rosatom shareholding. If only companies with dominant influence of Rosatom were considered subsidiaries, HU showed openness to an exclusion of subsidiaries (coupled possibly with a lower value of subcontracting).

Minor points were:

3. Publication of the calls for tender

HU insisted on just keeping the commitment of the intergovernmental agreement. We provided a list of potential websites, HU showed openness to agree on publication in these media.

4. Jurisdiction

According to HU, [REDACTED]

[REDACTED] HU was confident to be able to achieve EU jurisdiction, but with a clear preference for HU courts.

Follow-up/Options:

1. On the percentage:
 - Insist on [REDACTED] of the contract value.
 - Accept [REDACTED] (which would significantly lower the effect of giving market access)
 - Agree on a value in between such as 55 %
2. On the exclusion of Rosatom subsidiaries
 - Insist on a total exclusion of Rosatom subsidiaries
 - Accept the participation of Rosatom subsidiaries (this risks to weaken significantly the "effet utile" of the open subcontracting)
 - Clearly agree that only subsidiaries, over which Rosatom has a dominant influence (voting rights, share holding), will be excluded.
3. On the publication
 - Insist on a written agreement HU/RU with a commitment to publish on the websites we have provided
 - Accept the argument that the IGA is sufficiently clear.
 - Agree on a less formal commitment to publish on the websites we have provided
4. On the jurisdiction
 - Insist on EU jurisdiction in widely spoken language
 - Accept [REDACTED] arbitration
 - Agree on EU jurisdiction, but potentially not in a widely spoken language (e.g. HU courts).

We consider that a deal around [REDACTED] of subcontracting, the exclusion of subsidiaries on which Rosatom has a dominant influence and an acceptance of HU jurisdiction could be a sensible and achievable compromise.

[REDACTED]
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European Commission
DG for Internal Market, Industry, Entrepreneurship and SMEs
G.2 Access to procurement markets