Reply

(25 June 2002)

The Council, as a preliminary remark, would like to point out that the safety of nuclear power plants is not of Community but of national competence, as the EAEC Treaty does not contain specific provisions giving powers to the Community in this respect.

Regarding the implementation of paragraph 59 of the Presidency Conclusions of the European Council meeting in Laeken, the Honourable Parliamentarian should therefore address her question directly to the Member States.

Regarding in particular the second part of the question of the Honourable Parliamentarian, the European Council 'calls for regular reports from Member States' atomic energy experts, who will maintain close contact with the Commission.' Accession States do not, at this stage, fall within the category of Member States.

(2002/C 229 E/083) **WRITTEN QUESTION E-0340/02**

by Christopher Heaton-Harris (PPE-DE) to the Commission

(12 February 2002)

Subject: Whistleblowers

It has been argued that so-called whistleblowers can save companies (and governments) a great deal of money by putting a stop to fraud and mismanagement. The USA, reportedly, has legislation in the pipeline that will protect whistleblowers from negative repercussions.

Could the Commission please state the current situation and how it intends to deal with whistleblowers?

Does the current system offer, in the Commission's view, adequate protection for both whistleblowers and those accused of fraudulent behaviour?

Answer given by Mr Kinnock on behalf of the Commission

(24 April 2002)

The Commission introduced a system for establishing the duty of EU civil servants to report any suspicions of wrongdoing and for providing officials with means of fulfilling that duty in 1999 ([1]). The action was motivated mainly by the sensible considerations to which the Honourable Member draws attention in his question. The system inter alia offers protection from adverse consequences of 'blowing the whistle' to officials who fulfil their obligation to report concerns about suspected serious wrongdoings in good faith.

In addition, under the provisions of the Commission's Administrative Reform strategy, a specific Decision on the subject was adopted by the Commission on 4 April 2002 ([2]). That Decision completes the current legal framework by providing for the possibility of reporting evidence of serious wrongdoings outside the Commission, under certain conditions. Officials who meet these conditions will be protected from adverse consequences. A copy of the Decision will be sent directly to the Honourable Member and to Parliament's secretariat for information. The Decision will apply until the modifications to the Staff Regulations that are necessary to extend this regime to officials of all EU Institutions are adopted. For further information, the Commission refers the Honourable Member to the consultative document on this matter. A copy of that document will also be sent directly to the Honourable Member and to Parliament's secretariat.

In keeping with best practise, the Commission considers that the system set out in its decision of 4 April 2002 strikes a fair balance between the right to protection of the whistleblower and the right of those accused of fraudulent behaviour to be presumed innocent until shown by due process to be culpable. In addition, and also in keeping with best practise, officials will not be expected to prove that the wrongdoing has occurred, nor will they lose protection simply because their concern turned out not to be correct, provided that they could not have been expected to realise that.

The Commission emphasises that the rules on raising concerns about serious wrongdoings are not substitutes for grievance procedures where staff could have some personal interest in the outcome. Therefore, if it was proved that an official had not acted reasonably and honestly in reporting information to OLAF, that official would be open to disciplinary proceedings. In addition, those who may have been wrongly accused retain the right to ask the Commission for assistance in their actions against individuals spreading false accusations under Article 24 of the Staff Regulations.

(1) Commission Decision 1999/396/EC, ECSC, Euratom of 2 June 1999 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests, OJ L 149, 16.6.1999.

(2) Commission Decision on 'raising concerns about serious wrongdoings', adopted by the Commission on 4 April 2002.

(2002/C 229 E/084) **WRITTEN QUESTION E-0341/02**

by Isidoro Sánchez García (ELDR) to the Council

(12 February 2002)

Subject: Entry into force of a single banana-market tariff

Recently, the chairman of ASAGA (the Tenerife farmers' and livestock breeders' association), Mr Fernando Jiménez, forwarded to the Spanish Government's minister for agriculture, livestock breeding and fisheries — Mr Miguel Arias Cañete — a call from the Canary Islands' banana growers to the effect that advantage should be taken of the Spanish Presidency in order to do what is necessary in order to prevent the entry into force of the single tariff which is due to be introduced in respect of the banana market in 2006, since such a step would have an adverse effect on Canary Islands production.

What view does the Council take of such a call?

Reply

(25 June 2002)

Article 16(1) of Regulation (EEC) No 404/93 on the common organisation of the market in bananas, as amended by Regulation (EC) No 2587/2001 of 19 December 2001, provides that the current arrangements for importing bananas shall apply 'until the entry into force, no later than 1 January 2006, of the rate of the common customs tariff for those products established under the procedure provided for in Article XXVIII of the General Agreement on Tariffs and Trade'.

It follows that the Council cannot decide on any amendment to this provision except on the basis of a Commission proposal to that effect, on which inter alia it would have to obtain the EP's opinion. No such amendment is under consideration.

It is worth recalling the international circumstances in which the current arrangements were adopted and the need to put an end to the dispute with third countries, in particular the United States and Ecuador, while at the same time seeking to protect both Community producers and imports from the ACP States — with which the Community is also linked by agreements — under conditions that are compatible with the Community's WTO commitments.