

# EU Nuclear Legislation

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# Presentation Summary

- Nuclear Package:
  - Safety Principles
  - Decommissioning Funds
  - Radioactive Waste Management
- Euratom Loans:
  - Ceiling Increase
  - Scope Change
- Euratom Reform/Abolishment:

# Nuclear Package History

- April 2002, Loyola de Palacio (Energy Commissioner) announced the introduction of *common [nuclear] standards and control mechanisms which will guarantee the application of the same criteria and methods in the whole of enlarged Europe*
- Proposal to be in force by end of 2003
- November 2002, draft package published.

# Why only a Draft ?

- Article 31 is taken as legal base as it requires only majority support rather than unanimity (Article 203)
- Article 31, relates to Health and Safety
- Package based on Article 31, which requires consultation, but no co-decision with:
  - Article 31 Expert Group
  - European Social Committee
  - European Parliament

# January 2003 Draft

- Following receiving the opinion of the Article 31 group (December 2002), Commission revised directive.
- This published in January 2003
- In March 2003, ESC made it opinion
- Draft formally sent to European Council (Atomic Questions Working Group) and European Parliament.

# Nuclear Safety Principles

- Does not require the setting of EU nuclear Safety Standards but:  
*setting out basic obligations and general principals guaranteeing a high level of safety of nuclear installations on the basis of which common safety standards will be adopted in due course’.*

# Framework Directive?

<b>November 2002 Draft Submitted to Article 31 Expert Group</b>	<b>Final Proposal Adopted by Commission January 2003</b>
<p>Recital 10: In order to attain the Community objectives regarding radioprotection mentioned above, it is essential as a first stage to define the basic obligations and general principles on the safety of nuclear installations <b>in this framework Directive. This will at a later stage be complemented by the establishment of common standards and control mechanisms in order to guarantee a high level of safety which takes account of technological changes.</b></p>	<p>Recital 10: In order to attain the Community objectives regarding radioprotection mentioned above, it is essential as a first stage to define the basic obligations and general principles on the safety of nuclear installations.</p>

# Main Requirements

- Must ensure it has a safety authority which is independent from bodies that promote or utilise nuclear energy
- The safety authority shall regulate and supervise safety of nuclear installations.
- Shall require the operator to run the facility in accordance with ‘common safety standards’
- Shall take the appropriate steps to ensure adequate financial resources are available to support the safety of facilities.

# Monitoring and Enforcement

- The key issue is who and how will the directive be enforced
  - Inspections will occur at Regulators, not at nuclear facilities
  - *'the subject matter, the purpose of the inspection and the date on which it is to begin and the names of the authorised persons'* will be required
  - It is unclear whether or not the report will be made public

# Cross Over with Nuclear Safety Convention

- All Member States, Accession Countries and CIS with NPPs are parties to IAEA's Nuclear Safety Convention
- Same requirements for draft directive and Convention, except directive applies to all nuclear facilities.

# Criticisms of Directive

- Not setting standards,
- Being promoted as ‘solving’ safety problem.
- Duplication of reporting, with what benefits?
- Being adopted without democratic controls, e.g. no European Parliament oversight.
- No enforcement mechanism

# Decommissioning Funds

- Originally a stand alone directive, but re-drafted as would have had to go under Article 203, and require unanimity.
- Legislation partly as a result of Parliament's initiative in Electricity Market Directive.
- Annexed to Safety principles directive is regulation on decommissioning funds

# Why Decommissioning Funds are Important

- Funds are essential to ensure that years/decades after reactor has closed there is sufficient funds to carry out necessary work.
- Setting aside insufficient funds or different collection rules e.g. taxation are market distortions
- Funds are large and if accessed give economic advantage.

# Main Requirements

- Funds created from contributions by Operators
- Funds to be available when required
- Funds not used for other purposes
- Funds to have own legal personality
- If exceptional and duly justified circumstances, funds managed by operator.

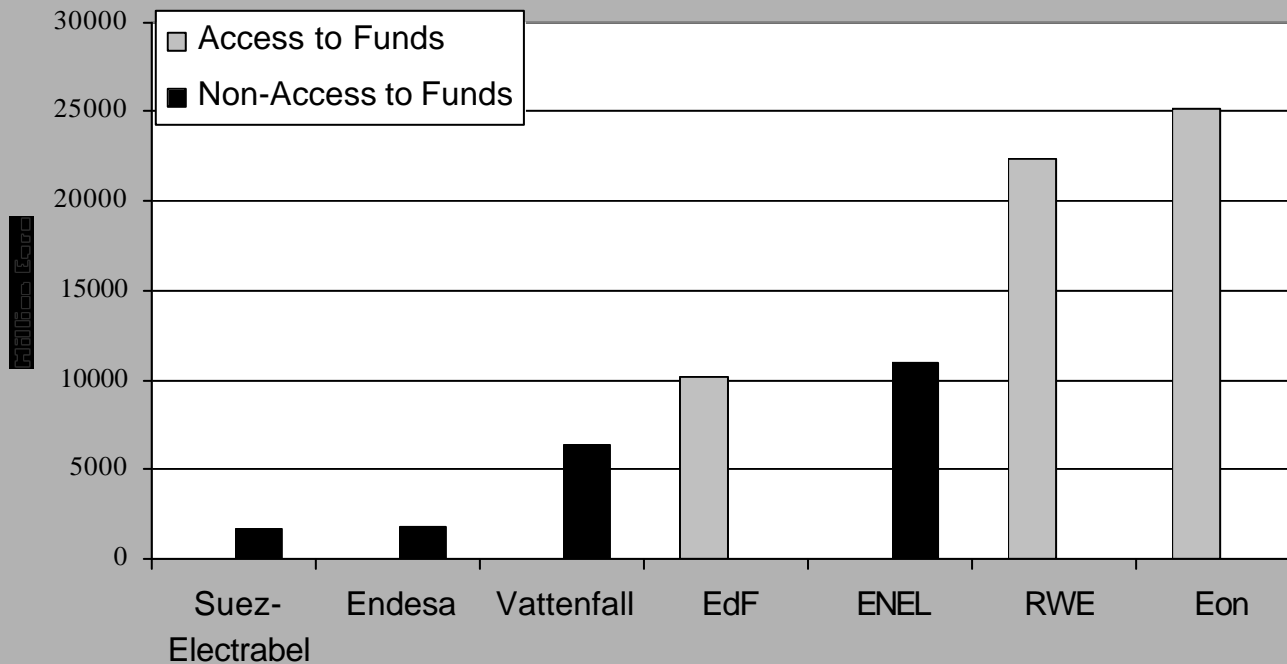
# Situation in Member States

- There are no unified rule for managing funds.
- Some utilities control and therefore can benefit from funds -directly or indirectly
  - France, Germany
- Others do not have access to the funds
  - Finland, Spain, Sweden

# EU Decommissioning/Waste Management Funds

	Billion €	Companies
<b>Belgium</b>	18-23	Electrobel, EdF, SPE
<b>Finland</b>	2	IVO; TVO
<b>France</b>	63	EdF
<b>Germany</b>	30	EnBW, EON, RWE, HEW
<b>Netherlands</b>	1	EPZ; NVGKN
<b>Spain</b>	10	HI, Nuclenor, CSE, UE, Fecsa, Enseds, Hidruna, Segre, Uefsa, ID, Iberdrola, Iberduero, Hifrensa, EIA
<b>Sweden</b>	5	Sydskraft; FKA; OKG; Vattenfall
<b>UK</b>	58	British Energy; BNFL

## Acquisition Cost of Main Electricity Utilities in Europe 2000-2002



# Management of Spent Nuclear Fuel and Radioactive Waste

- Main Timetables
  - Development of sites granted by 2008
  - Operation of LLW by 2013
  - Operation of HLW by 2018
- Council may change these dates following proposal from Commission
- Import or export of waste within MS and to third countries is allowed.
- Deep geological disposal ‘most suitable option’.

# Criticisms of Directive

- Proposed dates are unrealistic, no Member State meeting HLW disposal
- Dates reduce scientific analysis and public consultation
- Suggests deep geological disposal best route.
- Encourages waste export

# Next Steps for Package

- Atomic Questions Working Group discussing issue, currently generally reviewing directives.
- Parliament's first debate on 9th July, scheduled for plenary debate, December 2003
- Attempts by some MS - UK, Sweden, Finland - to turn Directives into non-binding legislation (Council Recommendation)

# Who Wants the Package?

- Member States:
  - Non-nuclear countries being pushing for Common EU Standards, but unhappy with proposal
  - Nuclear Counties, don't want Brussels imposing lower standards than national
- Industry: Don't like it (publicly)
- NGO: Don't like it.

# Key Communication issues

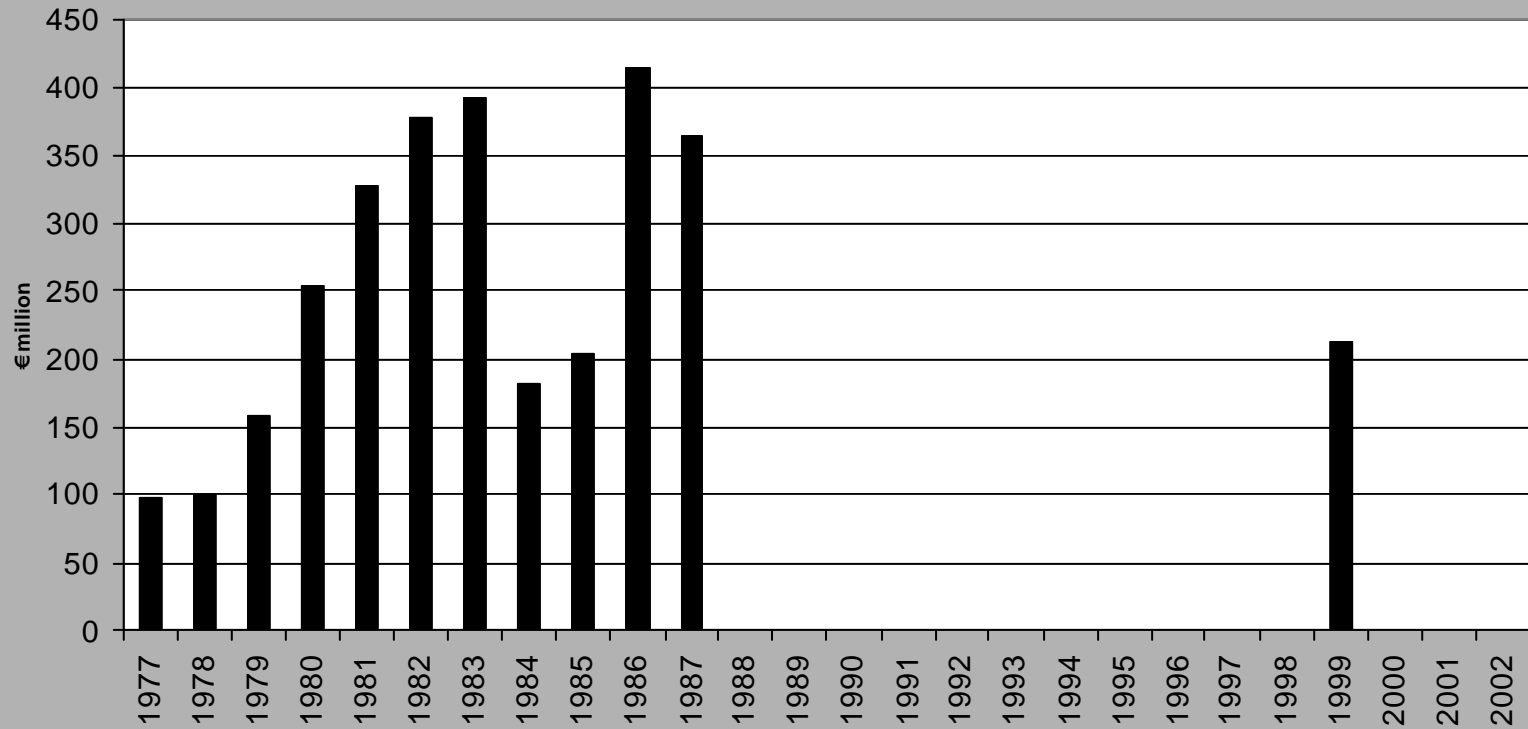
- Nuclear Industry Survival Package
- No benefits for public
- Reduction in consultation (waste directive)
- Meaningless safety criteria
- No effective action on Decommissioning Funds

# History of Loans

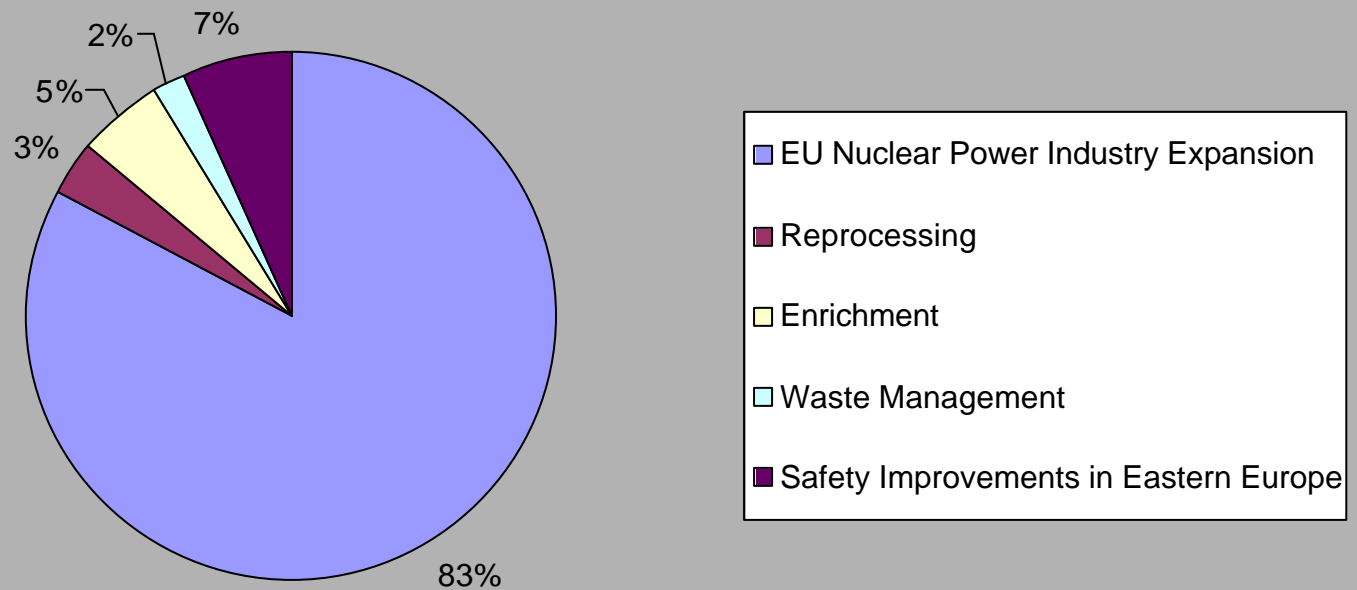
- Established in 1977
- Ceiling increased 5 times as loans awarded
- 1994 changed to allow lending outside EU, to CEE and CIS
- Loans used for expanding industry

# The Extension of Euratom Loans

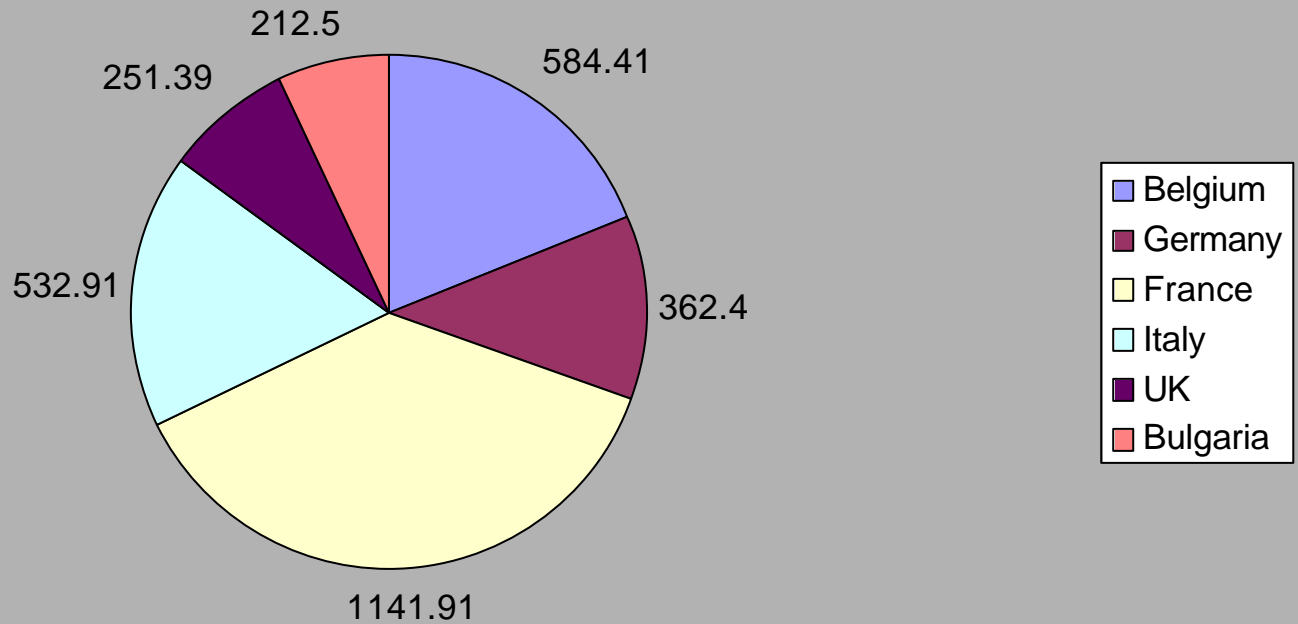
## History of Euratom Loans 1977-Present Day



## Use of EURATOM Loans 1977-2003



## Recipient Countries of Euratom Loans (€million)



# New Proposals

- November 2002, Commission launch two proposals:
  - Increase Loan Ceiling by €2 billion
  - Change scope, to take into account EU enlargement and to specifically include decommissioning and research reactor construction.

# Ceiling Increase

- Commission propose €2 billion increase - largest ever.
- Stated that €3.7 billion has been spent from €4 billion fund.
- This includes €688 for K2R4, only given provisional approval.
- Therefore ceiling increase breaks Commission's guidelines, as €3.8 billion must be spent.

# Scope Change

- Allow new build funding in Accession Countries - restricted in 1994 proposal
- Explicitly include option to fund decommissioning projects in EU (PR exercise)
- Prioritise safety improvements
- Funding of FMTR research reactors

## Events to Date

- December 2002, Finance Working Group discuss issue
- January 2003, leaked non-paper, showing RMBKs may be funded
- January 2003 Questions from Member States
- May 2003, Commission replies
- June 2003, Compromise Position from EU Presidency

# Presidency Compromise

- Merge Decisions: Article 203, Unanimity
- Scope restrictions
  - Existing MS, only upgrades in operating reactors.
  - Accession and CIS; operating and under construction reactors.
- Ceiling increase to be decided depending on scope restrictions.
- Presented to Coreper: 25th June

# Parliament

- June 2003, voted in Environment Committee:
  - *relate to measures for the safety of existing in-service nuclear power stations, the further operation of which is essential for a strictly limited period of time in order to maintain the supply of electricity*
- July 9th: ITRE Committee discuss issue

# Next Steps

- Commission to respond to request to merge the proposals.
- Council to discuss merged documents
- ITRE Committee in Parliament seeking advise from legal services division.

# The Reform/Abolishment of the Euratom Treaty

# Abolish the Euratom Treaty

- The 1957 Euratom Treaty has no end date and retains a mandate to promote nuclear power.
- Previous attempts to reform or abolish the Treaty have failed.
- However, the development of a new EU Convention, is supposed to be streamlining EU operations and developing a single EU entity and thus offers an opportunity for Euratom Reform.

# The Convention

- The EU Convention sat in 2002 and 2003 to prepare a draft EU Constitution. The body completed its work in July 2003 and left the Euratom Treaty intact as a protocol to their draft Constitution.
- However, under pressure from some MS it was left with its own legal personality.

# EU Legal Basis

Before 2004	After 2004
<ul style="list-style-type: none"><li>▪ Coal &amp; Steel Treaty*</li><li>▪ Rome Treaty</li><li>▪ Euratom Treaty</li><li>▪ Merger Treaty</li><li>▪ Single European Treaty</li><li>▪ Maastricht Treaty</li><li>▪ Amsterdam Treaty</li><li>▪ Nice Treaty</li></ul>	<ul style="list-style-type: none"><li>▪ Constitutional Treaty</li><li>▪ Euratom Treaty</li></ul>

# What Does this Mean ?

- Potential conflicts remain between requirements of Euratom - to see development of nuclear power - and electricity market Directive for 'level playing field between generators'.
- All Euratom's Promotional power remain - Euratom Loans, separate R and D Program.
- Increasing regulatory power of Euratom - Package.

# What Happens Next?

- On 4th October, the launch of the Inter Governmental Conference.
- Hoping to conclude in 2003 but maybe 2004.
- Unclear how many issues will be revisited, large MS trying to stop review of draft Constitution.

# Chance for Euratom Reform?

- European Parliament called for separate IGC on Euratom Reform.
- Commission say current proposals are muddled and need to be revised.
- Some MS are likely to support Parliament's proposal. Austrian Government already stated its intention to raise Euratom Issues.