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 inforce 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?

<table>
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<tbody>
<tr>
<td>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 <strong>in this framework Directive</strong>. 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.</td>
<td>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.</td>
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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

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

A. Frogatt - EU Nuclear Legislation  www.inforse.org/europe/seminar03  25/41
Use of EURATOM Loans 1977-2003

83% for EU Nuclear Power Industry Expansion
7% for Safety Improvements in Eastern Europe
5% for Reprocessing
3% for Enrichment
2% for Waste Management
Recipient Countries of Euratom Loans (€ million)

- Belgium: 584.41
- Germany: 362.4
- France: 1141.91
- Italy: 532.91
- UK: 251.39
- Bulgaria: 212.5

Other countries and amounts:
- 251.39
- 532.91
- 212.5
- Total: 1141.91
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

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<tr>
<th>Before 2004</th>
<th>After 2004</th>
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<tr>
<td>• Coal &amp; Steel Treaty*</td>
<td>• Constitutional Treaty</td>
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<tr>
<td>• Rome Treaty</td>
<td>• Euratom Treaty</td>
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<td>• Euratom Treaty</td>
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<tr>
<td>• Merger Treaty</td>
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<td>• Single European Treaty</td>
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<td>• Maastricht Treaty</td>
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<td>• Amsterdam Treaty</td>
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<td>• Nice Treaty</td>
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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.
- 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.