

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?

November 2002 Draft Submitted to Article 31 Expert Group	Final Proposal Adopted by Commission January 2003
<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 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.</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.

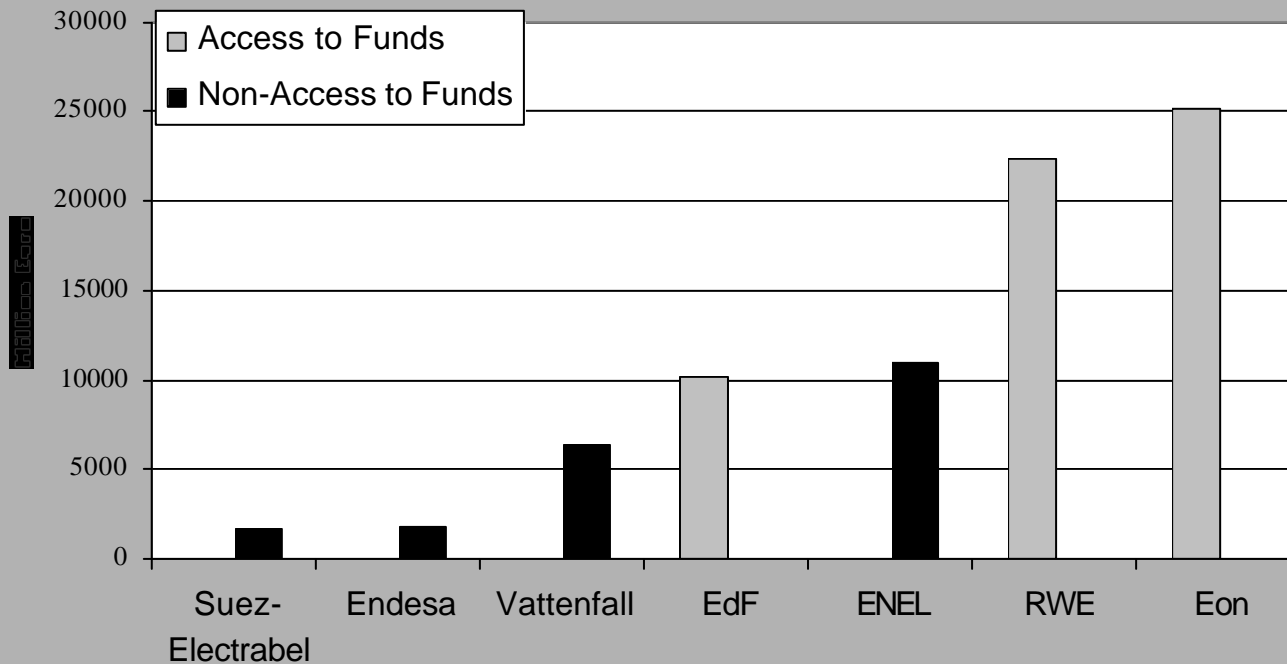
Situation in Member States

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

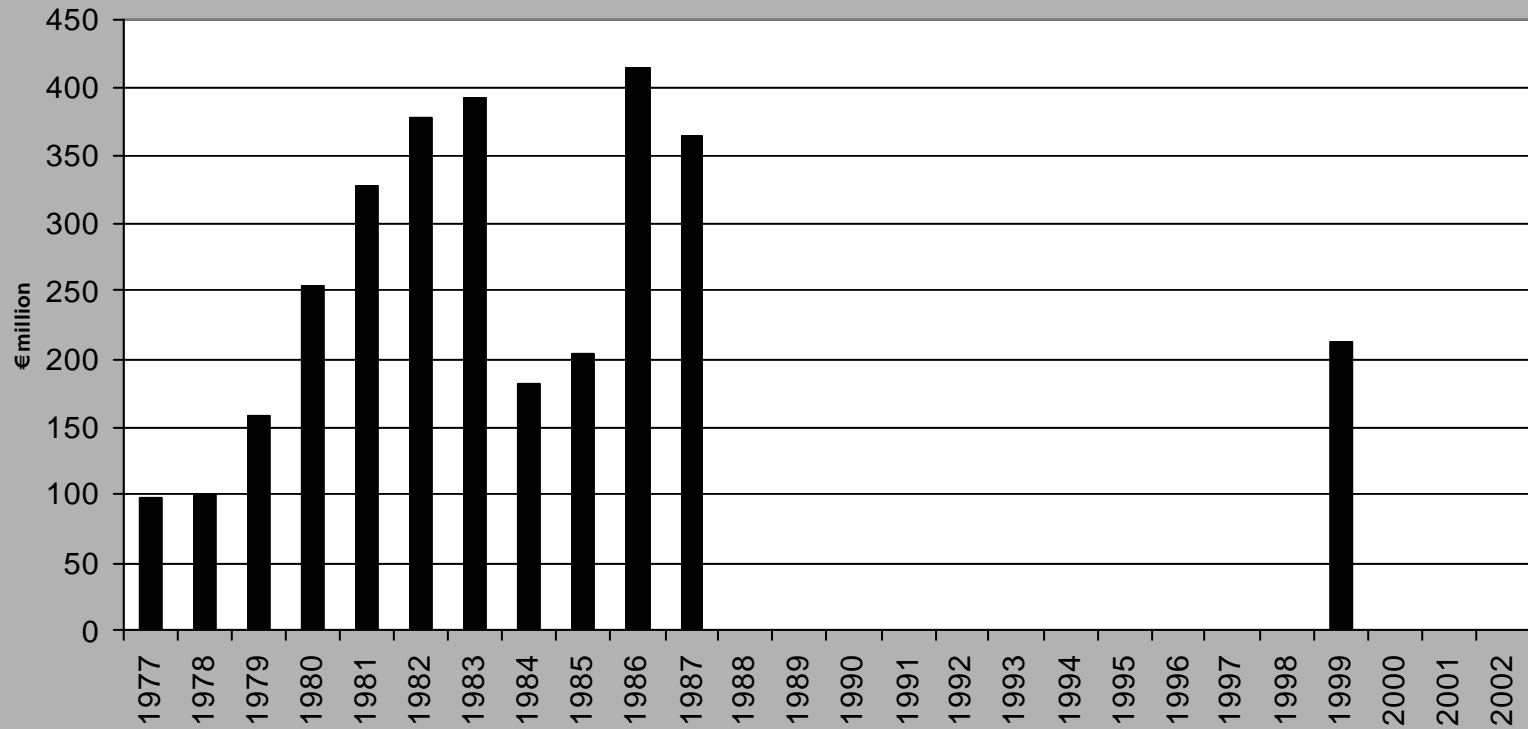
- Nuclear Industry Survival Package
- No benefits for public
- Reduction in consultation (waste directive)
- Meaningless safety criteria
- No effective action on Decommissioning Funds

History of Loans

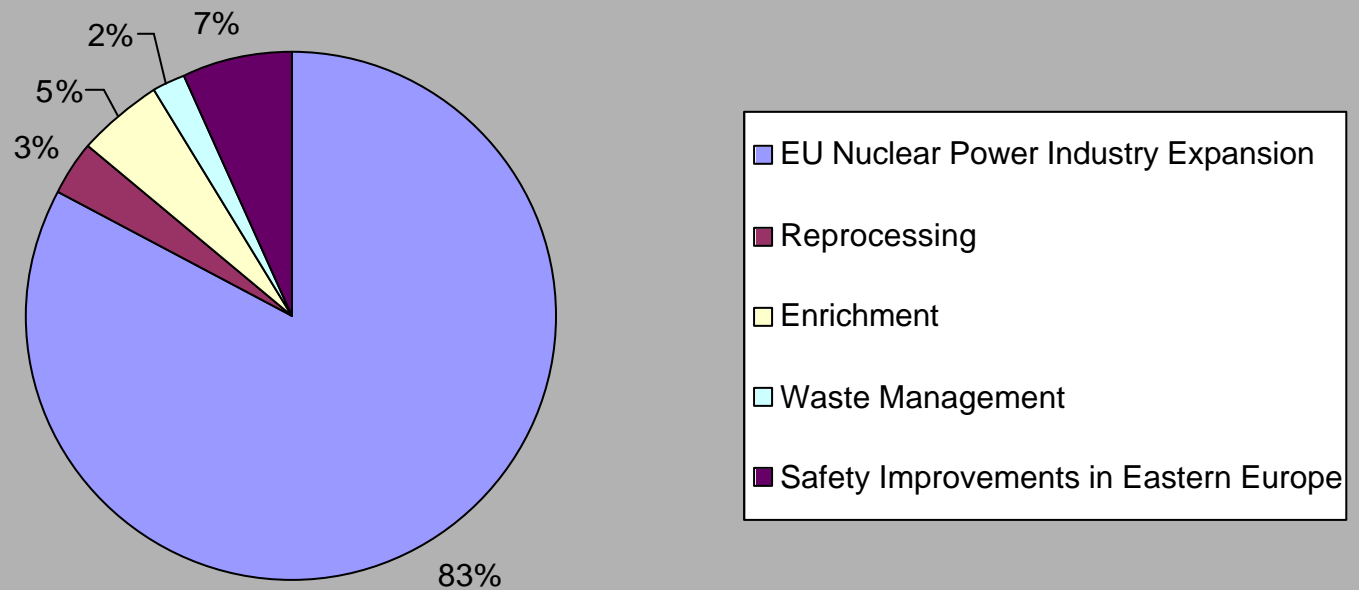
- Established in 1977
- Ceiling increased 5 times as loans awarded
- 1994 changed to allow lending outside EU, to CEE and CIS
- Loans used for expanding industry

The Extension of Euratom Loans

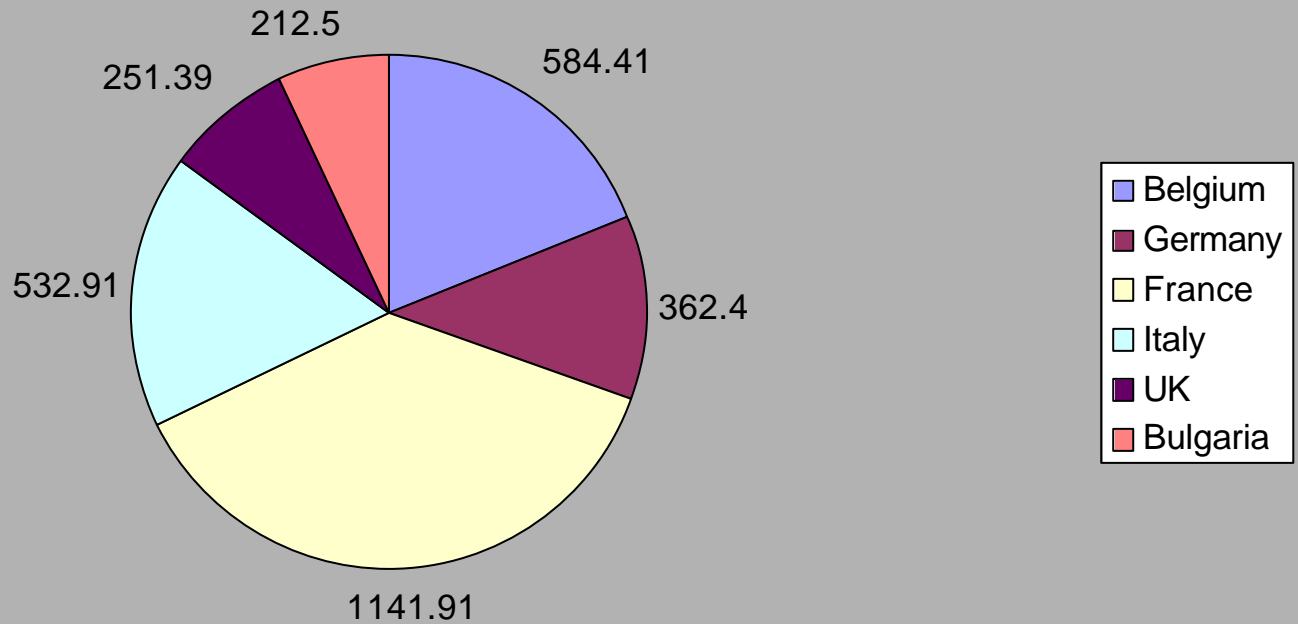
History of Euratom Loans 1977-Present Day



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">▪ Coal & Steel Treaty*▪ Rome Treaty▪ Euratom Treaty▪ Merger Treaty▪ Single European Treaty▪ Maastricht Treaty▪ Amsterdam Treaty▪ Nice Treaty	<ul style="list-style-type: none">▪ Constitutional Treaty▪ Euratom Treaty

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.