

International perspectives on future spent fuel needs (regulatory aspects)



Introduction and Background

- Thank you for the invitation to discuss this topic today.
- Legal aspects -the transfer of Spent Fuel
- European aspects
- Newcomer nations
- The legislation discussed has not been tested by the courts

The Laws

- In the EU we look to the Joint Convention (1), Euratom (2), Paris (3) and Vienna (4) Conventions and EU Directives (5).
- In the UK we have further implications from national legislation, nation state government policy and other government approaches including Stakeholder Engagement.
- We need to think achieving a cost effective outcome.
- Why cost effective? Justification
- (1) Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management
- (2) Treaty establishing the European Atomic Energy Community (Euratom)
- (3) Convention on Third Party Liability in the Field of Nuclear Energy of 29th July 1960, as amended by the Additional Protocol of 28th January 1964 and by the Protocol of 16th November 1982 (further 2004) The Convention Supplementary to the Paris Convention of 29 July 1960 ("Brussels Supplementary Convention") was adopted in 1963 to provide additional funds to compensate damage as a result of a nuclear incident where Paris Convention funds proved to be insufficient. The Brussels Supplementary Convention stipulates that public funds are to be provided for this purpose, not only by the state where the liable operator's nuclear installation is located, but also by contributions from all parties to the Brussels Supplementary Convention
- (4) The Vienna Convention on Civil Liability for Nuclear Damage was adopted on 21 May 1963 and was opened for signature on the same day. It entered into force on 12 November 1977
- (5) COUNCIL DIRECTIVE 2011/70/EURATOM of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste

Is the Law comprehensive?

- For some states restraining the transfer of responsibility for Spent Fuel could have merit, for others it would be an unwarranted restriction I will suggest there is no hard and fast rule.
- The European Commission has funded studies into the patchwork nature of the treaties adopted in the EU to deal with nuclear liability and there are a variety of approaches
- some nations are outside of that system altogether.
- As these 2 conventions are the foundation for most national laws on the transferability of risk in waste from power programs they must be given consideration along with the Joint Convention.
- The classification of spent fuel.

Policy

- Many EU members may have made the policy decision that they will not reprocess fuel, others may have that as an open question.
- Similarly states may decide international repositories for radioactive waste are morally wrong, others may see such facilities as a pragmatic solution.
- The decision taken can only be binding on the State that makes it, is public acceptance important?

Where are we now?

- Does the principle legislation give definitive answers on transferability?
- Safeguards around the technical capacity of the countries that can take part in transfers
- The Joint Convention and guidance from the international conventions on who should have liability (licensed operators only)
- Is there a bar on moving qualifying material to a suitable facility in a different country?

The Questions raised

- This leaves an open question with three potential parts:
 - 1) Given the stance taken in some of the major EU States should the EU rule in favour of a clarification of the laws that a homogenized approach is needed, i.e that there will be no multi national repositories, allowing perhaps for accepted derogations?
 - 2) Should the current status quo be maintained and each State left to decide the applicability of international or regional facilities? If so should that be supported by a legal regime obliging any non host nation to maintain liability/responsibility for wastes over the long term to avoid intergenerational injustice?

The Questions raised (2)

Should the law be clarified to give a clear mandate for international or regional facilities? Should the decision be taken to encourage the use of international or regional facilities given the potential economic benefits? Noting that we have an acknowledged shortage of expertise and a need to keep the economics under control is “pooling” the best response?

Outside the EU Context?

So leaving the many EU questions, what should the model be based on for understanding the transferability of responsibility for small program countries such as the newly emerging middle eastern markets?

Conclusion

- Perhaps the most constructive statement of what needs to be explored is to acknowledge that there is no absolute one size suits all solution.
- That with the paramount obligation being safety, state and regionally specific answers should be sought including an exploration of adequate safeguards over the immediate and long-term viability of any facility.
- I thank you for your attention and look forward to hearing your views on this issue.

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