

Consultation on areas of reinforcing the existing EURATOM nuclear safety legislative framework

A. GENERAL INFORMATION ABOUT THE RESPONDENTS

A.1. Please enter your **name** and, where relevant, the **name of the organisation** you represent. Please include also an **e-mail** address for contact purposes for use only if we need clarification about your responses.

Paul Parrish (pparrish@qcea.org), Quaker Council for European Affairs (register #: 3960234639-24)

A.2. Are you responding to this questionnaire on behalf of /as:	Organisation
A.3. Please indicate your country	Belgium
A.4. From which perspective are you interested in nuclear safety?	Non governmental organisation in which I work
A.5. How well informed do you consider you are about the nuclear safety of nuclear installations?	Very well informed
A.6. How would you prefer your contribution to be published on the Commission website, if at all?	Under the name indicated (I consent to publication of all information in my contribution and I declare that none of it is under copyright restrictions that prevent publication)

B. GENERAL SUGGESTIONS FOR AREAS OF REINFORCING THE EXISTING EURATOM NUCLEAR SAFETY LEGISLATIVE FRAMEWORK

B.1. In your opinion, the role of an Euratom nuclear safety legislative framework, setting up common rules for all the 27 EU Member States, is...	Important
B.2. The consequences of nuclear and radiological accidents do not stop at national or regional borders ("an accident anywhere is an accident everywhere"). The Fukushima nuclear accident highlighted the need to consider new challenges and underlined the paramount importance of nuclear safety in the use of nuclear energy. In this context, do you consider necessary to reinforce the existing Euratom nuclear safety legislative framework?	Yes
B.2.1. Which would be your preferred instrument of legislative intervention?	None of the above (e.g. strengthening / harmonising national approaches)
B.2.2. Which would be your preferred areas of	Others

additional intervention?	
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<p>Which other areas of legislative intervention?</p> <p>QCEA believes that the Euratom Treaty is the wrong platform to deal with the nuclear safety of EU Member States - it should be regulated by the EU Treaties. This is principally because the Euratom Treaty was established in order to promote the use of nuclear energy (Euratom art. 1), and any credible regulation of nuclear safety should be done under a legislative framework that is independent from promotion and operation of nuclear power. Furthermore, the Euratom Treaty does not deal with essential issues concerning nuclear safety like public health and environmental protection (which are completely excluded from the current legislation!), workers rights, security and proliferation, transparency and communication, and human rights. For QCEA, the specific areas of legislative intervention are less important than the harmonising of the Euratom Treaty with other EU legislation under the EU Treaties, which additionally includes dealing with hazardous substances and high-risk technologies.</p>

C. DETAILED SUGGESTIONS FOR THE AREAS PRESENTED IN QUESTION B.2.2.

C.1. Defining EU-wide basic principles and requirements (complemented by associated minimum technical criteria and/or procedures, as appropriate) on the siting, design & construction and operation of nuclear installations

<p>C.1.1. Do you consider that it is necessary to set up, in the Euratom nuclear safety legislative framework, a set of EU-wide basic principles and requirements (complemented by associated minimum criteria and/or procedures, as appropriate) in these technical areas?</p>	<p>Yes</p>
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<p>C.1.1.1. Do you consider that the provisions of Articles 17 (Siting), Article 18 (Design and construction) and Article 19 (Operation) of the IAEA Convention on Nuclear Safety could represent a basis for these new Euratom legislative provisions?</p>	<p>I don't know</p>
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<p>C.1.1.2. Which lessons learned from the preliminary results of the EU stress tests process would you recommend to be reflected in these new Euratom legislative provisions?</p> <p>The EU stress tests lacked credibility because of their voluntary nature and poor design, not to mention an overall lack of clarity on the independence, and transparency, of the tests. This lead to widely divergent interpretations by national regulators - the Czech Republic submitted a seven page report on its six reactors, compared to Slovenia's 177 page report on its single reactor. The EU stress tests must also not turn a blind eye to the EU's fuel reprocessing and enrichment installations, its storage facilities for spent nuclear fuel, or the nuclear facilities in neighbouring countries (in particular Switzerland, Russia, Ukraine and Turkey). QCEA wants to see the experiences made during the EU stress tests to be evaluated by as broad group of stakeholders as possible, including NGOs. Given the serious deficiencies in the world's ageing fleet of nuclear reactors, the stress tests should not be allowed to become "paper tigers" like the bank stress tests after the financial crisis.</p>
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<p>C.1.1.3. Which lessons learned from the Fukushima nuclear accident would you recommend to be reflected in these new Euratom legislative provisions?</p> <p>A common understanding of stakeholder expectations regarding crisis transparency and public involvement and communication in nuclear regulatory activities would be a very important lesson learned from the Fukushima nuclear accident. Nuclear safety regulators (like Japan's TEPCO) should also not have confused the role of the regulator with that of the engineering designer, by relying so heavily on probability to determine the likely frequency and severity of threats to nuclear plants. Doing so has permitted operators and designers to shoehorn new designs, safety protocols and practices into compliance with existing regulatory frameworks without objective scrutiny or redesign considerations. Finally, TEPCO had no</p>
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mandate in dealing with emergency response and safety issues off-site (these were dealt with by Japan's Interior Ministry), resulting in significant psychological, physical and economic stress.

C.1.2. Currently, at Euratom level, the [Nuclear Safety Directive](#) [Article 9(3)] requires that the EU Member States shall, at least every 10 years, invite an international peer review of relevant segments of their national framework and/or authorities with the aim of continuously improving nuclear safety.

In your view, would there be an added value in extending the scope of these obligations, by requiring the EU Member States to regularly invite international peer-reviews of technical nuclear safety areas (e.g. design safety, operational safety of nuclear power plants)?

There would be an added value, under certain conditions: 1. The peer-review teams should include only people who are functionally fully independent from any other body or organisation concerned with the promotion, or utilisation of nuclear energy, including electricity production; 2. The peer-review teams should also include independent experts from outside the nuclear regulatory institutions (including the Technical Support Organisations) - e.g. independent academics and NGO (proposed) experts. 3. Such peer-reviews should take place at least every four years. 4. The results of peer-reviews should be made public and followed-up by some form of public consultation and participation. 5. There should be legislative frameworks for enforcing detailed failings, including the suspension, and closure of an installation if insufficient remedial action is taken.

C.2. Strengthening the competencies of the national regulatory authorities

C.2.1. Do you consider that this enumeration is sufficient to properly reflect the various competencies of the national regulatory authorities?

No

C.2.1.1. In your opinion, which additional key regulatory competencies could be added to the existing ones in the Euratom nuclear safety legislative framework?

The national nuclear regulators should also require the licence holder to comply with international nuclear safety requirements and more general requirements for protecting the population, future generations and the environment from exposure to radiation and radioactive substances, even if these are not incorporated in the terms of the relevant licence. Consider, for example, the safety requirements of non-nuclear Austria; how are Austrian safety concerns allied by its mainly nuclear neighbours, in which there are 44 existing or planned nuclear power stations? This is yet another illustration why the Euratom Treaty is inadequate, and why EU-wide nuclear safety cooperation needs to be organised under the EU Treaties.

C.3. Strengthening the independence of the national regulatory authorities

C.3.1. Do you consider that these criteria are sufficient to guarantee the effective independence of the national regulatory authorities?

No

C.3.1.1. In your opinion, which additional criteria for effective regulatory independence could be added to the existing ones in the Euratom nuclear safety legislative framework?

The current criteria are not clearly enforceable and nearly two years of operation of the Directive have shown that in several countries the independence of the regulator is still not guaranteed - there is clear evidence of regulators continuing to actively promote nuclear power and downplaying the risks that nuclear installations pose. Because the results of lack of independence of national nuclear regulators may have consequences far beyond national borders (as Fukushima has illustrated), we think it is important that there is a form of enforcement of the independence of the nuclear regulator at EU level. It must also be understood that the European Nuclear Energy Forum cannot any longer be seen as the input from "all stakeholders", because NGOs and other critical voices are no longer participating owing to systemic obfuscation and misrepresentation. Euratom, like ENEF, cannot be considered independent if the vast majority of participants are nuclear representatives or enthusiasts.

C.4. Increasing transparency

C.4.1. Do you consider that these provisions are satisfactory to provide you sufficient information on nuclear safety matters?

No

C.4.1.1. In your view, which additional requirements for enhancing transparency on nuclear safety matters could be added to the existing ones in the Euratom nuclear safety legislative framework?

As Euratom is not a signatory to the Aarhus Convention, nor is it part of the EU Treaties, the formulation in the current directive does not give similar guarantees for access to information and public participation as all other policy areas. As a case in point, to date, several national regulators have failed to disclose to the public the results of the recent stress tests, despite being urged to do so by European Nuclear Safety Regulators Group, the group that designed the tests. Actions such as this work to undermine transparency, accountability and public participation (not that some Euratom members seem overly concerned). A lack of sufficient transparency, accountability and public participation threatens access to justice. QCEA believes it is important that any EU-wide nuclear safety legislation is subject to the transparency, accountability and public participation guarantees as formulated in the Aarhus Convention and the EU implementing regulations.

C.5. Better defining / strengthening the role of the national regulatory authorities in the shaping and implementation of Euratom nuclear safety legislation and policies

C.5.1. In your opinion, how do you see the future role of ENSREG in the process of shaping and implementing Euratom nuclear safety legislation and policies?

ENSREG is certainly a step forward in comparison with its predecessor, and is a more credible basis for advice from nuclear regulators to the European Institutions. We however envision ENSREG maintaining an advisory role towards *all* the European Institutions (not only towards the Commission) on issues of nuclear safety. However, ENSREG's expanded role should not prevent the Commission from finally installing proper democratic control and public participation in shaping and implementing European nuclear safety legislation. This includes bringing all nuclear issues, and certainly nuclear safety related ones, under the Treaty on the Functioning of the European Union, and implementing proper public participation procedures in line with the Aarhus Convention. It would have been more fruitful, if the Commission would have already published some of its ideas on how a review of the national regularly authorities/ENSREG could look like, so that we can better respond to the proposals.

D. QUESTIONS ON RELATED AREAS

D.1. ENHANCING EMERGENCY PREPAREDNESS AND RESPONSE

D.1.1. Do you consider that it is useful to further reinforce the cross-border cooperation mechanisms between EU Member States, or between EU Member States and other neighbouring countries (non EU Member States) for ensuring the management of accidents and mitigation of accident consequences?

Yes

D.1.1.1. In your view, which concrete measures could be covered by these cross-border cooperation mechanisms?

Currently there is a lack of coordination in many cross-border nuclear-safety related planning, training and post-emergency response management activities (including such basic considerations as multi-lingual information). It is symptomatic that such this kind of cooperation is better organised in respect to, for instance, chemical accidents in water catchment areas than for nuclear crises. To this end, consider that, 1) different regulations for uranium in drinking and bottled water exist across the EU, and, 2) despite there being 19 EU nuclear power stations within 30 kilometres of towns and cities of 100,000 or more inhabitants, the evacuation plans for towns and cities were ignored in the most recent stress tests. This is yet another illustration why this kind of EU-wide cooperation, which includes issues of public health, environment, workers rights, security, transparency and human rights, needs to be organised under the EU Treaties, and not under a one-issue treaty like Euratom.

D.2. CLARIFYING QUESTIONS OF NUCLEAR LIABILITY

<p>D.2.1. In your opinion, the role of a Euratom nuclear liability legislative framework setting up common rules for all the 27 EU Member States, is...</p>	<p>Important</p>
<p>D.2.2. The consequences of nuclear and radiological accidents do not stop at national or regional borders ("an accident anywhere is an accident everywhere"). The Fukushima nuclear accident highlighted the need to consider new challenges and underlined the paramount importance of nuclear safety in the use of nuclear energy.</p> <p>In this context, do you consider necessary to introduce, bearing in mind the existing international conventions (Paris Convention, Vienna Convention, Brussels Convention), a Euratom nuclear liability legislative framework?</p>	<p>No</p>

D.3. ENHANCING SCIENTIFIC AND TECHNOLOGICAL COMPETENCE

<p>D.3.1. Scientific and technological competence is of foremost importance to ensure nuclear safety at all levels from design to construction, operation and decommissioning of nuclear facilities. It applies to nuclear power plants but also all other nuclear facilities. Nuclear research and development, innovation, education and training are therefore making an important chapter of the Euratom Treaty. Over the last decades, the Euratom Research Framework Programme has contributed to enhance the nuclear scientific and technological competence in the EU, making it a leading region in this field.</p> <p>Do you consider that this scientific and technological leadership should be</p>	<p>No</p>
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maintained?	
D.3.2. Do you consider that the Euratom Research Framework Programme should be enhanced to keep this scientific and technological leadership?	No

D.4. IMPROVING THE GLOBAL LEGAL FRAMEWORK

<p>D.4.1. The Convention on Nuclear Safety (CNS) is one of the cornerstones of the international legal regime of ensuring nuclear safety. An Extraordinary Meeting to analyse the relevant issues arising from the accident at the Fukushima Daiichi nuclear power plant and to review the effectiveness of the CNS provisions has been convened in August 2012.</p> <p>Do you consider that Euratom, as a Party to the Convention, should support a change to the CNS with a view to enhance the international nuclear safety regime?</p>	Yes
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Please indicate yours views

It would be even better, if the EU would participate in these negotiations, instead of as Euratom, as the EU does not have promotion of nuclear power as the basis of its existence. At the same time, the Commission should also decrease the influence of industry-led technology platforms (like the Sustainable Nuclear Energy Technology Platform, but also The Implementing Geological Disposal Technology Platform) on setting priorities and increase wider public participation in doing so - including a wider spectrum of stakeholders (not least citizens and civil society groups, but also independent experts). The Euratom Treaty has also so far prioritised research and development of existing and new nuclear technologies and hardly tackled the horrendous legacy of today's active nuclear programme. The international nuclear safety regime would be aided if some funds could be reserved for research into dealing with legacy issues like proliferation, decommissioning and waste.

<p>D.4.2. The accident the Fukushima Daiichi nuclear power plant has revealed possible deficiencies in the international legal regime of ensuring prompt provision of information on nuclear accidents, regulated primarily by the Convention on Early Notification of a Nuclear Accident.</p> <p>Do you consider that Euratom, as a Party to the Convention, should play a leading role submitting proposals to supplement the Convention in order to eliminate these possible gaps in case of a review meeting for the Early Notification Convention is convened in 2012?</p>	No
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E. ADDITIONAL SUGGESTIONS OR VIEWS

E.1. Do you have additional suggestions or views?

We are convinced that a Euratom nuclear liability legislative framework would lead to the lowest common denominator among Euratom members and not to the highest level of liability protection within the EU. There should be further public consultation when a directive has finally been drafted.

Meta Informations

Creation date

23-02-2012

Last update date

User name

Case Number

321592147001605412

Invitation Ref.

Status

N

Language

en