



Consultation on Paris & Brussels Conventions on nuclear third party liability
Department of Energy and Climate Change
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By email: parisbrussels@decc.gsi.gov.uk

20th April 2011

To whom it may concern,

SUBMISSION OF THE NUCLEAR FREE LOCAL AUTHORITIES TO THE UK GOVERNMENT'S CONSULTATION ON THE IMPLEMENTATION OF CHANGES TO THE PARIS - BRUSSELS CONVENTIONS ON NUCLEAR THIRD PARTY LIABILITY

1. Introduction – withdraw this consultation until the learning points of the Fukushima incident are internationally agreed upon

The Nuclear Free Local Authorities (NFLA) formally submits its response to the UK Government's consultation on the implementation of changes to the Paris – Brussels Conventions on nuclear third party liability.

The NFLA notes that this consultation was launched before the nuclear disaster at the Fukushima Daiichi nuclear plant in Japan. These conventions on liability and nuclear insurance do not come up for review very often. The NFLA believes it is unreasonable that any decisions should be made while events in Japan are still unfolding.

The NFLA also notes that the 'Convention on Nuclear Safety', to which 72 countries have signed up, and organised by the International Atomic Energy Agency (IAEA), will not meet until August 2012 to review the breakdown of safety systems at Fukushima, because the lessons-learned process cannot be completed "until sufficient additional information is known and fully analysed."
(1) This reinforces the NFLA's view that this consultation should be withdrawn.

Events in Japan make it all the more important that we stop now and reconsider nuclear insurance after the "lessons learned" process has been completed rather than pushing ahead with these outdated proposals. It is not reasonable to carry on with a normal "business as usual" approach to nuclear power at least until all the lessons have been learnt.

This consultation should, therefore, be withdrawn.

The rest of this submission outlines additional concerns the NFLA has with this consultation in reference to the incident in Fukushima, Japan and in its wider context.

2. Background to the NFLA submission – the financial implications of the Fukushima incident

The NFLA notes that this consultation document and accompanying papers discuss how much insurance cover a nuclear company should have in the event of an accident. The consultation also considers the financial security of companies and raises the question of company insolvency in the event of an accident.

At the time of writing, the NFLA notes that the Japanese Government has ordered Tokyo Electric Company (TEPCO) to make an interim or provisional payment of around £7,300 to roughly 48,000 eligible households – a total of over £350m – more than one third of the maximum liability proposed in this new consultation. This is just an **initial** payment, which many of the evacuees feel is far too small. Tens of thousands of residents are unable to return to their homes near the nuclear plant and are bereft of their livelihoods and possessions. They are unsure when, if ever, they will be able to return home. (2) 150,000 people are still homeless, so the compensation offered amounts to less than £2,500 per person, more than a month after most were evacuated. JP Morgan estimates that TEPCO may face pay-outs amounting to **around £15bn**. (3)

TEPCO is unlikely to survive as a company. There is now speculation that the Japanese Government will break up the company. (4) The Financial Times describes TEPCO as a company with “a shoddy history of cover-ups and sloppy safety standards”. In 2002, it was found to have routinely lied about safety data relating to cracks in its reactors. It has also been reported that TEPCO located back-up generators at Fukushima in the basement, below the level of what turned out to be a wholly inadequate sea defence wall. There are also suggestions – denied by the company – that it delayed cooling the reactors with sea water to avoid scrapping billions of yen worth of assets. (5) Yet the Company is described as “too big to fail”. So like the banks, it is seemingly inevitable that Japanese taxpayers will end up bailing the company out in one form or another.

In the UK the Government has called for a review of nuclear safety because of the situation in Japan, but no review of the financial implications - for the taxpayer, local authorities and emergency services - has been called for. Given the huge financial implications of such an accident, this is, in the NFLA's view, completely illogical. The NFLA believes a revised consultation should be published **after** the detailed picture of the extent of the financial impact of the Fukushima Daiichi accident has emerged.

In the NFLA's view, pushing ahead with these proposed changes to the nuclear liability laws, without first considering the full financial impact of an accident is not acceptable. It will leave the taxpayer to pick up potentially huge but unknown additional costs. It is vital to stop now and reassess the proposals on the level of insurance cover, the legislative arrangements, and the financial security of nuclear companies and whether these can be deemed 'fit for purpose' for the coming decades.

As far as the NFLA is aware there have been no stakeholder meetings on this consultation with the emergency services or local authority emergency planning officers. The NFLA believes such meetings need to be organised in a subsequent consultation.

3. **Additional comments on the consultation**

Under the UK Government's proposals nuclear operators would have to pay the first £1bn towards the cost of any accident in the UK – compared with the current cap on their liabilities of £140m. Whilst raising the level of the cap is to be welcomed, clearly agreeing to cover any costs above £1bn amounts to a public subsidy. This would go against the UK Government's coalition agreement. The consultation document also makes clear that Paris Convention countries are permitted to impose an unlimited liability. (See para 1.4)

The NFLA notes that Barry Jones, Emeritus Professor at Reading University, says any limit on liability for the costs of nuclear accidents eases the burden on nuclear operators. If the government reinsures those costs, in the absence of commercial insurers, then the nuclear operators will be absolved of most, if not all, of the ultimate liability. (6)

The NFLA's view is that there should not be **any** cap on liabilities for the operators of nuclear power plants. There is no cap on liabilities for operators of other kinds of electricity generating plant such as wind farms or solar farms. There should be no special reasons to favour nuclear

power. The UK Government has insisted that there will be no public subsidies for new nuclear reactors. Indeed, UK Energy Secretary Chris Huhne told the *Observer* that he wanted to introduce the new higher £1bn cap to ensure that there would be no public subsidy for nuclear power. (7) However, these proposals clearly represent a subsidy to the nuclear industry.

Operators of nuclear power plants should still be required to **insure fully** against the cost of an accident. If the necessary insurance cannot be obtained from commercial sources then the operator of any nuclear plant should be required to pay an appropriate premium to the Government (as insurer of last resort). The premium should be calculated by two or more independent actuarial experts and agreed by all stakeholders.

Let's not forget that BP had to pay **£20 billion** after the recent Gulf of Mexico oil spill last year, and a comparative nuclear accident would cost much more to clean-up and take a lot longer before the area is 'clean' again. The cost of the Chernobyl accident can only be roughly estimated, but the magnitude of the cost is clear from a variety of government estimates from the 1990s, which put the cost of the accident, over two decades, at hundreds of billions of dollars. Belarus, for instance, has estimated losses over 30 years at **US \$235 billion**. (8) It has been recently suggested in the Japanese media that the financial cost of the Fukushima incident in compensation may be as much as **£80 billion and the cost of the incident response and clean-up is likely to be many tens of billions more** (9).

4. **Proposed amendments to the Paris-Brussels Convention**

One of the amendments to the Paris-Brussels Convention mean that a claimant will be allowed a longer time – 30 years from the date of the nuclear incident – in which to bring a claim against an operator for loss of life or personal injury. As the latency period for radiation induced cancer can be very long, this is to be welcomed.

However, if there is a cap on the amount to be paid out by the nuclear operator of £1bn, and there is no system for prioritising claims with compensation issued on a first-come-first-served basis, it would seem very unlikely that any money would be left over by the end of that period.

Paragraph 4.2 lists six new categories of nuclear damage for which nuclear operators will be liable. The final three categories are:

- (4) The cost of measures for re-instating an impaired environment;
- (5) Loss of income derived from use or enjoyment of the environment;
- (6) The cost of preventative measures.

There appears to be some scepticism in the insurance industry over whether these things can be insured against. (10) The NFLA believes the UK Government needs to provide more details about how it sees nuclear operators insuring against such liabilities. Again if the insurance industry will not insure these categories of risk this adds to the NFLA's argument that the UK Government should act as 'insurer of last resort' at the full market rate.

5. **Conclusion and NFLA recommendations**

The NFLA makes the following recommendations to the UK Government in reference to this consultation:

1. This consultation should be abandoned until all the lessons of the Fukushima Daiichi nuclear disaster have been learnt; and probably not re-launched until after the Nuclear Safety Convention meeting in August 2012.
2. A future consultation on any amended proposals to the Convention need to include stakeholder meetings involving the emergency services and local authority emergency planning officers.

3. The proposals as they stand at the moment represent a subsidy to the nuclear industry in general and new reactors in particular. There should be no cap on the industry's liability. Setting a £1bn cap at a time when there is an ongoing incident likely to cost many times that figure is illogical.
4. Removing the cap is the only way to ensure that the Government's aspiration to offer compensation for a 30 year period to nuclear accident victims suffering from personal injury can be met.
5. The insurance industry is unlikely to offer insurance against an unlimited liability and has expressed scepticism about three of the new categories of nuclear damage. The Government may need to consider acting as insurer of last resort – but only at the full market rate determined by an independent committee.

If you have any queries with any of the detail with this submission then please contact the NFLA Secretary, Sean Morris, using the details at the top of this letter or s.morris4@manchester.gov.uk.

Yours sincerely,



Bailie George Regan*
Chair of UK and Ireland Nuclear Free Local Authorities

* - Bailie is a Scottish term for a senior councillor, in a similar manner to an Alderman.

6. References

- (1) Bloomberg 14th April 2011 <http://www.bloomberg.com/news/2011-04-14/nuclear-regulators-delay-study-of-fukushima-lessons-until-2012.html>
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<http://www.telegraph.co.uk/news/worldnews/asia/japan/8454029/Japan-nuclear-evacuation-households-to-receive-7500-compensation.html>. This puts the figure at £367m
- (3) New Statesman 15th April 2011 <http://www.newstatesman.com/energy-and-clean-tech/2011/04/power-plant-government-pay>
- (4) Asahi 16th April 2011 <http://www.asahi.com/english/TKY201104150129.html>
- (5) FT 13th April 2011 <http://www.ft.com/cms/s/0/470847a8-6605-11e0-9d40-00144feab49a.html>
- (6) Letter to the FT 3rd February 2011 <http://www.ft.com/cms/s/0/dfb8e1ec-2f28-11e0-88ec-00144feabdc0.html>
- (7) Observer 23rd January 2011 <http://www.guardian.co.uk/business/2011/jan/23/nuclear-power-accident-clean-up-costs>
- (8) Green Facts: <http://www.greenfacts.org/en/chernobyl/i-3/5-social-economic-impacts.htm>
- (9) Guardian, quoting from the Yomuiiri Shimbun newspaper:
<http://www.guardian.co.uk/world/2011/apr/13/japan-nuclear-plant-evacuees-compensation>
- (10) Westminster Energy.org: <http://www.westminsterenergy.org/Upload/2006-2008-public-events/20080207/3.3%20Tetley.pdf>