



European High Level Group
on Nuclear Safety and Waste Management

Luxembourg, 20 November 2008
HLG_M(2008-05)_Final

**Minutes of the 5th meeting of the High Level Group (HLG)
- European Nuclear Safety Regulators Group (ENSREG) -**

15 October 2008, 9:30 – 17:00
Berlaymont, Brussels

Participants

Related document¹: list of representatives (HLG_p(2008-05)_12.v2).

All EU Member States, with exception of Estonia, Latvia and Malta, were represented. The Commission Members also participated.

Special invitee to the meeting: **Commissioner Piebalgs**.

New Members of the Group: **Mr Faross (Director of "Nuclear Energy" Directorate, European Commission)**; **Ms Anneke van Limborgh (Head of Radiation Protection, Ministry of Housing, Spatial Planning and the Environment; the Netherlands)**; **Ms Anne-Louise Eksborg (Director General, Swedish Radiation Safety Authority; Sweden)**, in replacement of Mr Waeterloos, Mr Holtkamp and Ms Melin, respectively.

A new Observer- Norway was represented at the meeting by **Mr Ole Harbitz (Director General, Norwegian Radiation Protection Authority)**. Other Observers who attended the meeting were **Mr Decaestecker (Division for Energy and Atomic Questions, Council)**, **Mr Jamet (Director of the Division of Nuclear Installation Safety, IAEA)** and **Mr Schwarz (Swiss Federal Nuclear Safety Inspectorate)**.

1. Introductory address by Chairperson

Related documents:

- Email of Mr Stritar about Nuclear Safety Directive (HLG_r(2008-05)_23)
- Mr Stritar's proposal on a Nuclear Safety Directive (HLG_r(2008-05)_24)

The meeting was started by an introductory speech of the **HLG Chairperson (Mr Stritar)**. He reminded Members about the increasing institutional wish and social demand for an EU legally binding instrument on nuclear safety. Recalling his letter sent few days before the meeting, he invited everybody to consider as necessary the following aspects of a possible directive, so that 1) HLG Group remains in the centre of action; 2) HLG contributes to shaping a possible directive; 3) once consensus is reached on issues to be reflected in a legally binding instrument, HLG could concentrate on more technical issues to further improve nuclear safety in practice.

¹ Legend: Name of Group_Confidentiality or type of document (Year- Meeting Number)_Document number. version number (if any).

Confidentiality of document:

- **c** for Consultation. Document discussed at HLG meetings and accessible for public
- **p** for Public. It is HLG final document for release to the public
- **r** for Restricted. Document accessible only for Members and Deputy Members of the Group
- **A** for Agenda
- **M** for minutes

Mr Stritar reminded about the European Parliament's invitation to him to attend an ITRE committee meeting. He also informed about a European Nuclear Energy Forum (ENEF) initiative to hold a meeting between Chairs of HLG and ENEF to discuss harmonisation of work of both entities and possible elements for a possible Nuclear Safety Directive.

Mr Stritar informed about the Council's published report on radioactive waste management that encourages establishing a legal framework on nuclear safety and waste management, based on HLG work.

2. Adoption of the agenda

Related document: adopted agenda by the Members (HLG_A(2008-05)_Final).

A revised version of the agenda, updated by the Chairperson and sent to HLG Members a day before the meeting, was adopted without changes.

3. Adoption of the draft minutes of the previous meeting (30.05.2008)

Related document: adopted minutes (HLG_M(2008-04)_Final).

The minutes were adopted, taking into account DE proposed modifications.

4. Discussion of HLG work programme

The discussion was organised in two parts: 1) need of a Nuclear Safety Directive, based on a "Pros and Cons" document (HLG_r(2008-05)_22) and taking into account Chairperson's intervention; 2) follow-up of progress made in waste management and transparency domains, by WG2² and WG3³ working groups of HLG.

4.1 WGNS 3 – The Pros and Cons of the EC Directives or other instruments covering Nuclear Safety, and Chairperson's proposal on a potential new nuclear safety directive

Related documents:

- Discussion Document on Consequences of EU instruments in the field of nuclear safety (HLG_r(2008-05)_22)
- Agreed principles for an EU Nuclear Safety Directive (HLG_p(2008-05)_13)
- Draft Commission's proposal on a Nuclear Safety Directive (HLG_r(2008-05)_36)

The morning session was focused on nuclear safety issues. The HLG Work Group on nuclear safety (WG1) had tabled a report (HLG_r(2008-05)_22). Members generally felicitated a well balanced and good quality report presenting advantages and disadvantages for five options going from no legal instrument at all to a stringent, detailed directive. There were few different streams of the discussion: 1) to which extent social pressure should force HLG to adopt rules; 2) what are the reasons leading industry and the EC to bow to pressure; 3) is there any instrument defined under "pros and cons" report that evidently appears being the best option; 4) what should be the follow-up of the report; 5) what would be the added value of a directive for nuclear regulators; 6) to which extent a legal instrument should be detailed.

The need of a directive got support, in principle, from **AT, BE, ES, FI, FR, IT, PL, PT, SI (Chair)**, others did not support such an instrument, even though Members were divided on the urgency of the process and on the need to include WENRA reference levels (e.g. for inclusion: **BE**; against: **ES** (due to technical implications); in favour of a more detailed legislative instrument: **IT, PL**). Certain Members (**DE, IE, SE**) expressed various levels of doubts on the added value of a directive for nuclear regulators and/or nuclear safety; despite this, some agreed that due to political and social demand, this appears now to be necessary. **DE** was worried on a possible Commission's role as regulator, should a directive be adopted. It also asked for clarification whether there would be a conflict of interest (independence of Members) with regard to the Convention on Nuclear Safety to which the Commission is a contracting party. **UK** asked to which extent would the Commission in its proposals for a safety directive limit itself to the proposals put forward by the HLG both now and in the future.

² Improving spent fuel, radioactive waste, management and decommissioning arrangements

³ Improvements on Transparency Arrangements

Many Members, including the Commission representatives, underlined the need for a solid EC/Member States cooperation.

Some countries (**AT, DE, DK, SI, UK**) asked to see a further development of the WG1 report, that would include external and internal factors in the Pros and Cons. Certain Members, led by the **Chair and FR**, wish that this follow-up is done in the light of ongoing developments of the situation, and in particular taking into account the Commissioner's intervention (see below). The Group agreed that the document should be made public.

The **Commission representatives** underlined that the purpose of a directive would be to send a clear political sign for the reinforcement of independence, competences and the means of action of the national nuclear regulators. The Commission also clarified the respective institutional roles and, in particular, the Commission mandate in accordance with the Euratom Treaty, as well as the fact that the Commission is not a contracting party of the nuclear safety convention, whereas the Euratom Community is.

At the end of the morning, **Commissioner Piebalgs** intervened at the meeting. His main message was that – on his request – the Commission services prepared a draft revised proposal for a nuclear safety directive, which he intends to propose for Commission's adoption by year end. He explained that he is under political pressure to produce a revised proposal for a nuclear safety directive during his mandate, which expires in about a year time. In order to achieve this, the inter-institutional debate about the draft text of the directive must start as soon as possible, and not later than the end of the year because of the European Parliament elections. Therefore Commission can not wait for the report of HLG and has prepared an initial draft for comments. The draft proposal, based on the principles of the Convention on Nuclear Safety, aims to reinforce regulatory bodies, as well as to strengthen the role of HLG and to recognise the reference levels developed by WENRA, as appropriate.

Mr. Piebalgs underlined the Commission wish to work in close coordination with the HLG and Member States. Therefore, he would welcome first individual or Group's reactions to the draft before starting Commission's internal inter-service consultation procedures.

Following his presentation, the Commissioner answered questions from **AT, DE, ES, SE, UK**: 1) possible contradiction between demand to HLG to play a role in shaping a possible directive on nuclear safety and transparency towards public since not all HLG Members see an added value of a binding legislation within EU. 2) What will be role of the Commission for the next fifteen years in nuclear safety? How the Commission intends to intervene? How about its potential regulatory role? 3) How will HLG be involved in the preparation of a Commission's proposal for a Directive? When will it get a copy of this draft proposal? How to proceed with a common opinion of HLG in a such short time framework?

ES, FR and UK also raised the following concerns: 1) importance that Commission takes duly account of HLG views and work, as stated by the Commissioner. 2) Proposal of a Directive should highlight safety fundamentals that are generally implemented in the EU. 3) Commissioner's speech clarified the political context, which justify Commission's upcoming actions- proposal for a directive. 4) Any proposal should not require changes in national regulatory systems that despite their differences are effective and adapted to their societies. 5) Any proposal should enhance the role of national regulatory bodies. 6) Directive should not be too general, otherwise there would be no continuous progress idea. 7) All Member States should be allowed to enhance standards of nuclear safety beyond the directive provisions. 8) Need to take into account already done work by HLG.

The Commissioner replied that a draft proposal for a directive only clarifies roles of different entities working in relation to nuclear reactors, as well as how the system functions. Therefore, no new role for the Commission is foreseen. Commission's role is well defined in the Euratom Treaty. He also stated that a general directive is not a symbolic act; on the contrary, European standards would offer support both to national regulators and the Commission when providing clear answers to the citizens. The text of the draft proposal will be given to HLG informally. The Commission would appreciate constructive opinions of the Members on how to improve it. The Commissioner also reminded the reasons for such tight time framework (e.g. right time to present

a revised proposal, increasing social demand, end of this Commission's mandate next year, new Parliament in mid-2009, long internal procedures for adoption in EU Institutions, etc.).

Following all these comments and the Commissioner's replies to them, **UK** suggested that HLG works and agrees by consensus on the principles that should be inside of a legislative proposal.

The afternoon session was mostly devoted to the follow-up of the Commissioner's speech. Several Members expressed the view that any legislative instrument should seek to improve nuclear safety, permit a flexible system for any further developments, that the role of regulators should be respected, higher safety standards should be allowed etc. Concerns were raised also about further role of HLG. **UK and HU** were fearful that any proposal could change the present national regulatory system, while **PL, FR and ES**, on the contrary, wished more flexibility. **This discussion resulted in an agreement of HLG by consensus on ten principles that should be used when drafting a directive.**

In the meantime, the Commission tabled the DG TREN draft proposal for a revised nuclear safety directive and explained that it was prepared based on principles of Nuclear Safety Convention and on the existing work of WENRA. It offered one week for personal comments, before starting internal consultation procedures. It also offered the possibility to convene an extraordinary meeting of HLG in early November, before Commission's adoption of the proposal. Some Members, led by **AT and IE** supported this proposal or at least sharing responses (**ES, SE**). Some countries (**AT, CZ, DE, HU, SK, UK**) supported **FR** suggestion of proceeding in three steps: 1) sending the ten principles to the EC and the President of the Council; 2) distributing a project willing to collect views; 3) having the next meeting after inter-service consultation, in January. **The Chair concluded the discussion by conclusion that HLG as a group can not make any comment or recommendation about the draft text in such a short time, but he strongly recommended to Members to individually react to the EC draft document.**

Main agreements:

- HLG endorses the "pros and cons of the EC Directives" document and allows that it is made available to public as such.
- Agreement by consensus on the ten principles to be used when drafting a nuclear safety directive.
- HLG recommends the Commission to make mandatory general principles of nuclear safety when drafting a directive.
- Group recommends to the Commission that a possible Nuclear Safety Directive should reinforce the role of HLG.
- Group recommends to the Commission to take into account the tabled "pros and cons of the EC Directives" document.

Actions:

- One week deadline (21 October 2008) for individual comments on a draft proposal of a Nuclear Safety Directive, to be sent directly to the Commission.
- WGNS 3 to continue development of its report. Deadline: mid-December.

4.2 WGNS 1 – The Convention on Nuclear Safety

and 4.3 WGNS 2 – The National Arrangements for Regulating Nuclear Safety

Related document: presentation of Mr Weightman on work of WG1 expert groups (HLG_r(2008-05)_37).

Due to lack of time the **Chair of WG1 (Mr Weightman)** could not present the progress of WG1 work, therefore the HLG agreed to make available his presentation to the Members.

4.4 WG2- Improving spent fuel, radioactive waste, management and decommissioning arrangements

Related documents:

- Guidelines for the content and objectives of national programmes for the management and the safety of radioactive waste and spent fuel (HLG_r(2008-05)_25)
- Identification of difficulties and challenges for progress in spent fuel and high-level waste management (HLG_r(2008-05)_26)
- Better use of Joint Convention Process in Europe Union (HLG_r(2008-05)_27)
- Presentation by Mr Vincent on WG2 work (HLG_r(2008-05)_38)

All three tabled documents (HLG_r(2008-05)_25; HLG_r(2008-05)_26; better HLG_r(2008-05)_27) received **positive feedback from the Members**. A convergence of views from Member States towards management of nuclear waste was noticed.

FI pointed out that for a public acceptance of nuclear energy, it is important that a national programme for waste management is detailed enough. He also congratulated well balanced way of presenting national programmes versus international cooperation, emphasizing State's freedom to decide on whether they handle their own waste and/ or accept radioactive waste of any other country, and remain in the course of international collaboration.

Few suggestions for a better presentation and /or implementation were made, in particular:

1) **BE**: report on better use of Joint Convention: it should be more positive (e.g. wording makes think about a too defensive attitude of the EU); wording of "compliance" with Joint Convention gives a too restricted understanding of the Convention's implementation (e.g. compliance to present report and to participate to peer reviews only). BE suggests to change this wording in order to make clear that EU Member States apply different articles of the Convention. 2) **HU** (and **DK** for national programmes): national programmes should be monitored and publicised by HLG, methodology should be defined; to be cautious with organisations of peer reviews of Joint Convention, make sure to avoid additional burden to the participants. 3) **SI**: Joint Convention: SI suggests to remove provisions requiring a State to prepare a report in a particular way, as described under recommendation 2. Each State should have freedom to choose the most effective way.

The **Chair of WG2 (Mr Vincent)** informed the group that three new reports will be transmitted in the near future. In accordance with WG2 work programme, these reports would cover:

- Proposing common principles of radioactive waste management policy taking into account the work of WENRA, IAEA and others (*mostly covered by "Guidelines for the content and objectives of national programmes", HLG_r(2008-05)_25*)
- Enhanced use of peer reviews and advisory groups
- Identification and enhanced use of best practices

Main agreement: HLG endorsed WG2 prepared reports, taking into account the remarks expressed at the meeting. It also invited WG2 to continue its work in accordance with the planning.

4.3 WG3- Improvements on Transparency Arrangements

Related documents:

- Letter of Ms McGarry on logo proposals (HLG_r(2008-05)_28)
- Two logo proposals (HLG_r(2008-05)_29)
- Letter of Ms McGarry on technical specifications of a website (HLG_r(2008-05)_30)
- Adopted logo (HLG_p(2008-05)_14)
- Ms McGarry presentation (HLG_r(2008-05)_39)

The Group was informed that the ENSREG (European Nuclear Safety Regulators Group) acronym is presently available at OHIM. For memory, an official registration of the Group's name is necessary to avoid any possible legal difficulty.

Chair of WG3 (Ms McGarry) tabled two proposals for a logo with ENSREG name.

Ms McGarry also informed about the ongoing work for establishing the ENSREG website. She gave a presentation on the possible content for a future website and on technical specifications prepared by the Commission that has offered its help for website's establishment. **The Chair of ENSREG (HLG) and BE** found the plan very ambitious and invited WG3 to concentrate on priority items. The Chair reiterated necessity to create at least an interim page of the Group under Internet. Ms McGarry expects the interim page could be established in early 2009.

ES underlined that publication of information about incidents should be carefully done, keeping a good level of uniformity.

Main agreements:

- HLG endorsed the acronym of ENSREG.
- The Group endorsed one of two proposals of logo (HLG_p(2008-05)_14)

Actions:

- The Commission will undertake necessary steps for registering this name under OHIM.
- WG3 to continue fulfilling its work programme.

5. Information about the next meeting (14 January, Brussels)

The next (ordinary) meeting will take place on 14 January. Agenda will be agreed by the Chairperson at a later stage, pending to further evolution of situation related to a possible Nuclear Safety Directive. While this item may be a core business at the January meeting, some Members requested to devote some time also for other Group's activities.