

## **Final minutes of the 12<sup>th</sup> meeting of ENSREG**

4 June 2010, 9:30 – 17:00  
Albert Borschette Building, Brussels

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### **Participants**

#### **Related document<sup>1</sup>:**

- List of representatives from the Member States and Observers (HLG\_p(2010-12)\_48)

All EU Member States, as well as the European Commission, with the exception of Cyprus, Luxembourg, Malta and the Netherlands were represented.

**Mr Philippe Jamet** (Director of the Division of Nuclear Installation Safety at the IAEA) and **Mr Georg Schwarz** (Deputy Director of the Swiss Federal Nuclear Safety Inspectorate) attended the meeting as observers.

**Ms Heather Astwood** (Nuclear Safety Attaché at the U.S. Mission to International Organizations in Vienna) attended the meeting as an invitee.

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### **1. Introductory address by the ENSREG Chairperson**

**Mr Andrej Stritar, Chairperson of ENSREG**, welcomed three new ENSREG Members: **Mr Derek Lacey** (Nuclear Installations Inspectorate of the United Kingdom) to replace Mr Peter Addison, **Mr Ugo Bollettini** (Ministry of Economic Development of Italy) to replace Mr Pierluigi Cerretti and **Mr Cristian Macovei** (Nuclear Agency and for Radioactive Waste of Romania) to replace Mr Emil Marian Anghel.

Mr Stritar also announced that **Mr Aleš Škraban** (Ministry of the Environment and Spatial Planning – Nuclear Safety Administration of Slovenia) will replace Mr Marjan Levstek in the future (subject to formal nomination).

Mr Stritar reviewed the most important events in the nuclear area of the last two months, to which he attended and presented the activity of ENSREG (i.e. the European Nuclear Assembly organised by Foratom<sup>2</sup>), the European Nuclear Energy Forum (ENEF)<sup>3</sup>, the meeting with the Energy Commissioner Günther Oettinger in the margin of ENEF, as well as the European Nuclear Conference<sup>4</sup>).

**The Commission representative (Mr Ristori)** underlined the importance of the recent Global Nuclear Security Summit<sup>5</sup>, highlighting the main trends and results of the event.

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<sup>1</sup> 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

<sup>2</sup> 11 – 12 May, Brussels

<sup>3</sup> 25 – 26 May, Bratislava

<sup>4</sup> 30 May – 2 June 2010, Barcelona

<sup>5</sup> 12 - 13 April 2010, Washington

## **2. Adoption of the Agenda**

### Related document:

- Adopted Agenda (HLG\_A(2010-12\_Final)).

The Agenda of the meeting was adopted without amendments.

## **3. Adoption of the Work Programme of WG2 (Radioactive Waste Management) for 2010 – 2011**

### Related document:

- Draft WG2 Work Programme 2010-2011 (HLG\_c(2010-12)\_38)

The finalisation of the WG2 Work Programme for 2010-2011, in view of its adoption by ENSREG, was one of the actions agreed at the previous 11<sup>th</sup> ENSREG meeting (see point 5.3. of the Minutes of the 11<sup>th</sup> ENSREG meeting – reference HLG\_M(2010-11)\_Final).

**Mr Laaksonen** (FI) presented the proposed Work Programme of WG2 for 2010-2011, which largely follows the structure of the Work Programme of WG1 (Nuclear Safety).

### Main agreements:

- ENSREG endorsed the Work Programme of WG2 for 2010-2011, subject to the following amendments:
  - Task 2 (Format of and Guidance for Member States' Reports): the timeframe for the finalisation of this task to be coordinated with WG1;
  - Task 3 (Self-assessment guidance): finalisation by July 2011 (instead of July 2012);
  - Task 4 (Peer Review Guidance): finalisation by July 2011 (instead of July 2012);
  - Task 5 (Scheduling and resourcing of self-assessments and peer reviews): the timeframe for the finalisation of this task to be coordinated with WG1.
- ENSREG recommended to the WG1 and WG2 to cooperate by regular coordination of their activities.

### Information point:

- ENSREG was informed of the departure of Mr Varjoranta (current Chair of WG2 and Vice-Chairperson of ENSREG) from his current position occupied in the Finnish Radiation and Nuclear Safety Authority (STUK). This would need to trigger, for the next ENSREG meeting, the election of a replacing WG2 Chair who, consequently, would also be one of the ENSREG Vice-Chairpersons.

## **4. Adoption of the consolidated Work Programme of ENSREG for 2010 – 2011**

### Related document:

- Consolidated ENSREG Work Programme 2010-2011 (HLG\_p(2010-12)\_47)

### Main agreement:

- Following the adoption by ENSREG of the WG2 Work Programme (see Section 3), the consolidated Work Programme of ENSREG for 2010-2011 has been endorsed by the Group.

## **5. Progress made by the ENSREG Working Groups**

### **5.1. WG1**

### Related documents:

- Notes of WG1 Meeting, 16 March 2010 (HLG\_c(2010-12\_41)
- WG1 progress report (HLG\_c(2010-12\_52)

**Mr Weightman** (UK) reported on the activity of WG1's three thematic Sub-groups related to the implementation of the Nuclear Safety Directive<sup>6</sup>. The main items being developed are:

- the recommended options for the elaboration of the Nuclear Safety Directive implementation Reports by the Member States;
- the proposal of a template for common learning from the Convention on Nuclear Safety review meetings and from the IAEA Integrated Regulatory Review Service (IRRS) missions to other Member States and
- the elaboration of a Memorandum of Understanding between ENSREG and the IAEA on the practicalities of an European programme of IRRS missions.

On timetable, WG1 envisages to finalise (June 2010) its proposals for the Member States' implementation Reports as well as for the proposed Memorandum of Understanding between ENSREG and IAEA, for submission and endorsement at the next ENSREG meeting.

Following the presentation, an exchange of views was held. The **Commission representative (Mr Ristori)** expressed support for the WG1 ongoing activities. Mr Ristori announced the Commission is working towards supporting the implementation of the European IRRS programme and is in contact with IAEA in this regard. **Mr Pouleur (BE)** re-emphasized the need for coordination with the work of WG2. As regards the reporting options for the Member States' implementation reports, **Mr Stritar** expressed his preference to an approach that makes use of existing material.

#### Main agreements:

- ENSREG endorsed the Progress Report of WG1.

#### Action:

- ENSREG Members that have not responded so far to provide input to the Coordination Group on the actions agreed at the previous 11<sup>th</sup> ENSREG meeting (see point 5.2. – Decision 9 of the Minutes of the 11<sup>th</sup> ENSREG meeting – reference HLG\_M(2010-11)\_Final).

## **5.2. WG2**

#### Related documents:

- WG2 proposal for the content of a Directive on the Sustainable Management of Radioactive Waste and Spent Fuel (HLG\_c(2010-12)\_39)
- SE comments on the WG2 proposal for content of a Waste Directive (HLG\_c(2010-12)\_42)
- Summary of SE comments on the WG2 proposal for content of a Waste Directive (HLG\_c(2010-12)\_43)
- BG comments on the WG2 proposal for content of a Waste Directive (HLG\_c(2010-12)\_47)

The finalisation of the WG2 proposal for elements and contents in support of a Community legislative instrument in the area of radioactive waste and spent fuel management, in view of its discussion by the ENSREG plenary, was one of the actions agreed at the previous 11<sup>th</sup> ENSREG meeting (see point 4.2. of the Minutes of the 11<sup>th</sup> ENSREG meeting – reference HLG\_M(2010-11)\_Final).

Before the current 12<sup>th</sup> ENSREG meeting, WG2 made available its proposal dated 16 March 2010 (reference HLG\_c(2010-12)\_39), followed by written comments formulated by two ENSREG member countries - SE (references HLG\_c(2010-12)\_42) and (HLG\_c(2010-12)\_43)), as well as BG (HLG\_c(2010-12)\_47).

During the ENSREG meeting, **Mr Laaksonen** presented the paper prepared by WG2, reviewing also the comments received from SE (reproduced in Annex 1 to the present Minutes) and BG (reproduced in Annex 2 to the present Minutes).

These documents represented the basis for an open discussion in the Group (the detailed presentation of the views expressed by the ENSREG Members is included in Annex 3 to the present Minutes). The opinions expressed covered mainly the following items:

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<sup>6</sup> Council Directive 2009/71/EURATOM of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations: OJ L 172/18 of 02.07.2009

- **Article 1 (Objectives)** – the link between safety and the management of radioactive waste and spent fuel;
- **Article 2 (Scope)** – the exclusion of waste arising from military programmes;
- **Article 3 (Definitions)** – the definition of the term "radioactive waste";
- **Article 4 (General principles governing the management of radioactive waste and spent fuel)** – the inclusion of funding requirements based on the polluter-pays principle;
- **Article 5 (Framework for radioactive waste and spent fuel policy)** – the correct terminology used "national plan"/"national programme";
- **Article 6 (Framework for the safety of radioactive waste and spent fuel management)** – the link with the principles of the Nuclear Safety Directive;
- **Article 7 (Information to the public)** – the extent of the public involvement in the decision-making process;
- **Article 8 (Reporting)** – the public availability of the implementation Reports.

Following the opinions expressed by the members of the Group, the **Commission representative (Mr Ristori)** thanked ENSREG for the input provided, stressing the importance for the Commission to receive from regulators key principles and guiding lines before starting the formal legislative process. He highlighted the need to ensure full compatibility with the Nuclear Safety Directive, as well as to leave the necessary room for manoeuvre for implementation at national level.

Main agreement:

- ENSREG submitted to the European Commission the initial WG2 document, together with the comments raised by the ENSREG members (in writing beforehand as well as orally during the meeting) as expert advice to be further used when proposing Community legislation in the area of radioactive waste and spent fuel management.

### **5.3. WG3**

Related documents:

- Notes of the WG3 meeting of 23 February 2010 (HLG\_c(2010-12)\_46)
- WG3 progress report ((HLG\_c(2010-12)\_53)

**Ms McGarry (IE)** presented the activities of the WG3, highlighting in particular the progress towards fulfilling its tasks related to the development of the dedicated ENSREG Website<sup>7</sup> and to the elaboration of key principles for national regulators to improve transparency. **Ms Mc Garry** and **Mr Molin (AT)** also informed the Group on the initiative of conducting case-studies, describing the existing situation in specific Member States; volunteering candidatures are encouraged when this process will be launched at WG3 level.

On the future programming, the next WG3 meeting will be held on 16 June 2010.

**The Commission representative (Mr Ristori)** expressed support for the WG3 activities, and highlighted the need to ensure a link with the corresponding ENEF Working Group on transparency. **Mrs Martinez-Ten (ES)** presented the idea of establishing a national programme aiming to promote the ENSREG website (involving the press).

Main agreement:

- ENSREG endorsed the Progress Report of WG3.

Actions:

- Due to the envisaged existence of separate sections dealing with nuclear safety and radioactive waste, ENSREG Members to update their corresponding country profiles (upon future request of WG3 Chair).

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<sup>7</sup> [www.ensreg.eu](http://www.ensreg.eu)

- All ENSREG Members to contribute to the promotion of the ENSREG Website (e.g. by including a link from their national Website to the ENSREG one).
- WG3 efforts for finalising and uploading the Section on Radioactive Waste on the ENSREG Website to be pursued.
- The "News" Section of the ENSREG Website to be regularly updated.
- The second ENSREG Report should be submitted to the Council and to the European Parliament in July 2011. In this context, similarly to the first 2009 Report, WG3 was requested to prepare the template of the structure of the upcoming second ENSREG Report.

## **6. European Conference on Nuclear Safety**

### Related documents:

- Main conclusions on the Steering Group meetings of 23 March and 14 April 2010 on the European Nuclear Safety Conference (HLG\_c(2010-12)\_48)
- Possible "in-kind" contribution from the European Commission for the Conference (HLG\_c(2010-12)\_49)
- Estimation of the contributions' weights for the Conference (HLG\_c(2010-12)\_50)
- Retro-planning for the Conference (HLG\_c(2010-12)\_51)
- European Nuclear Safety Conference progress and decisions (HLG\_c(2010-12)\_54)

**Mr Yvan Pouleur (BE)** presented the work of the Steering Committee and submitted to ENSREG several decisions related to the Conference's practical arrangements (listed in HLG\_c(2010-12)\_54).

### Main agreements:

- ENSREG endorsed (with several comments) all the decisions proposed by the Steering Committee related to the date and venue of the Conference, the structure and organisation of the sessions, the main themes and messages, the speakers, practicalities, the contacts with the press, the budgeting option (the detailed decisions and the related comments of the ENSREG Members are reproduced in detail in Annex 4 of the present Minutes).
- Out of the above-mentioned decisions, the main ones were related with:
  - the date and venue of the Conference: 28/29 June 2011 in Brussels (Commission premises);
  - the financing arrangements: each Member State ensures its financial participation (limited amounts corresponding to each MS were proposed) with flexibility (upon request).
- **Mr Lacoste (FR)** and **Ms Mc Garry (IE)**<sup>8</sup> were elected Vice-Chairpersons of the Conference.
- IT and HU volunteered to nominate additional members in the Steering Committee for the Conference.

## **7. Any other business**

### **7.1. World Nuclear Association (WNA) proposal on International standardization of nuclear reactor designs (activity of the Working Group on Cooperation in Reactor Design Evaluation and Licensing (CORDEL))**

#### Related documents:

- CORDEL initiative letter (HLG\_c(2010-12)\_44)
- CORDEL Report on the Standardisation of Reactor Design (HLG\_c(2010-12)\_45)

The CORDEL initiative was discussed in the Group.

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<sup>8</sup> Subsequent to the meeting, Mrs Mc Garry has confirmed her availability to accept the proposed nomination.

Main agreements/Actions:

- The ENSREG Chairperson to reply to the WNA, following the agreement on the content of the proposed letter from the Chairs of the three ENSREG Working Groups.

**8. Information on the next ENSREG meeting**

The next ENSREG meeting is planned on 7 October 2010 in Brussels.

SE comments 2010-04-09

16/03/2010

<p style="text-align: center;"><b>ENSREG's suggestion for the content of a Directive on Sustainable Management of Radioactive Waste and Spent Fuel</b></p>
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**The Council of the European Union**

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31 and 32 thereof,

Having regard to the proposal from the Commission, drawn up after obtaining the opinion of a group of persons appointed by the Scientific and technical Committee from among scientific experts in the Member States and after having consulted the European Economic and Social Committee,

Having regard to the opinion of the European Parliament,

Having regard to the Council Resolution of 19 December 1994 on Radioactive Waste Management and the Council Resolution of 16 December 2008 on Spent Fuel and Radioactive Waste Management

**Whereas :**

Article 30 of the Treaty provides for the establishment of basic standards within the Community for the protection of the health of workers and the general public against the dangers arising from ionizing radiations.

Council Directive 2009/71/Euratom of 25 June 2009 establishes a Community framework for the nuclear safety of nuclear installations, whose scope for radioactive waste and spent fuel management facilities is limited to spent fuel storage facilities and to radioactive waste storage facilities that are on the same site and are directly related to other nuclear installations.

Council Directive 96/29/Euratom of 13 May 1996 lays down basic safety standards for the protection of the health of workers and the general public against dangers arising from ionising radiations.

Council Directive 2006/117/EURATOM of 20 November 2006 lays down specific provisions on the supervision and control of shipments of radioactive waste and spent fuel between Member States and into and out of the Community.

Council Directive 2003/122/EURATOM of 22 December 2003 gives provisions for the control of high-activity sealed radioactive sources and orphan sources.

The European Atomic Energy Community, by adhering to the Joint Convention on the Safety of Spent Fuel and on the Safety of Radioactive Waste Management that came into force on 18 June 2001, has committed to achieving and maintaining a high level of safety in the management of spent fuel and radioactive waste, as recognised by international standards, and to abiding by the fundamental principles set out in that Convention.

The Commission Recommendation of 24 October 2006 on the management of financial resources for the decommissioning of nuclear installations, spent fuel and radioactive waste provides for recommendations to apply the polluter-pays principle to decommissioning operations and to the management of radioactive waste and spent fuel.

**Considering that :**

All Member States generate some radioactive waste from power generation or in the course of industrial, medical, research activities, or through decommissioning of nuclear facilities and in situations of remediation and interventions. All these waste, because no further use is intended, and owing to dangers arising from its ionizing radiations, need adequate management, including on the long term.

Such radioactive waste management includes all activities that relate to handling, pretreatment, treatment, conditioning, storage, and disposal of radioactive waste, excluding off-site transportation.

Spent fuel may either be considered as usable resource that can be reprocessed, or be treated as radioactive waste and be destined for disposal. Spent fuel management includes all activities that relate to the handling, storage, disposal or reprocessing of spent fuel, excluding off-site transportation.

The optimization of the waste volume as well as the radiotoxicity of the waste should be considered in radioactive waste and spent fuel management.

When implementing this directive, graded approach should be applied commensurate with hazard informed by the risks presented by the facility, practice, etc.

There is a need to further improve the management of spent fuel and radioactive waste in the European Union, as mentioned in the Council Resolution of 19 December 1994.

The Joint Convention has proved to be important as the internationally accepted standard that already exists for the safety of management of spent fuel and radioactive waste.

Each Member State is responsible for its own spent fuel and radioactive waste management policy, in particular for guaranteeing the safe and effective management of all radioactive waste produced on its territory. It is important that Member States seek to continuously improve their management of spent fuel and radioactive waste in order to ensure a high level of safety at all times.

National responsibilities for spent fuel and radioactive waste management policy do not exclude the possibility for international co-operation.

In order to achieve the principles of radioactive waste management, in particular, to avoid undue burdens on future generations, it is important to define responsibilities, plans and financing for the timely implementation of appropriate solutions for the long term management of radioactive waste and spent fuel. In this respect, regarding the financial schemes concerned, it is appropriate that the waste producer or current waste holder should pay for the management of the waste (see also waste directive 2008/98/EC).

This will also contribute to an effective level playing field for the operators on a integrated European market.

It is important to base the programmes for the management of radioactive waste and spent fuel on relevant knowledge and progress arising from research and technological development.

Projects for spent fuel and radioactive waste management should be implemented through processes enabling the public to be properly informed and to be consulted in decision-making.

Has adopted this Directive :

## CHAPTER 1 OBJECTIVES, DEFINITIONS AND SCOPE OF APPLICATION

### **Article 1** ***Objectives***

The objectives of this Directive are:



- To establish a community framework in order to ensure the long term management of radioactive waste and spent fuel and to ensure that no undue burdens will fall upon future generations;
- To ensure a high level of safety in spent fuel management and radioactive waste management, protecting workers and the general public against the dangers arising from ionising radiations at all stages of management of radioactive waste and spent fuel;
- To maintain and promote public participation and information with regard to radioactive waste and spent fuel management policies.

## **Article 2**

### ***Scope***

This Directive shall apply to all stages of the management of spent nuclear fuel and radioactive waste arising from civilian programs(activities) or managed by civilian programs(activities). All radioactive waste arising from civilian programs(activities) or managed by civilian programs(activities) is covered, regardless of its generation mode, considering the definition given in Article 3.

Authorised releases are excluded from the scope of this Directive.

[This Directive does not prevent Member States from taking more stringent measures in the subject-matter covered by this Directive, in compliance with Euratom legislation.]

## **Article 3**

### ***Definitions***

For the purposes of this Directive the following definitions shall apply:

- “radioactive waste” means radioactive material in gaseous, liquid or solid form for which no further use is foreseen;
- “Spent fuel” means nuclear fuel that has been irradiated in and permanently removed from a reactor core;
- “disposal” means the emplacement of radioactive waste (or spent fuel when regarded as waste) in an authorised facility without the intention of retrieval;
- “storage” means the holding of radioactive waste or spent fuel in an authorised facility with the intention of retrieval;

## **Article 4**

### ***General Principles governing the management of radioactive waste and spent fuel***

The management of radioactive waste and spent fuel shall ensure the protection of the health of workers and the general public against the dangers arising from ionizing radiation and taking into account possible effects beyond national borders.

The management of radioactive waste and spent fuel shall ensure that no undue health impacts or economical burdens will fall upon future generations. In accordance with the polluter-pays principle, the costs for the management of radioactive waste and spent fuel shall be borne by the original waste producer.

Generation of radioactive waste shall be kept to the minimum practicable. Interdependencies among the different steps in radioactive waste and spent fuel management shall be appropriately taken into account.

The safety of radioactive waste or spent fuel management facilities shall be appropriately ensured.

## CHAPTER 2 OBLIGATIONS

### Article 5

#### *Framework for the long term management of radioactive waste and spent fuel*

1. Member States shall establish and maintain a national legislative, regulatory and organisational framework (hereinafter referred to as the ‘national framework’) for the long term management of radioactive waste and spent fuel that allocates responsibilities and provides for coordination between relevant state bodies. The national framework shall include legal provisions requesting operators to take relevant responsibilities for the waste produced, including research and development of final disposal alternatives.

Each member State shall adopt the necessary measures to ensure that sufficient financial resources are available, when needed, for the long term management and disposal of radioactive waste and decommissioning of nuclear facilities as referred to in the Directive 2009/71/EURATOM, including the financial provisions for monitoring arrangements, and taking due account of the responsibility of the waste producers.

Each Member State shall put in place a national programme for the management of radioactive waste and spent fuel. Such national programme shall take a long-term view, cover all type of radioactive waste and spent fuel and describe all the stages of implementation. The programme shall be documented and shall be consistent with provisions of this Directive.

The national programme shall:

- Include an inventory of radioactive waste and spent fuel present in the national territory, and the future prospects;
- Describe and assess existing management solutions.
- Formulate the R&D strategies or take benefit from existing studies, in order to improve existing solutions or to develop new solutions for the management of all kind of radioactive waste and spent fuel;
- Establish a timetable with milestones for putting these solutions into effect;
- Evaluate the cost of the implementation of the programme and describe funding methods for achieving it ;
- Describe the framework and the decision making process for the implementation of the programme;

The national programme shall be put in place before **XX** and shall be regularly updated.

2. 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 the sustainable management of spent fuel and radioactive waste.
3. Outcomes of any peer review shall be reported to the Member States and the Commission, when available.

### [Article 6

#### *Framework for the safety of radioactive waste or spent fuel management*

Each Member State shall establish and maintain a national legislative, regulatory and organisational framework for the safety of radioactive waste and spent fuel management, which shall provide for a competent regulatory body(/ies) for radioactive waste or spent fuel management, in consistence with the principles provided in the articles 4, 5 and 6 of the Directive 2009/71/EURATOM.]

**Article 7**  
***Information to the public***

Member States shall make the national programme described in article 5 available to the public.

Policies for spent fuel and radioactive waste management should be implemented through transparent processes enabling the public to be properly informed and to be involved in decision-making (especially as regards the location of disposal sites).

**Article 8**  
***Reporting***

Member States shall submit a report to the Commission on the implementation of this Directive for the first time by XXX, and every three years thereafter. This report shall contain a summary of the national programme referred to in article 5. It shall take advantage of the review and reporting cycles under the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management and be properly coordinated with the report made under the Directive 2009/71/EURATOM.

On the basis of the Member States' reports, the Commission shall submit a report to the Council and the European Parliament on progress made with the implementation of this Directive [which could include any findings on items that could need further analysis and approach at the EU level]. On the same basis, the Commission shall also submit an inventory of radioactive waste and spent fuel present in the Community's territory and the future prospects.

CHAPTER 3  
FINAL PROVISIONS

**Article 9**  
***Transposition***

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by XXX. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive and of any subsequent amendments to those provisions.

**Article 10**  
***Entry into force***

This Directive shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.

**Article 11**  
***Addressees***

This Directive is addressed to the Member States.

## **Background: Some WG-2 discussions on the scope of a Directive on the sustainable management of radioactive waste and spent fuel**

### **Safety.**

- The safety Directive excludes waste disposal facilities and partly storage facilities. Hence, the question has been discussed whether this new Directive should include safety aspects, in order to cover every waste/spent fuel management facility.
- ENSREG first considered the possibility to include safety aspects, searching full compatibility with the existing directive EURATOM 2009/71, especially with its relevant articles : article 4 (Legislative, regulatory and organisational Framework), article 5 (Competent regulatory authority), and article 6 (Licence holders). On a legally point of view, it appeared awkward to copycat provisions from the Safety Directive, creating a parallel framework on the same matters; referring to the Safety Directive to govern safety matters for radioactive waste and spent fuel management seemed preferable, but it would also give rise to other questions (legal feasibility, “decommissioning” not applicable to disposal facilities...)
- After discussion on this topic, ENSREG decided to concentrate on the management policy of spent fuel and radioactive waste, rather than on safety, in consistency with the Council Resolution of 16/12/2008. The scope of the directive EURATOM 2009/71 could possibly be enlarged in the future, but concentrating on management policy here would help gaining consensus on the scope of this Directive.
- The proposed text still includes provisions on safety, under brackets: they are not proposed by ENSREG, they just show to the Commission how ENSREG addressed the issue in its discussion, if ever the Commission decided to include safety of the management of radioactive waste and spent fuel in its proposal.

### **Scope of radioactive waste.**

- **All kind of radioactive waste** should be included (medical, NORM, used sealed sources considered waste...), considering that the proposed scope is concentrated on management **policy**. If ever the directive was to address **safety** of management of radioactive waste and spent fuel, the scope of radioactive waste should be further refined, to avoid any undue burden (especially for countries with small or no nuclear program), and to take into account existing legal framework (eg existing directive 2006/21/EC on the management of waste from extractive industries).
- Attention should be paid not to call into question the policy of the Member States regarding the qualification of “waste”; it must be consistent with the fact that several kinds of materials are not considered as radioactive waste everywhere (spent fuel, residues from ore mining, depleted uranium, very low level waste...), because of different considerations for a future use, or because of different definitions of radioactive waste.
  - Hence, ENSREG proposes not to provide for a precise definition of radioactive waste, neither restricting future use considerations, neither restricting the scope of what should be considered as radioactive materials (a minimalist definition, as the greatest common acceptance, would not be satisfactory).
- **Other substances than waste and spent fuel.** It is proposed to keep the scope on radioactive waste and spent fuel (another possibility could be to include radioactive materials in general to address their future use prospects).
- **Reference to decommissioning [and remediation].** A broad acceptance of the word “waste” would naturally include waste produced through decommissioning or remediation operations. But ENSREG estimates that decommissioning (and remediation) should not be included in itself in the scope of the Directive: these operations are not limited to radioactive waste production and management, such activities could also concern non-waste radioactive materials, and decommissioning licensing is ruled by the Safety Directive... (Besides, the

Recommendation 2006/851/Euratom on decommissioning funds defines “waste management” as part of “decommissioning”, and not the opposite).

**Financing.** ENSREG thinks it would be useful to convey the polluter-pays principle, but without going into further details (cf. existing Recommendation, and current work of the Decommissioning Funding Group), leaving the kind of financing to the Member States.

Besides, ENSREG calls the attention of the Commission on the fact that international reference texts cannot always be reproduced textually in this Directive, because its words and phrasings will be legally-binding, and adopted on the basis of the Euratom Treaty. For instance, concerning the consistency with the Euratom Treaty:

- Exclusion of Defence:

The Joint Convention includes the following provision: “This Convention shall not apply to the safety of management of spent fuel or radioactive waste within military or defence programmes, unless declared as spent fuel or radioactive waste for the purposes of this Convention by the Contracting Party. However, this Convention shall apply to the safety of management of spent fuel and radioactive waste from military or defence programmes if and when such materials are transferred permanently to and managed within exclusively civilian programmes.”

This cannot be reproduced in the Directive, because the Euratom Community has no competence for waste arising from military programs. Instead, we propose “This Directive shall apply to all stages of the management of spent nuclear fuel and radioactive waste arising from civilian programs or managed by civilian programs” (with such a wording, all civilian waste is covered, including those originated from defence programmes but that have been permanently transferred).

- Environment:

One of the IAEA’s fundamental principles of radioactive waste management is “Radioactive waste shall be managed in such a way as to provide an acceptable level of protection of the environment”. Similarly, the Joint Convention also mentions the protection of “individuals, society and the environment”.

Such reference should be compatible with the Euratom Treaty. A relevant possibility would be to refer to “air, water and soil” (cf. article 38 of the Treaty). (This is not correct! The article in the treaty refers to **monitoring, and not protection of** air, water and soil. If the scope of the directive should include **protection of the environment**, it needs to refer to article 203 as a legal base. There is however a risk that the European Parliament would sue the Council of breaking the EU treaty – to issue a directive on environmental protection without including the Parliament according to the *Ordinary Legislative Procedure*.) This should be consistent with the approach taken in the revision of the basic safety standards directive.

- Geographic scope:

One of the IAEA’s fundamental principles of radioactive waste management is “Radioactive waste shall be managed in such a way as to assure that possible effects on human health and the environment beyond national borders will be taken into account”.

In the context of this directive, the objective is not to examine possible effects beyond the Community borders. Besides, article 37 of the Euratom Treaty already provides for an assessment of the effects between Member States.

## **Summary of SE comments on the operational part of the ENSREG WG2 proposal 16/03/2010 for a Directive on the Sustainable Management of Radioactive Waste and Spent Fuel**

**For full text proposal, see attached original document in change mode.**

Article 1: Make the objectives stronger, use the term “ensure” rather than “maintain and promote”, avoid the term sustainable that can be misunderstood

Article 2: Consider using the term “activities” rather than “programmes”. Waste and spent fuel arise from activities and facilities not programmes.

Article 3: Delete last part of the first bullet that opens for different interpretations in different Member States

Article 4, first para: Make the formulation more direct and in line with the Euratom Treaty

Article 4, second para: Existing formulation not clear. Clarify impacts on future generations to include health as well as economical impact. Add the “polluter-pays principle”.

Article 5, first para: Introduce Article 5 with two basic requirements as a background to the requirement for the “national plan”: 1/ a requirement to establish and maintain a national framework (adapted text from existing Article 6) and 2/ a requirement to make sufficient financial resources available (adapted text from existing Article 5 para 6)

Article 5, first para: Use the term “national programme” rather than “national plan”. The term “national programme” was used in the original Nuclear Package and suits the situation in many Member States better than “national plan” that can be understood as a centralised state planning instrument. Add that the “national programme“ shall documented and be consistent with the Directive.

Article 5, third para: Delete the last bullet as a consequence of new introductory formulation of national framework.

Article 5, fifth para: For increased clarity, move reporting of outcomes of peer reviews to Article 5 from Article 8.

Article 7 and 8: Replace “national plan” with “national programme” (see above).

## Comments of Bulgaria on draft Directive on Sustainable Management of Radioactive Waste and Spent Fuel

### Art. 3

#### Definitions

For the purposes of the directive, new definitions should be appropriately included:

- management of radioactive waste
- management of spent fuel

This approach would recognise the differences between the management technologies applicable to the waste or spent fuel respectively (the Joint Convention also provides alternative definitions). Introduction of such definitions would also clarify the content of the report under art. 8.

*Disposal* definition applies the expression “spent fuel .....regarded **as waste**” inaccurately. Actually, the spent fuel is due to be designated for disposal (not “regarded as waste”). In that case, the disposal of such spent fuel shall follow the general obligations (principles), applicable to the disposal of radioactive waste (refer to the Joint Convention). Besides, differences between the management technologies for radioactive waste or spent fuel, respectively, would also justify the revision of the definition.

Considering such a ground, the *disposal* definition should be properly phrased, for instance: “*disposal*” means the emplacement of radioactive waste (or spent fuel when designated for disposal) in an authorised facility without the intention of retrieval;

**Overview of the opinions expressed by the ENSREG Members in the 12th ENSREG meeting on the WG2 proposal (+connected written comments of SE and BG) on possible elements and contents in support of a Community legislative instrument on radioactive waste and spent fuel**

**General comments**

- **UK** raised the question of the legislative instrument's coverage – the sustainable long-term management of radioactive waste and spent fuel / the policy for the sustainable long-term management of radioactive waste and spent fuel?

**Preamble**

- **UK** highlighted the need to reconsider more carefully the wording "it is advisable that... the current waste holder should pay for the management of waste".

**Article 1 (Objectives)**

- **UK** raised the question of the instrument's objective – to facilitate the safe, effective, efficient, long-term sustainable management of radioactive waste and spent fuel?
- **UK** suggested that it would be more appropriate to use the word "hazards" instead of "dangers" in Article 1(second bullet point).
- **IT** considered that, even if at the previous 11<sup>th</sup> ENSREG meeting, the Group decided that the instrument would focus on the sustainable management of radioactive waste and spent fuel, safety is part of sustainability and can not be overlooked.
- **IE** also supported the IT comment above, highlighting the wording of Article 1 (second bullet point) that refers to "a high level of safety in spent fuel management and radioactive waste management".

**On Article 2 (Scope)**

- **FI** did not oppose in principle the SE comment of replacing the word "programs" with the word "activities" in Article 2(1); both terms are acceptable and could be maintained.
- **DK** proposed, similarly with the Nuclear Safety Directive, to add a paragraph highlighting the link with the Basic Safety Standards Directive (a similar wording with the one of the Nuclear Safety Directive can be used "This Directive supplements the Basic Safety Standards referred in Article 30 of the Treaty as regards the management of radioactive waste and spent fuel, and is without prejudice to Basic Safety Standards Directive").
- **UK** considered that the current wording of Article 2(1) still captures some defence spent fuel that is managed by civilian programmes but has not been transferred to civilian programmes. As a response to this comment, **FI** encouraged UK (and, eventually, FR) to suggest a more appropriate wording.

**On Article 3 (Definitions)**

- **FI** did not oppose the SE comment of deleting the second part of the definition of "radioactive waste".
- **IT** considered that, for a consistent interpretation throughout the Member States, it is necessary to clearly define the term "radioactive waste" by, e.g. establishing threshold levels or clearance levels).
- **ES** supported the IT comment above, mentioning that the current formulation leaves room for different interpretations.
- In response to the IT and ES comments, **FI** explained the fact that WG2 considered very difficult to have an accurate definition of the term "radioactive waste", and thus has used a simpler approach.
- **FI** supported the BG comment related with the definition of the term "disposal".



#### **On Article 4 (General principles governing the management of radioactive waste and spent fuel)**

- **UK** considered that this Article goes beyond the Basic Safety Standards Directive in terms of the health impact and economic implications for future generations; if the instrument deals with the sustainable safe management of radioactive waste and spent fuel, it should rather focus on the health impact, rather than on the economic one.
- **ES** agreed with the SE comment related to funding by applying the polluter-pays principle.
- **BE** highlighted the importance of mentioning three elements related to the funding of the radioactive waste and spent fuel management on the long term – the existence of the funds, the adequacy (sufficiency) of funds and their availability at any time. The funds have to be available during the entire lifetime of an NPP.
- **DE** emphasized the political sensitivity of the funding solutions, due to the differences between the Member States' systems.
- **FI** agreed that the BE proposal on funding should be carefully addressed.

#### **On Article 5 (Framework for radioactive waste and spent fuel policy)**

- **FI** considered that it would be more appropriate to maintain the wording as initially proposed by WG2 (in particular, FI disagreed with the SE proposal of using the term "programmes" instead of "plans"). However, a swop of Article 5 and Article 6 is proposed.
- **ES** agreed with the FI position on the word "plans".
- **UK** agreed with the SE proposal of using the term "programmes" instead of "plans". Alternative wording could be "framework" or "arrangements".
- **IE** requested to clarify if the assessment of the management solutions should also include safety aspects.
- **RO** highlighted the need to establish the organism responsible for drafting, implementing and monitoring the national plan. This organism should be independent from the regulatory authority.

#### **On Article 6 (Framework for the safety of radioactive waste and spent fuel management)**

- **UK** raised the question of a possible duplication with the Nuclear Safety Directive.
- **IT** requested WG2 to clarify the intention of putting Article 6 between brackets, taking into account that in the Background WG2 Note it is highlighted that it should not necessarily be maintained. Consistently with the previous intervention on Article 1, IT position was to maintain Article 6.
- **ES** and **FI** supported the reference to the Nuclear Safety Directive.

#### **On Article 7 (Information to the public)**

- **UK** commented on the need to clarify the extent to the public information and consultation – is it involvement in the decision-making or is it a formal involvement before the decision is taken (e.g. through a referendum)?
- **ES** considered that Article 7 needs to be revisited in order to identify the means of public involvement. A reference to the Aarhus Convention can be included as a minimum reference.
- **FI** considered that the responsibility of deciding how the public is concretely involved in the decision-making should belong to the Member States.
- **AT** noted that there are several legislative instruments already containing rules on public involvement, which can be referred to (e.g. the ESPO and Aarhus Conventions).

#### **On Article 8 (Reporting)**

- **IE** suggested that it would be more appropriate to make the implementation Reports public, when available, than reporting them to the Commission and to the other Member States.
- **FI** supported the IE comment above.

**Decisions on the organisation of a European Nuclear Safety Conference adopted at the 12<sup>th</sup> ENSREG meeting**

**Decision 1: Dates and venue**

28 and 29 June 2011 - Brussels - Commission premises (Charlemagne Building)

**Decision 2: Structure and organisation of the sessions**

The following structure and schedule of the two days conference was agreed:

- Tuesday, 28 June 2011
  - 10:00-13:00 Opening Session and Session 1
  - 13:00-15:00 Lunch Break
  - 15:00-18:30 Session 2
  - 20:00 Dinner
- Wednesday, 29 June 2011
  - 10:00-13:15 Session 3
  - 13:15-15:00 Lunch Break
  - 15:00-17:50 Session 4
  - 17:50-18:20 Closing Remarks

Four to six presentations could be done in each session + 1 hour of discussion under the leadership of a session chair. A two hours lunch break is suggested which is mandatory for the interpreters and useful to ease networking which is a side objective of the conference. Each session would include a (strict) 30 minutes coffee break.

ENSREG members' comments: **Mr Jende (SE)** suggested shortening the programme of the Second day and organising the press-conference afterwards. **Mr Mezzanotte** observed that the present structure of the Conference would strongly limit the possibility of interventions by individual countries, which might be desirable to present specific issues, and suggested to consider this problem. Moreover, Mr Mezzanotte supported that for the Conference, the translation in all the five ENSREG languages (EN, FR, DE, IT, ES) should be maintained.

**Decision 3: Main themes and messages - General**

**DAY 1**

**Opening session and session 1**

- Main message 1: The European Union has provided for a collective dimension to nuclear safety of benefits to all citizens.

The first morning will be devoted to:

- The opening by the ENSREG President of the conference;
- An intervention of the Commissioner in charge of Energy;
- An intervention of an MEP;
- [IAEA intervention],
- Press conference in parallel with coffee break;
- Presentation of the Chair of ENSREG;

- Presentation of the Chair of WENRA.

### Session 2: Achievements and assessment

▪ Main message 2: The common works undertaken by member States have resulted in harmonization of nuclear safety approaches. A driving force has been created that will lead to further improvement of nuclear safety. Member States have integrated the progress made at international level and implemented them at national level.

Presentation by the heads of safety authorities.

The following themes are suggested:

- The development and implementation of the RLs for existing NPP’;
- The development and implementation of the RLs for waste storage facilities, decommissioning and geological disposal;
- The support of ENSREG to the implementation of the nuclear safety directive and to the development of a possible directive and nuclear waste and spent fuel;
- ENSREG works on transparency;
- National experiences in implementing RL and Nuclear Safety Directive.

## DAY 2

### Session 3: Challenges and perspectives

▪ Main message 3: The European Regulatory Authorities will create new perspectives for nuclear safety by identifying ambitious challenges based on existing experience and a strong will to improve safety.

This session would be exclusively dedicated to presentations. They would be thematic and focused on the challenges while showing the initiatives taken or to be taken at EU level to tackle them. A choice among the following themes is suggested:

- Safety directive challenges:
  - Maintaining and developing knowledge
  - Human and financial resources
  - Management system - Safety culture
- Need of continuous evolution of the safety reference level;
- New reactors;
- Long term operation;
- Research Reactors;
- Transparency/Public information;
- Safe management of SP and RW;
- Interface with security;
- Experience operating feed-back;
- Decommissioning.

### Session 4

The afternoon session will be dedicated to a discussion with stakeholders. One or two panels could be formed, including speakers of the two days, stakeholders and international organisations. It should focus on the expectation of the stakeholders in the light of the messages delivered by the safety authorities. It should help to raise the main findings of the conference.

- Stakeholders could be: ENISS, IAEA, NEA, ENEF, NGO’s, non EU nuclear regulators (NRC, emerging countries, regulators association...), TSO’s, vendors.
- Closure of the conference (Commission, President of the conference).

ENSREG members' comments: **Ms Molin** proposed to add as a topic public involvement/public participation. **Mr Weightman** proposed to add the regulation of the suppliers' chain.

#### **Decision 4: Who should speak**

The conference is an event where nuclear regulatory authorities will explain progress made to improve nuclear safety, from the development of an international framework, in particular at EU level, up to implementation of common approaches on the field. Hence, the speakers should be first the heads of authorities. Institutional actors, in particular the European Commission should also contribute to the full dimension of the conference as well as stakeholders/experts for interventions or development of specific topics.

- President of the Conference
- Commissioner
- MEP ITRE
- [IAEA]
- Chair of ENSREG
- Chair of WENRA
- Safety authorities
- Commission
- Experts on chosen themes (safety auth, IAEA, ...)
- Each session should have its chair/moderator.
- Certainly for the last session, a large and representative panel is desirable.

ENSREG members' comments: **Mr Stritar** proposed to also add to the speakers' list a representative of the industry. **Mr Laaksonen** proposed to invite the Director-General of the IAEA at the Conference. **Mr Szandro** proposed to add a Council representative (Council EU Presidency) to the list of speakers.

#### **Decision 5: Practicalities**

- Listing generic tasks to be performed to organise such an event (usually done with the help of a specialised company).
- DG-Interpretation (former SCIC) of the European Commission was contacted and can bring support to the Conference (subject to official confirmation)
- Invitations:
  - A general list including high level representatives (MEP, personalities, press, representatives of international organisation...).
  - Lists established by national authorities (based on a certain ‘flexible’ quota to be established).
- Dinner at the Berlaymont (50€/pers) but standing, otherwise in Hotel (approx. 100 €/pers).

ENSREG members' comments: **Mr Stritar** expressed his preference for a standing dinner.

#### **Decision 6: Contact with the Press**

- A list of invited journalists should be established. An ENSREG representative (Team of the President of the Conference) could be charged with the contact with them previous to the press conference.
- DG COMM of the European Commission could facilitate the organisation of the press conference.
- The question of attendance of the journalists was raised for such an event. A side event could be foreseen in order to foster attendance?

ENSREG members' comments: **Mr Pouleur** proposed to include specialised journalists in the list. **Mr Pouleur** highlighted the need to convey a clear message to the press. The **Commission representative (Mr Ristori)** highlighted the need to ensure the preparation of the press-conference, of the documentation for the journalists and of the press release.

#### **Decision 7: Budget choice between options**

Estimate amount: 50 k€ without dinner

Option chosen: Each Member State ensures its financial participation (limited amounts corresponding to each MS were proposed – see below) with flexibility (upon request).

<b>MEMBER STATES</b>	<b>Contribution</b>	<b>Invitation</b>
Austria	€600	20
Belgium	€1.695	32
Bulgaria	€610	20
Cyprus	€600	20
Czech Republic	€1.373	26
Denmark	€600	20
Estonia	€600	20
Finland	€918	20
France	€8.000	100
Germany	€7.664	100
Greece	€649	20
Hungary	€1.041	20
Ireland	€600	20
Italy	€3.698	70
Latvia	€600	20
Lithuania	€600	20
Luxembourg	€600	20
Malta	€600	20
Netherlands	€1.278	24
Poland	€1.804	34
Portugal	€600	20
Romania	€1.240	23
Slovakia	€831	20
Slovenia	€600	20
Spain	€3.823	72
Sweden	€2.028	38
United Kingdom	€6.472	100
<b>Total</b>	<b>€49.724</b>	<b>939</b>

ENSREG members' comments: **Mr Mezzanotte** informed that IT could also accept a higher contribution, taking into account at least the remarkable amount of residual nuclear activities still performed.

#### **Decision 8: Others**

- To compile the presentations and to place them on the ENSREG website. In addition, a statement of the Conference should be prepared.

- Nomination of additional members to the steering Committee
- Invitations will be sent shortly after the necessary approval of ENSREG.
- BE (FANC) could ensure the limited administrative support for tasks not covered by the in-kind contribution of the Commission.
- Next steps:
  - a. Commitment letter
  - b. Establishment of invitation list
  - c. Preliminary announcement