



European Commission consultation on nuclear liability

Summary

On 30 July, following intense discussion over a number of years, the European Commission DG Energy opened a public consultation focusing on the harmonisation of nuclear liability rules at a European level. The consultation is entitled “Insurance and Compensation of Damages caused by accidents of nuclear power plants (nuclear liability)” (the “Consultation”). The **Consultation** will close on 22 October 2013.

Background to the Consultation

This Consultation follows on from the June 2010 joint Brussels Nuclear Law Association/European Commission Workshop “Prospects of a civil nuclear liability regime in the framework of the EU”. This was attended by Burges Salmon which also sponsored publication of the proceedings and resulting papers. The Workshop was extremely well attended by European and International nuclear experts and representatives from a large number of countries, including signatories of both the Paris and Vienna Conventions; the Joint Protocol; the Convention on Supplementary Compensation; non-nuclear countries; the IAEA and the US.

The principal aim of the Workshop was to discuss the outcomes of a study, commissioned in 2007 by the European Commission, on the harmonisation of nuclear third party liability in Europe.

The study emphasised the different legal regimes governing third party nuclear liability in place in the European Union. Whilst the majority of the Member States are signatories to either the Paris or Vienna Convention, there is a wide discrepancy across Europe as to how each State has ratified the international instrument into its national laws, particularly with regard to operator liability and limit of mandatory financial security from State to State. Furthermore, some States are parties to the Joint Protocol, whilst a few are not a member of an international instrument at all.

Consultation questionnaire

The Consultation raises a number of concerns arising from the current patchwork of nuclear liability laws in Europe including the gap between the potential costs of a nuclear incident (such as Fukushima) and the amounts for which operators are liable; the

potential inequality of treatment of victims across the European Union; and the potential distortion of operator competition. It states that DG Energy is currently assessing to what extent the remedies for victims of a nuclear incident in Europe could be improved and seeks views from stakeholders such as operators; public authorities, financial institutions and industry associations etc.

Responses are provided in the form of a questionnaire, focusing on the application and effectiveness of current nuclear liability legal principles such as operator v economic channelling and strict liability. It also questions whether certain heads of damage should be prioritised; the means of compensation and the structure of pools such as for insurance; claims handling management; and the role and responsibility of the State of the incident.

Whilst interaction with the existing international instruments is not addressed in any detail in the summary of the Consultation, the Consultation will be of particular importance and interest to you. This is also particularly pertinent in light of the current work in the UK towards ratifying the 2004 Protocol to Amend the Paris Convention. These developments concerning nuclear liability at a European, as well as the amendments at an international level, have been and continue to be closely followed by Burges Salmon LLP. Therefore, for further information or discussion on this Consultation, or for assistance with your response submission, please contact:



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