Republic of Turkey

Unofficial Translation[1] of the Turkish Law No. 5710[2] Concerning the Construction and Operation of Nuclear Power Plants and the Sale of Energy Generated from Those Plants

Date of acceptance: 9 November 2007

PART 1

Goal, scope, definitions and abbreviations

Goal and scope

Article 1

(1) The aim of this law is to provide, in accordance with the energy plan and policy, the procedures and principles for the construction and operation of nuclear power plants and the sale of energy generated from those plants.

Definitions and abbreviations

Article 2

(1) The following abbreviations stand for:

a) Ministry: Ministry of Energy and Natural Resources;

b) EPDK: Energy Market Regulatory Authority;

c) EÜAŞ: Electricity Generation Company, Inc.;

d) İÇH: Decommissioning accounts;

e) Retail and/or wholesale licence: Licences for energy retail and/or wholesale activities granted by EPDK;

f) Power Plant: Nuclear power plants generating electricity;

1. By the OECD/NEA Secretariat. Official translation is expected to be published on the Website of the NEA Legal Affairs Section and in the next issue of the *Nuclear Law Bulletin*.

2. Published in the Turkish Official Gazette No. 26707 on 21 November 2007.

g) Enterprise: company or companies which construct power plants, produce and sell electricity;

h) TAEK: Turkish Atomic Energy Authority;

i) TEİAŞ: Turkish Electricity Transmission Company;

j) TETAŞ: Turkish Electricity Trade and Contract Corporation;

k) URAH: National Radioactive Waste Account.

PART 2

Procedures and principles regarding the construction of nuclear power plants and the energy production and its trade

Designation of the enterprise

Article 3

(1) The selection period regarding the construction of nuclear power plants shall be commenced by the Ministry in application of the procedures laid down in this law.

(2) Within one month from the day on which the law comes into force, TAEK shall publish the constructing and operating criteria which the enterprises have to fulfil.

(3) Within two months from the day on which the law comes into force, the procedures and principles regarding the selection criteria for competing enterprises, the selection of the enterprise, site selection, licensing conditions, incentives regarding the infrastructure, the duration of the selection process, fuel supply, generating capacity and the amount, duration and unit cost of the energy shall be prepared by the Ministry and set up in a regulation which shall come into force with the approval of the Council of Ministers.

(4) Not later than one month after the publication of the regulation under the terms of paragraph 3 for the construction of nuclear power plants foreseen by this law, TETAŞ shall call for bids.

(5) From amongst the bids, TAEK shall document the enterprises that meet the criteria it set up and allow them to compete, and the enterprises that do not meet those criteria shall remain out of consideration. TETAŞ shall assess the received bids on the basis of this law and the provisions of regulations to be released, and determine the most appropriate bid, and submit it to the Council of Ministers' to seek approval to sign the contract with the specified enterprise. Provided the suggested bid by TETAŞ is seen as appropriate, the Council of Ministers shall authorise the signing of the contract between the enterprise and TETAŞ. EPDK shall grant a licence to the enterprise which has been seen as appropriate to sign the contract within the framework of specified legislation. Subsequent to the issuance of the licence by EPDK, an agreement between the concerned enterprise and TETAŞ will be signed arranging for energy sales within a timeframe not exceeding 15 years after the power plant has started its operation.

Application principles

Article 4

(1) The principles laid down below shall apply for the sale of electricity, produced within the scope of this law:

a) The energy that the selected enterprise will produce according to the agreement shall be purchased by TETAŞ under the conditions of the contract signed by the enterprise and TETAŞ. After the power plant commences its operation, the energy will be sold every year to operating legal persons with a retail and wholesale licence under bilateral agreements. The energy that legal persons with a retail and wholesale licence can purchase will be determined annually according to the share of these legal entities in Turkey's energy consumption in the previous year. The provisions regarding the electricity sale which shall be assumed under bilateral agreements by legal persons with a wholesale and retail sale licence shall be included in their licences in accordance with this law.

b) The principles and procedures regarding energy sales which TETAŞ shall impose on wholesale and retail enterprises and the obligations of the parties shall be determined in a regulation issued by the Ministry.

(2) However, enterprises that do not demand to enter into agreements with TETAŞ may, provided they abide by the laws regarding electricity market and nuclear facilities, be subject to the rules of this law, except for the provisions of Article 3(1), (3), (4) and (5) and Article 4(1) regarding enterprise selection and bilateral agreements.

Licence, permission and liability

Article 5

(1) The enterprise is obliged to obtain all kinds of permissions, approvals and licences required by this law and the other legislation.

(2) URAH and İÇH shall be constituted by an arrangement formed by the Ministry and the Treasury to meet the costs of waste management by determining the temporary storage or final storage, the construction, licensing, operation and decommissioning of the storage facility, the transportation and processing of used fuel or the high-level radioactive waste which shall be stored in the temporary storage site or disposed of in the final storage site, the research which will ensure the management of radioactive waste, the development activities and the cost of dismantling operations of the nuclear power plant. The operations relating to URAH and İÇH are all exempted from taxation. The procedures and principles regarding the establishment, accretion and management of these accounts shall be prepared jointly by the Ministry and Treasury and come into force with the approval of the Minister of Energy and Natural Resources and the Treasury State Secretary and after publication in the Official Gazette. The provisions of Law No. 6183 of 21 July 1953 Regarding the Collection of Public Debts are applied to those who do not pay their contributions on time. The revenues collected in the name of URAH and İÇH may only be used within their purpose.

(3) At the end of the fuel procurement and the operation period, the enterprise is obliged to decommission and dismantle the power plant under the criteria to be issued by TAEK.

(4) The enterprise must obtain insurance for the compensation of any damage that can arise during the construction of the power plant. Additionally, the enterprise is obliged to pay a contribution of 0.15 cent/kWh (in US Dollars) to meet all kind of financial costs concerning the transportation, the storage and/or the disposal of waste caused during the operation of the power plant and the costs of decommissioning at the end of the operational period of the power plant for each of the accounts to be formed.

(5) In case of an accident in the course of transport of radioactive material or radioactive waste or at the nuclear power plant, the 1960 Paris Convention on Nuclear Third Party Liability, its additional amendments and other national and international liability provisions shall apply.

(6) The enterprise that constructs the power plant must allocate 1% of its annual revenue to research and development activities.

Public participation and investment

Article 6

(1) The enterprise which is entitled to benefit from this law and a public enterprise may establish a cross shareholding relationship within the terms of Law No. 233 of 8 June 1984 on Public Economic Enterprises.

(2) In case of an assignment by the Ministry, public enterprises may build power plants within the scope of this law, make similar investments abroad or participate in investments. To this end, the Council of Ministers may adopt a decision on the establishment of an enterprise subject to provisions of private law, and entitled to construct, commission construction, operate and/or to commission operation of power plants within national territory and abroad and to sell the electricity produced. Private sector companies may be authorised to hold shares in the enterprise established within this scope. The auditing of the enterprise which will be established shall be performed in accordance with the Law No. 3346 of 2 April 1987 on the Regulation of Auditing the State Economic Enterprises and Funds by the Grand National Assembly of Turkey.

PART 3

Other provisions

Incentives

Article 7

(1) The Council of Ministers may provide incentives for investments in technology regarding the power plant to be constructed and the training of operation personnel.

(2) Should the Treasury be the owner of the premises on which the power plants shall be constructed within the framework of this law or should these be under state authority and administration, the Ministry of Finance can set up a right of access in favour of the enterprise or,

should the premises be owned by other public institutions or bodies, the Council of Ministers shall grant the enterprise a licence to utilise the premises free of charge. At the end of the agreement period, the nuclear power plant must be decommissioned. The enterprise is responsible of the decommissioning works and the return of the premises to the Treasury in a state consistent with environmental provisions. The decommission costs will be covered by the İÇH to be established according to Article 5 paragraph 2. Should İÇH resources prove to be insufficient, the Treasury will cover an amount up to 25% of the funds collected by İÇH, and should this also prove to be insufficient the enterprise shall cover the excess costs.

The co-ordination of execution

Article 8

(1) The Ministry shall perform the co-ordination required for the execution of this law.

Sanctions

Article 9

(1) EPDK may take legal action against those legal entities with a wholesale and/or retail sale licence that violate the provisions of this law within the framework of Article 11 of the Electricity Market Act No. 4628 of 20 February 2001.

Regulatory institution

Temporary Article 1

(1) TAEK shall carry out its duty in accordance with the Turkish Atomic Energy Authority Act No. 2690 of 9 July 1982 until a new institution which will execute the duty of regulating and inspection of nuclear activities is founded. TAEK, in carrying out its duties, may employ suitably qualified nationals and foreign persons for tasks requiring special knowledge and expertise as non-permanent staff. Their payments and other financial benefits shall be determined by the Ministry.

Incentives for national coal-fired power plants

Temporary Article 2

(1) With a view to the construction of national coal-fired power plants, EÜAŞ may call for a coal allocation bid (royalty).

(2) Provided the power plants to be constructed as a result of the bidding have a power of 1 000 megawatt (MW) or more and the complete plant commences operation by the end of 2014, the provisions below shall apply:

a) The interested parties shall propose the royalty covering more than a one-year period and per unit electricity sales prices and the minimum generating commitments for a period of 15 years. The bid selection will be made after assessing the proposed royalty and the sales price of electricity according to their reduced value of the date on which the bid was made considering the principles set out in the terms and conditions

b) Within three months from the conclusion of the bidding, the selected enterprise or enterprises and TETAŞ shall sign an agreement on the electricity sales prices and the minimum amount of electricity to be generated, as defined as a result of the bids, for a period of 15 years after the commencement of operation. The rules and procedures regarding the energy purchase by TETAŞ shall be set up in the terms and conditions. The energy which TETAŞ will purchase in the framework of this law will pursuant to the foreseen bilateral agreements, each year after the commencement of operation of the plant, be sold to operating legal persons with retail and wholesale licences. The energy that legal persons with a licence for retail and wholesale can purchase will be determined annually according to the share of these legal entities in Turkey's energy consumption in the previous year. The provisions regarding the electricity sale which shall be assumed under bilateral agreements by legal entities with a wholesale and retail sale licence shall be included in their licences in accordance with this law. Within two months from the day on which this law is published, the Ministry shall issue regulations setting up the procedures and principles with respect to the energy sales by TETAŞ to wholesale and retail companies.

c) EÜAŞ will conduct the expropriation and compensation of land, except for the land of the plant, in order to realise the mineral land and the land for the necessary dam and water supply, within the principles set up in the terms of contract. The housing of the expropriated shall be performed according to Law No. 5543 of 19 September 2006 regarding settlements.

d) The terms of the agreements concerning the plants to be constructed shall include sanctions for the case that the plant cannot commence operation within the envisaged timeframe.

e) TEİAŞ will construct the necessary electricity grid in accordance with the agreement that the enterprise and TEİAŞ will conclude regarding the operation programme of the power unit. TEİAŞ shall cover the damage caused by delays.

f) For the plants under the framework of the bidding, the Ministry for Environment and Forest shall re-define the air quality limits, set up in regulation on the conservation of the air quality, with a view to enabling the realisation of the project and under the condition that the limits set up in the regulations on air pollution resulting from industrial facilities are met.

(3) Provisional Article 5 of Law No. 5686 on the Geothermic Sources and Natural Mineral Waters of 3 June 2007 shall not apply after the publication of this law.

Enforcement

(1) The law shall come into force on its publication day.

Execution

Article 11

(1) The Council of Ministers shall execute the provisions of this law.