

National Legislative and Regulatory Activities

Belarus

General legislation

Act on the development of atomic energy in the Republic of Belarus (2008)

Act No. 1 of 31 January 2008,¹ of the Security Council of the Republic of Belarus on the development of atomic energy in the Republic of Belarus aims at the construction of a nuclear power plant with a total capacity of 2 000 MW, the first unit of which is to be in operation by the end of 2016 and the second by 2018.

This act obliges both the Government and the National Bank of the Republic of Belarus to define the scheme and the financial sources for the design and construction of the nuclear power plant. They will have until 1 January 2009 to report to the President on same. A pre-project plan is also to be drafted prior to construction activities and the government will have to report on this plan to the President in 2008.

Decree on the construction of a nuclear power plant (2007)

The aim of Decree No. 565 of the President of the Republic of Belarus of 12 November 2007 is the carrying out of preparatory activities for the construction of the nuclear power plant. It creates a public institution, the “Board of Directors for the Construction of a Nuclear Power Plant”, under the supervision of the Ministry of Energy, which is to carry out these functions. The Board shall, *inter alia*, organise and carry out research activities prior to site selection for a nuclear power plant, co-ordinate the bidding process, prepare and document the purchase of special equipment, works and services and will control quality assurance of activities, including compliance with the safety of nuclear technology, geodesy, geology, prospecting, seismic-tectonic and ecological activities as well as appropriate design.

The decree specifies that “Belnpienergoprom”, a national engineering institute, will co-ordinate and conclude contracts to provide for investments, conclude specifically a contract with “Energoproject”, a joint stock company, to provide design and engineering services for the site selection of the nuclear power plant, to prepare comprehensive reports and documents on investment developments, bids and the nuclear power plant design. The decree further determines that the state scientific institute “Joint Institute for Power and Nuclear Research” at the National Academy of Science in Belarus shall perform research assistance for the nuclear power plant construction activities.

The Ministry of Emergency Situations is responsible for nuclear safety and radiation safety and it will establish a special Department (Gosatombnadzor) to supervise these responsibilities. Within six months, the Government of Belarus is required to submit a proposal on social guarantees for invited non-residential

1. Published in the *Official Journal* on 31 January 2008.

citizens when carrying out the nuclear power plant project (design, construction, commissioning and operating activities) by providing dwelling and salaries. The Government will prepare the necessary legislation in this field.

Organisation and structure

Statute of the Department of Nuclear Safety and Radiation Protection in the Ministry of Emergency Situations – Gosatomnadzor (2007)

The Statute of the Department of Nuclear Safety and Radiation Safety of the Ministry of Emergency Situations (Gosatomnadzor) was confirmed by Decree of the President of Belarus of 12 November 2007. The Department is responsible for achieving certain functions to ensure nuclear safety and radiation safety.

The Head of Gosatomnadzor, to be appointed by the Belarusian President on the recommendation of the Minister of Emergency Situations, will direct the activities and bear personal responsibility for achieving the entrusted functions. A council (“collegium”) consisting of seven senior staff members will be created to discuss important issues.

The decree empowers Gosatomnadzor to supervise nuclear safety and radiation safety and to ensure compliance with national legislation and regulations through, *inter alia*, the following means:

- create norms and rules on the utilisation of atomic energy, nuclear safety and radiation safety;
- set licence requirements and conditions, including the requirements for appropriate safety reports, ensure physical protection including requirements in respect of protection against terrorist attacks, plan radiation safety activities in case of nuclear and radiological accidents;
- organise research activities on nuclear and radiation safety principles together with scientific institutions, scientists and specialists;
- collect information on licence condition violations in connection with nuclear installations, radioactive sources and storage facilities, and investigate same;
- organise professional training, retraining and upgrading of its staff;
- ensure compliance with the international obligations of Belarus;
- inform the public, according to legislative requirements, about the levels of safety of nuclear installations, radioactive sources and storage facilities;
- participate in the commissions on the site selection for radioactive waste disposal;
- perform the auditing of state authorities and authorised persons.

Gosatomnadzor is scheduled to start its activities in May 2008. The establishment of a comprehensive regulatory authority is in process with legislation to be adopted in the course of this year.

France

Organisation and structure

Decree establishing a Political Nuclear Council (2008)

Decree No. 2008-378 of 21 April 2008 establishes a Political Nuclear Council chaired by the President of the Republic of France. The Council provides guidance on nuclear policy and ensures its implementation, particularly in export and international co-operation fields, industrial policy, energy policy, research, safety, security and environmental protection.² This decree repeals Decree No. 76-845 of 1 September 1976 establishing a Council on Nuclear Foreign Policy. It provides that the Political Nuclear Council will be composed of the Prime Minister, eight ministers from the government (energy, foreign affairs, defence, industry, foreign exchange market, economy, budget, and research), the High Commander of the Army, the Secretary of Defence and the General Administrator of the Atomic Energy Commission (*Commissariat à l'énergie atomique*).

Decree authorising the establishment of the "Agence France Nucléaire International" within the Atomic Energy Commission (2008)

Decree No. 2008-441 of 9 May 2008 authorises the Atomic Energy Commission (*Commissariat à l'énergie atomique*) to establish a body within the Commission, the *Agence France Nucléaire International* which is vested with administrative and budgetary independence.³ This authorisation is given within the framework of the Political Nuclear Council, with a view to assisting foreign states in implementing the institutional, human and technical framework necessary for establishing a civil nuclear energy programme that complies with all requirements relevant to safety, security and non-proliferation. The Director of the *Agence France Nucléaire International* will be designated by a decree adopted jointly by the Minister of Energy and the Minister for Foreign Affairs, following a proposal by the General Administrator of the Atomic Energy Commission.

Germany

Regime of nuclear materials (including physical protection)

Ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism (2007)

By Act of 23 October 2007 Parliament ratified the International Convention of 13 April 2005 for the Suppression of Acts of Nuclear Terrorism (*Bundesgesetzblatt* 2007 II p. 1586). In implementing that convention, Parliament passed an Act of 26 October 2007 (*Bundesgesetzblatt* 2007 I p. 2523) which, as far as not already covered by existing provisions, introduces relevant new provisions into the Penal Code and amends Sections 309 and 310 of the code correspondingly.

2. The text is available (in French) on the website of *Légifrance* at www.legifrance.gouv.fr.

3. The text of this decree is available (in French) on the website of *Légifrance* at the following URL: <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018776874>.

Regulation on nuclear trade (including non-proliferation)

Amendments to the 1993 Foreign Trade Ordinance (2008)

New ordinances⁴ containing regulations on a weapons embargo regarding Iran and on trade of dual use goods implement a number of EC Regulations and include provisions to implement the Single Euro Payments Area as of 1 January 2008.

A new version of the Import List – Annex AL to the Foreign Trade Act – as last amended by Ordinance of 18 December 2006 (see *Nuclear Law Bulletin* No. 79) was published by the 155th Ordinance to Amend the Import List – Annex to the Foreign Trade Act – of 18 December 2007.⁵

An amendment to the Export List – Annex AL to the Foreign Trade Ordinance – as last amended by Ordinance of 10 July 2006 (see *Nuclear Law Bulletin* No. 79) was published by the 106th Ordinance to Amend the Export List – Annex AL to the Foreign Trade Ordinance – of 10 September 2007.⁶

List of Foreign Trade Regulations (2008)

By Circular Decree Foreign Trade No.1/2008 the Federal Minister of Economics and Technology published a complete list of all foreign trade laws and ordinances including relevant circular decrees. The list covers the status as at 31 December 2007.⁷

Italy

Radiological protection

Decree designating a working group to identify the procedures and methodology for establishing a centre for technological services and research (2008)

The decree⁸ designates the working group in charge of identifying the type, the procedures and the methodology for establishing a centre for technological services and research, comprising a centralised national surface facility for the final storage and allocation of all category II radioactive waste, and the temporary storage of medium term radioactive waste, of category III spent nuclear fuel and nuclear material still existent in Italy. The working group is composed of representatives of the Government, the Regions, the Italian Environment Protection and Technical Services Agency (APAT) and the Italian National Agency for New Technologies, Energy and the Environment (ENEA).

The working group may make use of experts and may collaborate with Sogin SpA (the public-sector company in charge of managing the decommissioning of Italy's nuclear power plants). In particular, Sogin S.p.A. is to provide:

- specific technical information on plants, nuclear facilities and radioactive waste;

4. 79th, 80th, 81st and 82nd, published in the *Bundesanzeiger* 2007, pp. 4307, 7279, 8353 and No.242b.

5. *Bundesanzeiger* 2007 p. 8410 and No. 242a/2007.

6. *Bundesanzeiger* 2007 p. 7503.

7. *Bundesanzeiger* 2008 p. 146.

8. Decree of 25 February 2008 of the Ministry of the Economic Development, published in the Italian *Official Gazette* No. 57 on 7 March 2008.

- technical and logistical support for the operational activities of the working group.

The working group is co-ordinated by a representative of the Ministry of Economic Development and it is responsible for drawing up a document that, on the basis of international principles of environmental and radiological protection, defines:

- the characteristics of the surface deposit and related technological infrastructure and services;
- including those relating to research in the field of radioactive waste;
- the characteristics of the site and the technical procedure for administrative decision-making through a transparent and participatory involvement of administrations and local communities;
- responsibility for the management of the national deposit in the medium and long term and estimating the costs of establishing the centre; and
- suggestions regarding amendments to the legislation on nuclear waste.

Japan

Radiological Protection

Criminal Radiation Emission Act (2007)

In April 2007, the Diet adopted the “Criminal Radiation Emission Act” in order to implement the International Convention for the Suppression of Acts of Nuclear Terrorism. The law was proclaimed on 11 May 2007 and came into force on 2 September 2007.

The law specifies the following criminal offences:

- (a) causing nuclear fission or emitting radiation unlawfully with intent to cause bodily injury to a person, damage to property endanger a person’s life or create risk to the health or safety of the public;
- (b) committing preliminary conduct for the purpose of crime described in (a);
- (c) producing a nuclear explosive device, radiation dispersal device or other radiation emitting device which enables to cause radiation hazard;
- (d) possession of any “device” described in (c) or radioactive material;
- (e) attempting to commit crimes described in (a), (c) or (d);
- (f) committing threat or extortion in relation to radiation emission.

As a countermeasure against terrorism, the new legislation introduces changes to Japan’s penal law as follows:

- The term of imprisonment is extended, i.e., the offence mentioned above in (a) is extended from “imprisonment of up to ten years” to “life imprisonment or more than two-years prison” and the

penalty of the offence mentioned in (f) is also extended from “up to three years” to “up to five years imprisonment”.

- New criminal offences described in (b), (c), (d) or (e) are introduced into pre-existing provisions of punishment concerning radioactive material.

Lithuania

General legislation

Amendment to the Law on the Nuclear Power Plant (2008)

Law No. X-1231 of 28 June 2007 (text of the law is reproduced in *Nuclear Law Bulletin* No. 80) was amended by Law No. X-1446 on 1 February 2008.

The amendment concerns the national investor defined in Article 10(1) of the act which now reads that the “national investor shall be the national power company managing through its subsidiaries the main part of the Lithuanian power system – the electricity transmission and distribution networks. Seeking to attain the goal of its activity, the national investor shall participate, on the basis of private initiative, in implementing in Lithuania the project of construction of a new nuclear power plant, as well as constructing, according to the procedure established by the Law on Electricity and other legal acts, the interconnections of the power system of the Republic of Lithuania with the power systems of the Republic of Poland and the Kingdom of Sweden”.

The implementation of strategic energy projects will require huge investments, including internal financial resources as well as attracting loan funds. The creation of an independent legal entity according to the model defined in Article 10(1) of the revised law is expected to lead to the accumulation of the required financial resources by consolidation of the three largest Lithuanian energy companies – joint stock companies Lietuvos Energija, privately owned grid company VST and state-owned grid company Rytu skirstomieji tinklai.

An agreement on the creation of a national investor company, named LEO LT, was reached recently. On 29 April 2008, the Government of Lithuania and the privately-owned NDX Energia, which is the main shareholder of grid company VST, signed a memorandum of association in relation to the joint stock company LEO LT. The national investor LEO LT faces a number of challenging tasks, namely immediate implementation of Lithuania’s strategic energy goals, interconnection with Lithuanian and Swedish power systems and construction of a new nuclear power plant. The creation of the national investor is an important factor to start negotiations with potential foreign partners, i.e. Latvia, Estonia and Poland, who have expressed their intention to participate in the construction of a new nuclear power plant.

Poland⁹

Radiological protection (including nuclear emergency planning)

Regulation on the emergency plans for radiation emergency (2007)

Regulation of the Council of Ministers of 20 February 2007¹⁰ aims at amending the Regulation of 18 January 2005¹¹ and establishes a national emergency plan, including procedures for co-operating with local emergency assistance entities. It also provides samples of on-site and regional emergency plans and introduces two main amendments:

- It extends the authority of the President of the National Atomic Energy Agency with respect to co-ordination, in a radiological emergency, with stations for early detection of radioactive contamination and entities conducting measurements of radioactive contamination.
- It determines that in the case of a radiological emergency in a region (*voivodship*) a state regional sanitary inspector will participate in emergency actions led by the regional governor (*voivod*).

This regulation implements the provisions of:

- Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency (*Official Journal of the European Communities* L 357 of 7 December 1989, text of the Directive is reproduced in *Nuclear Law Bulletin* No. 45) and
- Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (published in the *Official Journal of the European Union* L 159 of 20 June 1996, see *Nuclear Law Bulletin* No. 58).

Regulation on the requirements for controlled and supervised areas (2007)

This Regulation of the Council of Ministers of 20 February 2007¹² establishes the basic requirements for controlled and supervised areas, particularly:

- the means for marking such areas, including the standard warning signs for marking the boundaries of controlled and supervised areas;
- the conditions for access to and departure from these areas for workers and others;

9. The unofficial translations of all regulations and the new consolidated version of Act of Parliament of 29 November 2000 – Atomic Law are available on the website of the Polish National Atomic Energy Agency at www.paa.gov.pl/en/?frame=1.2.

10. Published in the *Polish Official Journal* of 2007, No. 131 Item 912 pursuant to act of Parliament of 24 February 2006 on amendments to the Atomic Law (*Polish Official Journal* No. 52 Item 378).

11. Published in the *Polish Official Journal* of 2005, No. 20 Item 169.

12. Published in the *Polish Official Journal* of 2007, No. 131 Item 910 replaces and repeals Regulation of 6 August 2002 (*Polish Official Journal* of 2002 No. 138 Item 1161).

- the conditions for dosimetry measurements in the work environment within these areas, in particular the scope of the measurement programme and requirements for individuals who conduct such measurements.

The regulation implements the provisions of Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (published in the *Official Journal of the European Union* L 159 of 20 June 1996, see *Nuclear Law Bulletin* No. 58).

Regulation on the requirements for individual dose registration (2007)

This Regulation of the Council of Ministers of 23 March 2007¹³ establishes the requirements for individual dose registration, including in particular:

- the content and manner of keeping the individual dose register by the head of the organisation concerned and the central register of individual doses, the duration of the registration period, the period of data preservation in these registers, the period of preservation of documents which constitute a formal basis for making register entries, the procedures for making copies of register data and the period for preserving such copies, the standard application form for the central register of individual doses and a standard registration file form for the central register of individual doses;
- entities entitled to receive data from the register of individual doses kept by the head of the organisation concerned, and from the central register of individual doses, the dates for forwarding the data and also the content of a request for access to the data in the central register of individual doses;
- exposures referred to in Article 16(1), Article 19(1) and Article 20(2)(1) of Atomic Law, including the results of dosimetry measurements.

The regulation implements provisions of Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (published in the *Official Journal of the European Union* L 159 of 20 June 1996, see *Nuclear Law Bulletin* No. 58).

Radioactive waste management

Regulation on the state owned public utility “Radioactive Waste Management Plant” (2007)

Regulation of the Council of Ministers of 4 October 2007 on the allocated and special purpose subsidy, fees and financial management of the state-owned public utility “Radioactive Waste Management Plant”¹⁴ establishes:

- procedures for determining the value of the allocated and special purpose subsidy awarded to the state-owned public utility “Radioactive Waste Management Plant” (the plant);

13. Published in the *Polish Official Journal* of 2007, No. 131 Item 913 replaces and repeals Regulation of 5 November 2002 (*Polish Official Journal* of 2002 No. 207 Item 1753).

14. Published in the *Polish Official Journal* of 2007, No. 185 Item 1311 replaces and repeals Regulation of 24 September 2002 (*Polish Official Journal* of 2002 No. 163 Item 1344).

- factors and procedures for determining the fees to be set for services performed by the plant;
- financial management procedures for the plant, including audits of financial statements, procedures for disposal of property, procedures for financing salaries and investments as well as decision-making procedures for financial matters.

Transport of radioactive materials

Regulation on import, export and transit of spent nuclear fuel intended for reprocessing or storage (2007)

Regulation of the Council of Ministers of 30 January 2007 on granting a permit for import into, export from and transit through the territory of Poland of spent nuclear fuel intended for reprocessing or storage¹⁵ was adopted pursuant to the 2000 Atomic Energy Act (see *Nuclear Law Bulletin* Nos. 67 and 69; text of the law is reproduced in the Supplement to *Nuclear Law Bulletin* No. 68). This instrument defines the requirements and the application procedure for grants to import, export and transit spent nuclear fuel intended for reprocessing or storage which is only allowed after authorisation has been granted by the President of the National Atomic Energy Agency.

Regulation on import, export and transit of nuclear materials, radioactive sources and equipment containing such sources (2007)

Regulation of the Council of Ministers of 20 February 2007 on the import, export and transit of nuclear materials, radioactive sources and equipment containing such sources¹⁶ determines the conditions for conducting these activities as well as the timing, procedures and content of notifications to the President of the National Atomic Energy Agency. It further defines the standard form for the declaration of shipments of sealed radioactive sources from or to a country which is not a Member State of the European Union.

It constitutes yet another regulation to implement the provisions of Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (published in the *Official Journal of the European Union* L 159 of 20 June 1996, see *Nuclear Law Bulletin* No. 58).

Romania

General legislation

Government Decision on Romania's Energy Policy for 2007 to 2010 (2007)

By Government Decision No. 1069 of 5 September 2007¹⁷ Romania's Energy Policy from 2007 to 2010 has been approved. Its objective is to achieve energy security at the lowest possible price at present and for the medium and long terms in order to meet the needs of a modern market economy and high standards of living. Strategic objectives also include sustainable development and competitiveness.

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15. Published in the *Polish Official Journal* of 2007, No. 24 Item 145; it replaces and repeals Regulation of 27 April 2004 (*Polish Official Journal* of 2004, No. 98, Item 986).
 16. Published in the *Polish Official Journal* of 2007, No. 131 Item 911; it replaces and repeals Regulation of 27 April 2004 (*Polish Official Journal* of 2004, No. 98, Item 984).
 17. Published in the *Official Gazette* of Romania Part I, No. 781 of 19 November 2007.

The main goals of the Energy Policy are, *inter alia*, to ensure the security of supply, a more balanced energy mix by giving priority to the use of coal processed by clean technologies, nuclear power and renewable energy sources, to exploit the hydroelectric potential which is still unused, to cover the required coal and uranium stock from mainly domestic production and to diversify uranium supply by a judicious use of domestic resources and imports, to achieve environmental protection targets and to reduce CO₂ emissions.

As to measures regarding the generation, transmission and distribution of electric and thermal power, the Energy Policy promotes, *inter alia*, the completion of Units 3 and 4 of the Cernavoda NPP (each of which has a commercially available capacity of 600 MW) by 2015 through the attraction of private investment, and studying the best possible solution for Unit 5. The Energy Policy also provides for upgrading of energy capability by revamping existing plants that are still viable and replacing non-viable ones with new power plants.

The Energy Policy contains important provisions regarding S.N. "Nuclearelectrica" S.A., the only electric power generator that uses nuclear technologies, addressing its ability to attract private investment and its listing on the stock-exchange as of 2008. The Romanian Government will retain control of the company, however, as it is seen as strategically important.

Transport of radioactive material

Guidelines regarding the road haulage of hazardous goods on the Romanian territory (2007)

The Guidelines regarding the road haulage of hazardous goods on the Romanian territory have been approved by Government Decision No. 1175 of 26 September 2007.¹⁸ They set the framework for the enforcement of the provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), concluded on 30 September 1957 in Geneva, on Romanian territory. Romania became a party of this agreement by Law No. 31/1994.

The guidelines are applicable to the road haulage of hazardous goods carried out on Romanian territory. They are not applicable to haulage vehicles owned or under the charge of the national defence system. The National Commission for Nuclear Activities Control is charged with supervising road haulage of radioactive materials to ensure safety, security and the protection of the environment.

Order adopting the INF Code (2008)

By Order No. 235 of the Ministry of Transport of 20 February 2008¹⁹ the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships (INF Code), adopted by the International Maritime Organization by Resolution MSC.88(71) of the Maritime Safety Committee of 27 May 1999 has been endorsed together with the amending document thereof adopted by the International Maritime Organization by Resolutions MSC.118(74), MSC.135(76) and MSC.178(79) of the Maritime Safety Committee of 2001, 2002 and 2004 respectively.

18. Published in the *Official Gazette* of Romania Part I, No. 696 of 15 September 2007.

19. Published in the *Official Gazette* of Romania, Part I, No. 165 of 4 March 2008.

Russian Federation

Organisation and structure

Reform of the Russian nuclear power industry (2007)

On 20 March 2008, the President of the Russian Federation signed the Decree “on measures to create the Rosatom state corporation for atomic energy” which abolishes the Federal Atomic Energy Agency.

The decree also approves the list of open joint stock companies and state-owned enterprises which will be transferred into Rosatom, which in turn will hold that property on behalf of the Russian Federation. Rosatom will represent the Russian Federation as a shareholder in open joint stock companies in the nuclear energy sector which will be created through the reorganisation of state-owned enterprises. The Russian Government has until 1 March 2009 to bring its laws into line with the decree and to submit proposals in this respect.

In pursuance of the decree, a government ordinance was issued on 10 April 2008 which establishes a special Commission for the breakup of the Federal Atomic Energy Agency and the organisational issues to be solved during this process.

The federal law establishing the Rosatom State Corporation took effect on 5 December 2007. It envisages the formation of a corporation to unite companies in the nuclear energy and industrial sectors. Sergey Kirienko, who formerly headed the Federal Agency for Atomic Energy, was appointed General Director of Rosatom (see related Decree on Restructuring the Atomic Energy Industry Complex of the Russian Federation and the establishment of Atomenergoprom *Nuclear Law Bulletin* Nos. 79 and 80).

Slovenia

General legislation

Decree on the designation of affected areas and the compensation due to the limited use of land surrounding the Žirovki Vrh Uranium Mine (2008)

This decree was adopted by the Slovenian Government on 21 February 2008 and published in the Official Gazette No. 22/08. It determines the area in which the use of land is limited, due to the radiological and chemical long-term impacts of the mine waste and mill tailings on the environment, and it sets out criteria for determining the amount of monthly compensation to be paid to the local community on whose territory the Žirovski Vrh Uranium Mine was located.

The person liable for this compensation is the performer of the programme for the permanent closeout of uranium ore exploitation and the prevention of mining incidents in the Žirovski Vrh Uranium Mine. Although this decree is not based on the Ionizing Radiation Protection and Nuclear Safety Act it is governed by the same principles as the Decree on Compensation Due to the Limited Use of Land Surrounding a Nuclear Facility of 2003 (see *Nuclear Law Bulletin* No. 73).

The mine was in operation from 1984 to 1990. In 1992, the Slovenia established a company to perform its permanent closure.

Decree on safeguarding of nuclear materials (2008)

The Decree on safeguarding nuclear materials was adopted on 27 March 2008 by the Slovenian Government and published in the Official Gazette No. 34/08.

The main objective of the decree is to provide a legal basis for the transfer of accounting data on nuclear materials to the central state inventory of nuclear materials. The decree sets out the rules for transferring all safeguard relevant information to the Slovenian Nuclear Safety Administration (SNSA) which, in accordance with Commission Regulation (Euratom) No. 302/2005 of 8 February 2005 on the Application of Euratom Safeguards, designates a site representative for all sites in Slovenia (Article 3/para.2 of 302/2005/Euratom).

Matters such as the definition of nuclear materials subject to safeguards, the criteria for exemption of nuclear materials from safeguards, and the definition of material balance areas are not covered by the decree which refers only to international treaties and agreements which are legally binding for every "holder" of source material or special fissile material in Slovenia, i.e. the Safeguards Agreement 78/164/Euratom, Additional Protocol 1999/188/Euratom and Euratom Treaty.

Spain

Organisation and structure

Law creating the Nuclear Safety Council (2007)

On 7 November 2007, Law 33/2007²⁰ on the creation of the Nuclear Safety Council (CSN) was passed.

This new law substantially amends Act 15/1980, by which the CSN was created 27 years ago as the only public entity in charge of nuclear safety and radiological protection in Spain, being independent from the government and with legal personality and its own financial means. Although the 1980 Act has been amended several times (mainly by Act 14/1999 of 4 May 1999, of Taxes and Public Prices for the services rendered by the CSN), this new law takes into account experience acquired since that time and aims to adapt the CSN to growing social demands on environmental matters, to ensure that it maintains its effective independence, and to reinforce the transparency and efficiency of this public body.

The new law has neither changed the legal status nor the competence and basic organisation of the CSN; rather it responds to a need to update the legal and regulatory framework in order to:

- enhance the CSN's capabilities (expanding its functions and reinforcing its regulatory power);
- reinforce transparency, access to information and public participation in matters within the CSN's jurisdiction;
- adapt the Nuclear Energy Act to the latest scientific knowledge and update its enforcement regime.

20. Amending Law 15/1980 of 22 April, creating the Nuclear Safety Council, published in *Official Gazette* of 8 November 2007. The consolidated text of the law will be published in the next issue of the *Nuclear Law Bulletin*.

The major amendments which have been introduced are as follows:

- The legal nature of the CSN's regulations (*CSN's Instructions*) is more clearly defined, as well as the procedure for their preparation and communication to the Parliament before they are approved. For example, in the preparation of its Instructions, the CSN shall encourage public participation according to Act 27/2006 which implements the Aarhus Convention in Spain. Also the legal nature of informative documents (*Circulars*) and recommendations (*Guidelines*) is reflected in this act, as well as Supplementary Technical Instructions that the CSN is entitled to submit directly to licensees at any moment to ensure the safety and security of installations and activities.
- New authority is given to the CSN to require physical protection reports as a requirement for issuing licences for installations and activities, as well as a sanctioning initiative. Further, new functions include co-operation with competent authorities in the areas of radiation protection, of medical treatments and nuclear safeguards.
- Contracting external services shall be subject to the condition that there is no relationship between the supplier of the service and the licensees involved in the subject matter of the service being provided. Furthermore, only CSN officers may participate in decision making in relation to administrative procedures.
- Under the new law, the CSN will now report to regional legislative assemblies and governments on any event that may affect the safety or radiological protection of nuclear and other installations posing radiation risks. A number of mechanisms to reinforce transparency, access to information and public participation have been introduced in the amended act:
 - First, the public's rights in respect of information handled by the CSN are the same as those in respect of its access to information, participation in decision making and access to justice in environmental matters under Act 27/2006.
 - Every person who works for or provides a service to a nuclear installation is to report to the licensee, as well as to the CSN, if no corrective action is taken in due time concerning any known fact that might affect the safe functioning of the installation or the observance of safety regulations. This provision is contemplated as both a worker's right and an obligation simultaneously. A "whistleblower" protection clause is included to protect a "reporting" worker and sanctions are provided against the employer who initiates any reprisal against him or her.
 - There is an obligation to provide information to the public about relevant facts (safe functioning, radiological impact, events and incidents, remedial measures) and about all decisions taken by the Plenary of the CSN. Draft instructions and guidelines will be subject to public consultation, and the CSN shall encourage and participate in information fora in the areas near nuclear installations.
 - An Advisory Committee, chaired by the President of the CSN will issue non-binding recommendations for improving transparency, public access to information and public participation in matters within the CSN's jurisdiction.

- Some provisions of the act are subject to further legislative development, and it is expected that these developments will be approved within approximately nine months from enactment of the new law.

Regime of nuclear installations

Royal Decree amending the Regulation on Nuclear and Radioactive Installations (2008)

Royal Decree 35/2008 of 18 January 2008²¹ amends the Regulation on Nuclear and Radioactive Installations which was approved in 1972 and amended in 1999. The aim of the decree is to adapt the regulation's content to that of Act 33/2007 of November 2007 under which the CSN's capabilities are significantly enhanced. Its main objective is to reinforce the mechanisms for controlling the safety and radiological protection of nuclear installations, as well as to achieve better co-ordination between the Government (Ministry of Industry, Tourism and Commerce, the CSN, regional authorities) and licensees.

With this amendment, the regulation provides for reinforced CSN review and assessment capacities while promoting the safety culture of licensees who are to be committed to continuously improve the safety of their installations by incorporating the best existing techniques and practices. The regulation also distinguishes between installation modifications that require regulatory review and approval, and those which can be implemented under the licensee's sole responsibility.

With regard to the co-ordination, the regulation provides for submitting licence application documentation to regional governments where a nuclear installation is located (including those governments whose territory is affected by emergency response zones) before granting a licence. In addition, the membership of Local Information Committees is enlarged to include both the municipality hosting the plant and others surrounding municipalities located within the emergency response zones. Additionally, authorities responsible for granting licences for facilities that are not regulated under nuclear legislation but may cause undue impact on the operation of a nuclear installation, are to provide the CSN with sufficient information to assess whether the impact is acceptable prior to granting the licence.

Turkey

General legislation

Regulations on criteria to be met by investors who will construct and operate nuclear power plants (2008)

Following the law concerning the construction and operation of nuclear power plants and the sale of energy of 21 November 2007 (unofficial translation reproduced in *Nuclear Law Bulletin* No. 80), the Turkish Atomic Energy Authority (TAEK) published criteria with which construction and operating enterprises must comply. These criteria concern nuclear safety, licensing, reactor type, plant life-span, proven technology, fuel technology, localisation, operational record and electrical power.

The provision regarding nuclear safety stipulates that a nuclear power plant should have state-of-the-art technological features complying with international norms, especially the IAEA Safety Fundamentals and Safety Requirements. The criterion on localisation aims at reducing dependency from foreign vendors. The domestic share of construction, manufacture, fabrication and/or procurement of goods, equipment, components and/or services should in the long-term reach a share of 60%, for which the bidder is to submit a plan.

21. Published in *Official Gazette* of 18 February 2008.

The text of the regulations is available in English on the website of TAEK at www.taek.gov.tr/olcutler/taekcriteria_final_211207.pdf.

Regulation on requirements according to Article 3(3) of the new law on the construction of nuclear power plants and the sale of energy (2008)

Also based on the law concerning the construction and operation of nuclear power plants and the sale of energy of 21 November 2007 (unofficial translation reproduced in *Nuclear Law Bulletin* No. 80), the Ministry of Energy and Natural Resources has published a regulation on the requirements to be met by the bidding companies, the selection process, land allocation, licence fee, infrastructure incentives, fuel supply, production capacity, volume of electricity to be purchased by the Turkish Electricity Trading and Contracting Company (TETAŞ) and the energy unit price.²² Following the adoption of this regulation, TETAŞ launched the tender process on 24 March 2008, inviting local and foreign companies to bid until 24 September 2008.

United States

General legislation

Amendment of Regulations applicable to limited work authorisations for new nuclear power plants (2007)

On 9 October 2007, the NRC amended its regulations applicable to limited work authorisations (LWAs), which permit certain construction activities on production or utilisation facilities to commence before a construction permit or combined licence (to construct and operate) is issued.²³ The rule primarily (1) redefines the scope of activities that are considered “construction” for which NRC permission (i.e. an LWA, a construction permit or a combined license) is necessary; (2) specifies the construction activities which may be performed pursuant to an LWA (as opposed to those construction activities that require a construction permit or combined licence); and finally (3) changes the review and authorisation process for LWA requests. The NRC adopted these changes to enhance the efficiency of its licensing and approval process for production and utilisation facilities, including new nuclear power reactors.

Third party liability

Implementation of the Convention on Supplementary Compensation for Nuclear Damage (2007)

On 19 December 2007, the President of the United States signed into law the Energy Independence and Security Act of 2007.²⁴ Section 934 of the Act implements the Convention on Supplementary Compensation for Nuclear Damage (CSC) adopted in Vienna on 12 September 1997.²⁵ With regard to the convention, Congress finds that

“the combined operation of the Convention, the Price-Anderson Act, and this section will augment the quantity of assured funds available for victims in a wider variety of nuclear incidents while

22. Published in the *Turkish Official Gazette* No. 26821 on 19 March 2008.

23. Final Rule, Limited Work Authorizations for Nuclear Power Plants, 72 Fed. Reg. 57, 416 (9 October 2007).

24. Pub. L. 110-140, 121 Stat. 1492 (2007).

25. *Ibid* at 1741-47 [codified at 42 U.S.C. § 17373 (2008)].

reducing the potential liability of the United States suppliers without increasing potential costs to the United States”.

Congress declares in Section 934 that the contributions made by the United States for the sake of the above benefits provided by the convention should not disturb settled expectations regarding the Price Anderson Act and, further, should not shift to federal taxpayers the liability risks for nuclear incidents at foreign facilities.

Funds made available pursuant to the Price-Anderson Act are to be used to cover the “contingent costs”²⁶ resulting from any “Price-Anderson incident”.²⁷ The amount of public liability for a Price-Anderson incident is to be increased by the difference between the amount made available under Article VII of the CSC and the amount of funds used by the United States to cover the contingent costs of the incident.

With regard to covered incidents outside the United States that are not Price-Anderson incidents, each “nuclear supplier”²⁸ is required to participate in a retrospective risk pooling programme to cover the contingent costs resulting from such incidents. Participation in the programme shall be deferred until the United States has been asked to provide funds pursuant to Article VII of the CSC. The allocation among nuclear suppliers of the United States’ contingent costs shall be determined by a risk-informed formula determined by the United States Secretary of Energy. In determining this formula, the Secretary shall take into consideration the following risk factors:

- the nature and intended purpose of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;
- the quantity of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;
- the hazards associated with the supplied goods and services if the goods and services fail to achieve the intended purposes;
- the hazards associated with the covered installation outside the United States to which the goods and services are supplied;
- the legal, regulatory, and financial infrastructure associated with the covered installation outside the United States to which the goods and services are supplied; and

26. Under the act, “contingent cost” is the cost to the United States in the event of a covered incident the amount of which is equal to the amount of funds the United States is obligated to make available under paragraph 1(b) of Article III of the convention.

27. A “Price-Anderson incident” means a covered incident for which the Price-Anderson Act would make funds available to compensate for public liability. “Covered incident” means a nuclear incident the occurrence of which results in a request for funds under Article VII of the convention.

28. A “nuclear supplier” is a covered person that supplies facilities, equipment, fuel, services or technology pertaining to the design, construction, operation or decommissioning of a covered installation; or who transports nuclear materials that could result in a covered incident. A “covered person” is (1) any individual who is a resident, national or citizen of the United States or business entity which is organised under the laws of the United States, and (2) that is located in the United States; or carries out an activity in the United States. A “covered installation” means a nuclear installation at which the occurrence of a nuclear incident could result in a result for funds under Article VII of the convention.

- the hazards associated with particular forms of transportation.

The Secretary, in applying the formula, may not take into consideration any covered installation or transportation for which the Price-Anderson Act would make funds available.

Pursuant to Section 934, the US Nuclear Regulatory Commission (NRC) may promulgate regulations to carry out the terms of Section 934 and the Price-Anderson Act. Such regulations shall ensure, to the maximum extent practicable, that the implementation of the Price-Anderson Act and Section 934 are consistent and equitable and that the financial and operation burden on a licensee of compliance with the provisions of the Price-Anderson Act are not made greater as a result of compliance with the terms of Section 934.

The United States deposited its instrument of ratification of the CSC on 21 May 2008. Pursuant to Article XX.1 of that convention, it will enter into force 90 days following the date on which at least five states with a minimum of 400 000 units of installed nuclear capacity have deposited their instruments of ratification, acceptance or approval.