



Pinsent Masons

WNA Symposium 2008

Changes in Nuclear Law: A Catalyst for Civil Nuclear Commerce

Mark Richards

The Drivers For Change In The Commercial Environment



- International Action on Climate Change
- Economic Viability of Nuclear Power
- Safety Record
- International Market Place
- International Participants
- International Governance & Rule Making
- Public versus Private Funding
- Inter-relationship of New build / Waste Management / Decommissioning

Commercial Issues Matrix



Waste Management Strategy	Recognition of International (IAEA) Safety Norms and Standards	Safeguards (Non-proliferation)	Political Support for Nuclear Power
Security of Fuel Supply	Certainty of Decommissioning & Lifecycle Costs ("Whole Life")	Commitment and Participation in International Organisationseg: IAEA, WANO, WENRA etc...	Supportive Public Opinion
Clear Policy for Treatment of Carbon	Independent strong Licensing & Regulatory Regime	Suitable Transportation and Transmission Networks	Workable Planning and Permissioning Regime
Available and Suitable Siting	Available Skill Pool and Commitment to Training	Availability of Insurance	Commercially Acceptable Legal Liability Regime

JEEP



Evolution of nuclear law



- 1950s: focus on creation of international nuclear institutions
 - IAEA 1957; NEA 1957
- 1960s: focus on radiation protection and civil liability
 - IAEA basic safety standards; Paris/Vienna Conventions
- 1970s: focus on non-proliferation and physical protection
 - NPT, CPPNM
- 1980s/1990s: Focus on safety in reaction to TMI and Chernobyl
 - Conventions on Emergency Assistance, Early Notification, CNS, Joint Convention
- 2000s: Focus on security in reaction to 9/11 and other terrorist acts and moves to international harmonisation
 - Revision of CPPNM, Convention on Nuclear Terrorism
 - IAEA Revised Reactor Safety Levels

Common Principles of Nuclear Energy Law



- Safety (prevention, protection and precaution)
- Security
- Responsibility
- Permission
- Continuous Control
- Compensation
- Sustainable Development
- Compliance
- Independence
- Transparency
- International Co-operation

General Nuclear Liability Principles



- Paris, Vienna, the Joint Protocol and the Convention on Supplemental Compensation
- Issue: third party nuclear damage

Basic scheme:

- Strict Operator Liability + Financial Provision (usually insurance)

Importance:

- Internationalisation + increased activity in all nuclear spheres + increased need for investment = Need for consistent coherent international liability regime.

Questions



- Why do we need Nuclear Liability Regimes?
- Why do they need to be international?
- Why are over 50% of current reactors in the world outside any international nuclear liability regime?
- Why can we achieve a significant degree of international harmonisation on safety, security and safeguards but not on liability?
- Do we have a JEEP or just parts?



Hard Law Is Harder Than Soft

Convention	Signed	In Force
Paris	1960	1968
Brussels	1963	1974
Vienna	1963	1977
Amended Paris & Brussels	2004	?
Amended Vienna	1997	2003
CSC	1997	?
Joint Protocol Paris / Vienna	1988	1992

Third Party Nuclear Liability



Disjointed protracted international approach despite agreed common principles.

Impact includes:

- Increasing brake to international ‘nuclear commerce’
- Uncertainty for neighbouring non-nuclear states
- Over complex local ‘designer’ solutions: usually state backed indemnity are unsatisfactory
- Only International Treaty can achieve ‘channelisation of liability’ mere national legislation cannot



Pinsent Masons

www.pinsentmasons.com

Pinsent Masons LLP is a limited liability partnership registered in England & Wales (registered number: OC333653) and regulated by the Solicitors Regulation Authority. The word 'partner', used in relation to the LLP, refers to a member of the LLP or an employee or consultant of the LLP or any affiliated firm who has equivalent standing and qualifications. A list of the members of the LLP, and of those non-members who are designated as partners, is displayed at the LLP's registered office: CityPoint, One Ropemaker Street, London EC2Y 9AH.

We use 'Pinsent Masons' to refer to Pinsent Masons LLP and affiliated entities that practise under the name 'Pinsent Masons' or a name that incorporates those words. Reference to 'Pinsent Masons' is to Pinsent Masons LLP and/or one or more of those affiliated entities as the context requires. For important regulatory information please visit:
www.pinsentmasons.com/regulatory.