

ELIG Facilitator at the IEN
July 2nd 2018

Convention on Environmental Impact Assessment in a Transboundary Context
Palais des Nations
CH-1211 Geneva 10
Switzerland
By email: Elena.Santer@unece.org; eia.conv@unece.org

**Subject: EIA/IC/CI/5 Hinkley Point C nuclear power plant, United Kingdom
Update following consultation exercise.**

To the Implementation Committee of the Espoo Convention.

Dear Members of the Espoo Implementation Committee,

I am writing to you from the ELIG initiative at the IEN, further to our earlier correspondence and engagement for and on behalf of the Environmental Pillar an advocacy coalition of some 28 Irish eNGOs.

We write to provide a brief update and insight into the recent consultation conducted in the Republic of Ireland in respect of the UK's new nuclear power plant, (NPP) Hinkley Point C, (HPC), and to express our appreciation once again for your own initiative investigation and further responses. We also wish to point to an implicit acknowledgement by the Irish Government of the existence and extent of potential transboundary impacts – as they determined that all counties in the country needed to be notified of the consultation under the relevant Irish regulations – and they did not limit it. We believe that this importantly serves as a defacto acknowledgement by the Government on the potential impact of transboundary impacts from HPC.

But first our thanks. The consultation conducted in Ireland in 2018 was of course as a result of your most welcome intervention and letter to the Irish Government dated December 22nd 2017, inviting the Irish Government to uphold the rights of the Irish public to be consulted. This was further to our escalation to you last November of concerns about the continued lack of opportunity for the Irish public to be consulted on this project, even during the remedial consultation conducted between July and Oct 20th in 2017 with the public in a number of other countries who are party to the Espoo Convention. While we wrote to Ms Santer, the committee secretariat and asked her to pass on our informal thanks at the start of the consultation, we had expected to write more formally to thank-you much sooner than this.

What we set out below – we hope will serve to give you some insight into what transpired and consequently how overwhelmed we have been by the consultation and related events. This in some part we hope accounts for our delayed follow-up and formal thanks, in addition to outstanding matters.

We acknowledge some of these further matters set out below will not be directly relevant for your current own initiative investigation on HPC, and also some of them will be relevant. Equally we are conscious that the overall context may be of interest, and relevant to your various considerations in ways which we may not fully appreciate.

In summary, a “consultation” with the Irish Public was initiated on February 20th 2018 and concluded on April 17th 2018. The purpose of our advocacy on the matter and your intervention was that the Irish public should have their rights under the convention upheld. However given the issues with the consultation as executed – it is arguable that such rights were frustrated.

The issue with the consultation was largely and primarily due to the lack of awareness about the consultation, and secondly a lack of clarity on its purpose. In other words: most people simply didn’t know about it; and/or or understand how they could engage with it and to what end – particularly given consent had already been granted for HPC.

So the opportunity to engage to argue for and thus ensure a full transboundary impact assessment would be done, and to facilitate future engagement to secure for example changes such as further mitigations and design considerations was not fully appreciated, nor was such a potential clear to many. This necessary aspect of the remedial consultation exercise and the remedy envisaged – was not thus addressed, and it for many it seems to us there was a sense it appeared to be a symbolic exercise with little clear purpose.

We appreciate this was not the intent of the Committee, nor indeed ours – and we remain very frustrated having sought this opportunity for 5 years.

We therefore earnestly hope that the Parties whom the Committee in its March 2018 meeting has sought feedback from – will respond positively on the need for a full process under the convention following the remedial consultation, and that the UK will not dispute the issue of transboundary impacts.

However given the approach it is taking for a further plant Wylfa we are not convinced. It would seem and we fear the UK may only be prepared to consult out of good will following its rejection of your findings and recommendations of non-compliance. However our concern is it will resolutely dispute there are potential transboundary impacts and will continue to resist a full and proper EIA on transboundary impacts. We note it is putting a lot of emphasis on the Euratom Art 37 opinion from the European Commission which is being reported as indicating no transboundary impacts. We have little confidence in this procedure given the issues we have observed in the Art 37 submission made for Hinkley Point C and which we addressed in extensive detail in our submission to the UK Government.

This failure in awareness and clarity of purpose of the consultation which we mentioned earlier above is in our view due in large part to the approach taken by the Irish authorities in how they publicised or rather didn’t publicise adequately the consultation.

However while we respect there might be some understandable sensitivities about how another party engages to publicise a consultation on its proposed development in the country

of another party which may be impacted - there are joint obligations under Article 3(8) of the Espoo Convention which provides as you will readily know: (emphasis added)

“The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.”

But ultimately the obligation for the consultation lies with the state of origin, in this case the UK, further to: Article 2(6) : (emphasis added) and indeed to conduct the EIA.

“The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.”

Had this been something which the UK and./or the Irish authorities had wanted to publicise – we have no illusion the approach would have been entirely different to ensuring the public were aware of it.

The Committee may find it difficult to understand why a country like Ireland with no nuclear agenda (in fact it has two legislative bans on the production of energy via nuclear power) – and which is in such close proximity to the UK and has a history of issue with the UK’s Sellafield nuclear re-processing plant is not more proactive on such matters like Austria. We struggle with this ourselves. We of course have an important trading relationship with the UK and there was at the time of the HPC consent a particular sensitivity regarding an electricity inter-connector. But there are other issues in relation to how policy on the ground is managed it seems.

Your Committee is aware already from our November correspondence our concerns regarding certain perspectives here on the obligations to consult under the convention. It may be that the historical context of failure to ensure consultation happened may now in some part have resulted in an attempt to ensure the consultation when it happened went under the radar so to speak, and to thus exonerate the position. We submit this may be important for the Committee to understand – as we are unclear still at this juncture what position Ireland has adopted in responding to the Committee on how the consultation went and what are appropriate next steps, and this is in large part why we delayed in responding to you.

Additionally, we draw to your attention the proceedings of a further hearing by another Joint Oireachtas (Parliamentary) Committee on Communications, Climate Action and Environment. We have extreme concerns regarding what was presented particularly in respect of one of the statements and associated oral evidence at the hearing. This is a strong statement and one we stand by, and we set the relevant particulars out further below and supporting evidence and draw the Committee’s most particular attention to it. In short it is not



clear to us if there is an agenda compromising Ireland's evaluation of potential transboundary impacts.

We therefore have taken the precaution of forwarding our submission in full to you – so the committee can see clearly the full extent of the deficit in the UK's assessment of transboundary impacts and the nature of our concerns that such impacts might arise. There has been much focus on probabilities and incredible numbers such as a one in 30 million chance. However, the probability of Fukushima Daiichi was of little consolation when it occurred – it happened. Events can probably best be described as very likely, or likely, or unlikely, or very unlikely – but so long as they can't be ruled out and have the potential for such significant if not catastrophic impacts – every precaution, and thus every assessment is required, and every opportunity for engagement to ensure we engage collectively to avoid and/or mitigate the worst. Hence our inestimable appreciation of your focus on this matter.

We turn now to a more detailed overview of events associated with the consultation and hope this is of use.

Overview of events associated with the consultation:

On January 10th 2018, we were copied on an email to the Irish Focal Point containing your letter dated December 20th 2017, we noted it requested a response by February 12th 2018.

By February 9th we had heard or seen no indication of any consultation being initiated and therefore contacted Mr Sheridan, the Irish Focal Point.

That email and the ensuing correspondence is included in Annex I to this report.

In that correspondence, in summary, Mr Sheridan indicated a response would issue to your committee, and plans were underway to initiate a 4 week consultation.

We responded indicating the issues with such a constrained 4 week period noting inter alia that:

- a) It would be discriminatory compared to the consultation period enjoyed elsewhere in the remedial consultation consulted between July and October last year
- b) There was no basis in the Irish regulations governing a transboundary consultation to so limit it to 4 weeks.
- c) Typically large strategic infrastructure projects in Ireland have at least an 8 week consultation period in practice – and the approach proposed for HPC also a similarly large strategic infrastructure project was therefore unjustified.
- d) The proposed period would overlap with the National holiday of St Patricks Day – when much of the population take a long weekend vacation, and politicians in Government are all abroad for a week acting as diplomatic envoys as it were for St Patrick’s day, making it difficult to liaise.
- e) Given the complexity of the information and the nature of the application so novel to the Irish public – 4 weeks could not provide for an effective consultation or effective public participation – and fulfil complementary requirements under the Aarhus Convention.

Mr Sheridan, in fairness agreed to re-consider thankfully and reverted indicating it would run for 8 weeks concluding on April 17th.

We honestly felt this was as far as we were likely to be able to push to extend the consultation period at that point. But we were deeply conscious this period overlapped with both St Patricks weekend and also the Easter Holiday when many take a full week off from the Thursday evening before Easter Sunday to the Monday following Easter Monday – so 2 whole weekends and the intervening week. We weren’t aware at that time it also overlapped with a 2 week recess of both houses of the Oireachtas, (the upper and lower houses of our Parliament) right at the end of the consultation – thus making it difficult to engage with Public Representatives, and in particular for the presentation and response of relevant Parliamentary Questions to assist submissions and to push for greater profile of the consultation – as they are not answered when the House is not in session.

A small notice, I imagine some 12 cm by 10 cm (we will check exactly if helpful) was published by the Irish authorities in two national broadsheet newspapers on Feb 20th , and a

page on a government Department’s website was indicated, which emphasised prominently the UK view there was no transboundary impacts but failed to equally prominently highlight the reasoning for the consultation, and the finding of non-compliance against the UK. See the link here: <https://www.housing.gov.ie/planning/other/transboundary-environmental-public-consultation-hinkley-point-c-nuclear-power-plant>

We can advise you further of several issues with the information provided on this website. This includes:

- The failure to provide access to the very important submission from the Austrian Government to the original Development Consent process of the UK Secretary of State. A link was listed but it was not actually populated with the Austrian submission. When you clicked on the link you got the Greenpeace submission which was also separately listed. I advised of this and other issues and these were corrected, but it was weeks into the consultation.
- We pushed for the acknowledgement of the gaps on the website so those revisiting it would be alerted – and finally this was done with the webpage stating:

“Indexing on this webpage was corrected on 29 March 2018 in respect of the following 4 documents:

1. Annex A to the Secretary of State HPC NGS Development Consent Decision Letter of 19 March 2013 – (incl. Appendices A, B, C & E
2. Appendix D to Annex A to the SoS HPC NGS Development Consent Decision Letter of 19 March 2013
3. Annex D to the SoS HPC NGS Development Consent Decision Letter of 19 March 2013
4. Correspondence sent to SoS by Austrian Government.”

Given the manner of presentation – many people to whom we spoke did not realise there was extensive documentation relating to the Development Consent granted, the consultation and the main elements of the EIS under the “title Documents” and saw only the links listed under this heading.

Links to other parts of Volume 2 of the Environmental Statement

Additionally, three whole pages of further information with the associated links were provided by the UK in their letter of July 28th 2017 and these were not listed and populated. So they were only evident if you opened and read the UK Government’s letter of July 28th 2017 to the Parties.

Additionally, by way of publication of the consultation on the websites of all Local Authorities (Local Government structure) a notice was included. However this notice was

not consistently located – and could be several pages deep on other news updates. Typically in Ireland a development has an associated physical site notice at the site of the development – which alerts the public to it. Clearly this wasn't feasible in the context of HPC. But few if any members of the public browse the news pages of Local Government webpages on the off chance there may be something of interest, and something more effective should have been done to ensure people were aware and public representatives also.

So in short – I think it fair to say the vast majority of the population were entirely unaware of the consultation for the most of its duration and some found out in the later stages when it wasn't feasible to engage in any meaningful way and at a time when their politicians weren't in the Oireachtas. This was very disappointing after all the effort to secure it.

We, ourselves did make efforts to publicise the consultation. We engaged with the national broadcaster and got an item on the main news programme on national radio on the day of the launch of the consultation. But as there was no decision imminent it was positioned as a very early item – just circa 7:10am, and finished well before 7.30am – so again many will have missed it. Also unfortunately the interviewer was confused as to the purpose or point of the consultation given the plant had got consent, and described it unhelpfully saying something like the boat has sailed on Hinkley Point C – meaning its too late to do anything. It was very difficult for Professor Sweeney to counter this in the timeframe remaining in the interview.

On the 14th of March we wrote to Mr Sheridan and subsequently to key Ministers and other officials as we had learned of 4 further consultations related to the UK's nuclear programme which were being conducted by the UK Government at the same time but on which the Irish public have not been notified and there was no consultation mechanism in process.

We expect these may well form the basis of future complaints, potentially some will be for your Committee and others perhaps the Aarhus Convention Compliance Committee and the EU Commission given the nature of compliances at issue. However, we will take the liberty of referring to them a little here, in as much as they dealt with proposals for the dumping of radioactive waste, including considerations for such dumping on the island of Ireland (the North of the island of Ireland remains annexed to the UK) – you will readily appreciate it did not seem to us that the issues could be separated from the consultation underway about the transboundary impacts of Hinkley Point C. In short if the UK was considering that the waste from HPC and all its legacy and new waste was to be ultimately transported across the sea to the island of Ireland, this was a significant transboundary matter. So there was a need to try and also grapple with what was proposed resulting a massive amount of data to process – with a tiny amount of resource. These consultations were due to conclude on the 15th of March, two on the 19th of April as and a further one on the 20th of April – so all closely on top of the Hinkley Consultation which concluded on April 17th. For clarity they were:

- NPS for Nuclear Power Above 1GW Single Reactor Capacity Beyond 2025: Siting Criteria & Process [here](#)¹ . Opened 7 Dec 2017 Closed 15th March 2018
- National Policy Statement For Geological Disposal Infrastructure - Implementing Geological Disposal [here](#)² Opened 25 Jan 2018 Closed 19 Apr 2018

¹ <https://beisgovuk.citizenspace.com/civil-nuclear-resilience/nps-new-nuclear-siting/>

² <https://beisgovuk.citizenspace.com/civil-nuclear-resilience/gdf-nps/>

- Working with Communities - Implementing Geological Disposal [here](#)³ Opened 25 Jan 2018 Closed 19 Apr 2018 conducted for England **and NI only (so considerations for engaging with communities willing to participate in siting of Geological Storage appears to extend to communities on the island of Ireland)**
- Welsh Government consultation on Geological disposal [here](#)⁴ closed 20th April 2018

One of the other consultations above related to siting criteria for 1GW single reactor capacity sites beyond 2025. Given the delay in rolling out the UK's new nuclear plants – (8 of which are proposed with 5 on the west coast of the UK facing Ireland) the UK authorities found they needed to revisit the National Policy Statement and associated Strategic Environmental Assessment, SEA as the period it governed is only up to 2025 and it therefore needs to be extended. It was particularly notable that will populations within the UK were considered in the siting criteria which were being consulted upon – there was no consideration for populations outside the UK even if they might actually be closer than those which were to be considered in the UK. The UK's view appears to be this step in the process is to early to trigger transboundary consultation – however they propose to roll forward the existing selection of sites and this stage is fundamental to the consideration of where sites will be located and to the potential for transboundary impacts. We have noted the UK has not ratified the SEA protocol which would cover early and effective consultation obligations when all options are opened – but it is a party to the Aarhus Convention and still subject to the EU environmental acquis and thus the SEA Directive.

While we appreciate that some of these consultations were at early stages and that various considerations outside of the Espoo Convention might need to be considered such as the SEA Protocol, the SEA Directive and the Aarhus Convention - we were informed in the responses received from the Irish focal point that none of these consultations involved SEA, which was actually entirely incorrect as the UK acknowledged clearly on its website the National Policy Statement for Geological Disposal in England – engaged SEA and the consultation included it. However they limited the consultation to Northern Ireland, Scotland and Wales and England. We also considered the parallel consultations with communities in NI and Wales were in fact clear alternatives to a waste site in England as the UK Government has made clear it only wants one site. When all of this was again pointed out to Mr Sheridan in fairness he conceded we may have a point. We welcomed this and urged for clarity on how consultation between our two nations was to work, particularly at early stages or where as in the NPS for the Geological disposal the UK disputes any transboundary impacts but we may disagree. But these procedural matters remain seriously unresolved in our view, particularly at a domestic or national level. The lack of clarity on the status and obligations in respect of the steps which the UK is undertaking, and the initial unsatisfactory response we received are of immense concern. We can provide this correspondence if of interest to the Committee but we don't wish to over-burden it at this juncture, and turn instead to detail on matters which we believe are without question relevant to its current considerations.

³ <https://beis.gov.uk.citizenspace.com/civil-nuclear-resilience/gdf-wwc/>

⁴ <https://beta.gov.wales/geological-disposal-radioactive-waste>

We will therefore address further correspondence to you in relation to these other consultations as appropriate. We simply wished to include reference to them here to show how compromised the consultation on HPC ended up being, as our efforts were so stretched in trying to assess what was proposed in these other consultations and also in ensuring we didn't miss an opportunity to engage on these and argued for consultation rights which were effectively being denied.

As part of our efforts to publicise the HPC and these other consultations (with very limited time and resources), we arranged to brief some local community groups (in the counties of Kilkenny, Wicklow and Louth – just 3 out of 26 counties. But given the timing of intervening public holidays and holiday periods this only happened in the very last weeks and only 3 counties could really organise in time. The shock and anger at these events was palpable. People were annoyed that didn't know about the consultation, and on what had transpired previously and what was now again in process. We also had people from Northern Ireland attend who were equally aggrieved. The consultations on Geological Disposal Facilities, (radioactive waste dumps) which were proposed to be underground or sea compounded the issue and which evidenced consideration of proposals to consider the island of Ireland was a particular concern , as did the UK's approach to siting criteria which excluded consideration of the proximity of our large population centres. It all made for a very, very overwhelming environment for people to try and engage in any meaningful way, what was just a tsunami of information.

Some of these individuals and groups wrote in their submissions complaining about the experience of the consultation, and/or to their public representative. We have been shown a response which was particularly unjust given the relevant authorities tried to rely on the small amount of publicity we had secured to indicate the consultation had in fact been well publicised. We can provide you with details of this if of use – but we don't want to burden you with unnecessary detail.

We also finally managed to get an opportunity to brief members of the Oireachtas (Parliament) on Thursday 24th March– at an event we organised. But as it was the very last day before the Oireachtas recess, and another major rally associated with the then upcoming abortion referendum was on, it was very poorly attended. However it resulted in a very good press article in the Irish Times, a National Newspaper, but it was only carried in the online edition and not the paper copy. Some other small articles were carried in other online journals.

However this briefing event precipitated a request by some of those Oireachtas Members who attended to request an extension from the Irish Government so their Joint Oireachtas committee could consider making a submission on their return from recess.

We then encouraged them to have a hearing to assist their considerations. On May 1st they heard from myself, Attracta Uí Bhroin, and Emeritus Professor John Sweeney, National University of Ireland Maynooth, and Emeritus Professor Steve Thomas from Greenwich University in the UK.

A link to the hearing is available at the link provided in the footnote⁵: (For some reason the video link is not available yet again.) Given the protocols in place for such a hearing we were significantly limited in what we could say, particularly in relation to Ireland's track-record regarding consultation on HPC and the rationale for same. Nonetheless, the Committee responded very positively and strongly. The subsequent very strong submission from this Joint Oireachtas Committee for Housing Planning and Local Government (HPLG) is provided in Annex II.

The Joint Oireachtas Committee for HPLG) includes a very clear statements expressing concerns about the inadequacies of the UK's approach and calls for a full Environmental Impact Assessment, stating as you will see from their brief submission the following:

“The Committee believes that it is essential that a full and thorough Environmental Impact Assessment be carried out in relation to the Hinkley Point C Power Plant development and recommends that an assessment is carried out without delay.”

We are delighted to say at the conclusion of my opening remarks to the Oireachtas Committee, we had an opportunity to put on record in our Parliament our appreciation of your Committee's role and actions and urged the Parliamentarians present to seize and leverage the further opportunity you had given them.

However subsequent to that hearing on May 1st, there was a different hearing for another Joint Oireachtas Committee, for Communications Climate Action and Environment on May 16th 2018. We believe this may be relevant to the Committee in considering the context in which any report on the consultation and Ireland's position on transboundary impact assessment requirements arises.

We learned of this further hearing about 1.5 hours before it happened. We won't burden the Committee with all of the concerns. But wish to highlight for your most particular attention and detailed consideration, a statement (Annex IV) and the presentation at the hearing versus the actual content of the Ministerial letter (Annex III) which was referred to and incompletely quoted from in the statement. The letter referred to was from an Irish Minister to UK authorities on 24 Jan 2011 , and which we have sent to you previously, but which we include again for your convenience in Annex III.

The central issue which arises for us is the policy position of the Irish Government at critical juncture on these matters, and currently, and how that is presented.

In summary:

- The Minister had in the letter of Jan 24th 2011 established that Ireland had residual concerns in respect of two matters both Sellafield and the nuclear expansion programme/new build programme, and had also expressed views on when it would be appropriate to consult given the nature of information available etc and how.

⁵https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_housing_planning_and_local_government/2018-05-01/debate/mul@/main.pdf

- The Minister’s letter speaks clearly of Ireland’s undecided position re transboundary impacts and speaks of outstanding concerns Ireland has. In particular in paragraphs 4-5 on page 2 and continued on to page 3 – he speaks of bilateral engagement which seems most obviously related to the concerns he raises over Sellafield, and which it might also be argued might encompass how the SEA process was to be addressed given it didn’t have the granularity of information necessary to address Ireland’s concerns. However the Minister also specifically concludes all of this with requesting to be consulted at the EIA stage.

- Having made such a request in respect of EIA consultation in relation to the new build, the Minister went on directly and concluded (page 3, second paragraph)

“ Having regard to these considerations, the Government of Ireland is of the view that the appropriate and most productive way forward would be to avail of the aforementioned mechanisms of consultation, rather than to seek a formal transboundary consultation at the Strategic Environmental Assessment level in this particular instance”

- However in the quotation of this on page 2, para 2 of the statement presented to the hearing – there is a full stop inserted after the word “consultation” and the last clause of the Minister’s statement above is deleted or omitted. (The last clause of the Minister’s statement is highlighted in pink above to be compared with green section above which is thus only partially quoted in the extract from the statement included below). (emphasis added)

“These matters were conveyed to the Government in a Memo of 17th January 2011 and the decision arising was that ‘the existing bilateral engagement, supported by on-going contact at Regulator level, was the most effective mechanism through which to raise and seek to have Irish concerns addressed’. This position was conveyed to the UK Government in a letter from the then Minister, Eamon O’Cuiv, to his counterpart on 24th January 2011. **The letter went on to say ‘Having regard to these considerations, the Government of Ireland is of the view that the appropriate and most productive way forward would be to avail of the aforementioned mechanisms of consultation, rather than to seek a formal trans-boundary consultation’.** This proposed way forward was accepted by the UK and remains the adopted position.

- We consider the failure to reflect in the statement to the Oireachtas Committee the Minister’s request for Irish officials to be fully and formally consulted at the EIA stage and his reference to Article 7 of the EIA Directive in that regard to be of serious issue. The Committee is invited to consider the transcript of the hearing (publicly available), and how it concerns and presents Ireland’s policy position. It is urged to consider how there are two separate matters dealt with in the Minister’s letter – one regarding the legacy programme and issues with Sellafield, the second being the new build programme. The Minister’s letter distinguishes on the different requirement and approach required for each of these with bilateral engagement for Sellafield, and formal consultation at the EIA stage for the new build. It is then invited to consider

closely then how these different approaches are presented in the Statement and hearing transcripts.

Our own view of the differences, has given us the gravest concerns. We note these are in the context of an explanation of Ireland's policy approach. We leave it to the Committee to consider the Minister's letter in full. We provide a full copy of the statement in Annex IV in the interests of fairness. But wish to highlight we have a number of other issues with it, which we won't burden the Committee with a detailed rehearsal of but for example the need for us to write to you last November and your letter of December 22nd are omitted and the letter refers only to the UK's letter of July of last year and then simply states "A consultation process was then initiated..." From our perspective this fails to fully appraise the Committee about how Ireland responded to the UK's offer of consultation last July, and the difficulties we encountered in securing our rights.

Further matters were presented in relation to a Government memo, and an implication of a decision arising and its relationship to the Ministerial letter referred to, and the current policy.

At that time we had a coalition Government, with the Green Party as the minority party. This was a particularly turbulent period for the Government and in fact the Green's withdrew from the coalition on the 23rd of January 2011⁶, consequent on other issues. Minister O'Cuiv assumed the portfolio of the previous Green Minister Gormley, and his letter to the UK Government issued on his first day in office, 24th January 2011. The transcript of the full hearing is here⁷

The Committee may wish to consider closely in the hearing transcript also the questioning from the Chair regarding the Minister's letter, the memo, meetings, the responses and the further information requested.

Just late today (2nd July 2018) we have finally been able to ascertain some of the additional requested information for the committee has been provided.

As acknowledged earlier the pursuit of some of the issues we have raised here is well beyond the scope of your committee and its inquiry. But it does we hope provide some perspective on the extent of our concerns and why we thus hope the determination will be there is a need for a full process under the convention.

In relation to the UK's perspective on transboundary impacts – we would simply highlight the significant deficits in its considerations which we have commented upon in our submission to it. In particular in screening for transboundary impacts – it relied on the Article 37 submission for Euratom, and we described in some detail the significant failings of that analysis in terms of

- the Gaussian modelling techniques employed which were entirely unsuitable for the site and situation and defunct by comparison with other more appropriate modelling techniques available;
- Issues with climate change assumptions and sea level rise and Flood risk assessment issues

⁶ <https://www.irishtimes.com/news/green-party-loses-patience-and-pulls-out-of-government-1.870545>

⁷

- Wind speed and characterisation for air transportation;
- Omission of Ireland (which is the nearest EEA state) from the severe accident scenario

Additionally we highlight a number of further considerations – including but not limited to recent seismic activity in the UK, taken together with record of apparent tsunami events in the UK, and increased seismic risk consequent on unconventional gas exploration licences granted in the vicinity of the plant. Nuclear Free Local Authorities also provided us with input in respect of concerns even under normal operating conditions. The outstanding issue of waste disposal and mining for fuel are also key to our transboundary concerns. In particular we also focus on the issues with the outstanding design and manufacturing issues and their relationship with the credit guarantees provided by the UK Government and the checkpoint on these in 2020 (we also include Prof Steve Thomas’s statement for further detail on this in Annex V) . We are concerned at how these may compromise the process – particularly given the extensive controversies associated with the design of the EPR system, the manufacturing issues at Creusot Forge, and the extensive delays with Flamanville III, and the lack of effective address of such issues by the UK’s regulatory authorities in our view – given issues with Creusot were known about as far back as 2005, and yet parts for HPC were ordered from Creusot at a time when the French Regulatory Authority ASN had banned use of Cresot for production of parts for French nuclear plants.

If these issues are unclear following a review of our Professor Thomas’s brief statement and our submission – we would be happy to address the committee with relevant experts further as necessary. The Oireachtas Committee to whom we presented at on May 1st. and which made a very strong submission which was to be sent to the UK authorities (included in Annex II) – provides a helpful summary of some of these matters – and more detail then is available in our submission which we have forwarded to you separately.

Just the nature and extent of pressure the UK regulatory authorities will be under particularly in the context of Brexit is a factor which must be considered in putting in place a very rigorous assessment procedure. The UK, we assume, is and will be anxious to build allies with France, and hence will be sensitive to any issue with EDF the main contractor for HPC, where the French Government is the primary shareholder. It will also want to be seen to be able to financially support and advance other new build projects like the Wylfa plant – which is important to the Japanese firm Hitachi involved in it, and thus potentially impact on the UK’s future trading arrangement with countries like Japan. In short we submit it is valid to be concerned – that political pressures may serve to compromise the future decisions to be made, and the public interest. Therefore a robust assessment procedure which clearly and properly identifies and mitigates against risks and has a proper decision process is critical.

We look forward to your Committee’s further findings and recommendations in relation to Hinkley Point C.

Yours sincerely

Attracta Uí Bhroin,

Facilitator of the Environmental Law Implementation Group at the IEN

Enc:



Annex I Correspondence with the Irish focal point, Mr Sheridan regarding the initiation and duration of the consultation in Ireland.

Annex II Submission made by the Joint Oireachtas Committee for Housing Planning & Local Government on Hinkley Point C – following their hearing of our evidence on May 1st 2018

Annex III Letter to UK officials from Minister O’Cuiv, dated 24 January 2011

Annex IV Mr Paul Mc Donald’s opening statement sent to another Joint Oireachtas Committee on Communications, Climate Change and Environment on May 16th 2018

Annex V Professor Stephen Thomas, Greenwich University – expert statement to the Joint Oireachtas Committee for Housing Planning & Local Government on Hinkley Point C – on May 1st 2018 as part of our delegation.