

Hinkley Point C, Nuclear Power Plant, Transboundary Consultation
Joint Oireachtas Committee Statement, May 1st 2018

Attracta Uí Bhroin,

Facilitator Environmental Law Implementation Group at the Irish Environmental Network

I wish here to set some overall context and some insight on our concerns on the approach adopted by the UK and Ireland to this project thus far, and to invite your further consideration on what may be appropriate as next steps as a consequence.

Hinkley Point C – is one of 8 new nuclear power plants proposed as part of the UK’s expansion of its nuclear programme, 5 of which are planned on the west coast of the UK, facing Ireland, The UK has of course pursued nuclear energy for many decades now, and a nuclear military programme.

Ireland has legislative bans on the production of nuclear energy reflecting its concerns on the risks and impacts of this technology. However we acknowledge the sovereign right of the UK to pursue its own energy mix. Equally, we acknowledge the UK and Ireland has obligations on such matters, and the public and Ireland have certain rights under EU and International Law.

Our concerns in relation to projects like Hinkley Point C – are not about panicking people, or causing unnecessary concern. It is about ensuring the legal rights of the Irish public are upheld - and ensuring we engage proactively and collectively do all that is necessary to ensure the health of our citizens, our environment, and our economic interests are best protected. That is in the context of our vigilance in respect of normal operations, avoidance and mitigation in relation to an accident or terrorist attack - be they minor or of catastrophic proportions, and appropriate preparedness.

To give some context to concerns arising: A 2016 ESRI report¹ – considered a scenario where there’s a nuclear incident but **no** radioactive contamination actually reaches Ireland. It still estimated the losses to our economy at €4 billion – including reputational impacts to tourism and the Agri-Food industry. It also conservatively estimated the “discounted economic loss to Ireland” from a serious nuclear event anywhere in North West Europe close to Ireland as “€161 Billion”. It refers to Agriculture as being “lost”. This is of course not just a major economic consideration – but one which would impact the very fabric of rural society in Ireland, even if the worst effects on the human population can somehow be avoided. In considering the impacts to people, a Radiological Protection Institute of Ireland, report² refers to mitigating the impacts of radioactive fallout by sheltering indoors. But it fails entirely to address the feasibility of that in the context of our having no covered water supply, and the overall state of readiness of our population. One only has to consider the recent disruption and hardship from Storm Emma and the Beast from the East to envisage the implications on people and livestock. But radioactive contamination doesn’t melt away like snow does in days. A further consideration is the extent of readiness of our services – as

¹ The Potential Economic Impact of a Nuclear Accident - An Irish Case Study, ESRI
<https://www.esri.ie/pubs/BKMNEXT313.pdf>

² Proposed Nuclear Power Plants in the UK, *Potential Radiological Implications for Ireland*, RPII
http://www.epa.ie/pubs/reports/radiation/RPII_Proposed_Nuc_Power_Plants_UK_13.pdf

we are not a nuclear state. The HSE for example has indicated to Government – it has virtually no capacity to deal with “any” nuclear incident.³

So what then are the applicable rights and obligations on such matters? They flow from two International Conventions of the United Nations Economic Commission for Europe, known generally as the Espoo⁴ and Aarhus⁵ Conventions, and associated protocols, and to which the UK, Ireland and the EU are all party. The EU has addressed these obligations in key Directives,

- One of these is typically referred to as the Strategic Environmental Assessment or SEA Directive⁶ is concerned with assessing high level plans and macro-level programmes – such as an overall energy programme.
- The second the Environmental Impact Assessment or EIA Directive⁷ is concerned with the consent and impact assessment of individual projects – like Hinkley Point C.

Ireland and the UK are required to implement these directives. Simplifying the transboundary obligations - the state where the project originates is required to determine if there are likely significant environmental effects on other countries, in what is referred to as a screening decision, and if so to consult accordingly. The consultations have to be considered as part of the decision making process. Alternatively, even if for example the UK determines there are no trans-national/boundary impacts – another state can require to be consulted regardless. This is in fact what Austria did in relation to Hinkley Point C – 5 years ago, when the UK was processing the consent required under the EIA Directive. Austria was proactive in asserting its rights, as the UK had made screening decisions which determined no transboundary impacts. The second screening relied in particular on the UK’s submission for Article 37 of the Euratom Treaty concerned with radioactive emissions and waste. Professor Sweeney will set out serious issues in relation to the analysis in that report, raising in our view serious questions about the adequacy of the UK’s assessment of impacts on Ireland and the complacency of Ireland in this regard.

I wish here only to add to his analysis at this point by highlighting – that

- Despite the screening statement acknowledging that Ireland was the nearest state to the plant – Ireland was entirely omitted from the consideration of the severe accident scenario examined in the Article 37 submission; and
- The additional risks associated with further fracking licenses from 2015 been not been considered in the context of earthquake and tsunami risks, to which Professor Sweeney will refer.

The UK’s transboundary screening decision determined: *“On the basis that licensing and monitoring conditions are effective, impacts will not be significant.”* – so reliance on the UK’s regulatory regime and bodies such as the Office of Nuclear Regulation, ONR to avoid accidents is absolute.

The Secretary of State’s decision agreed with this view, and in respect of concerns of the Austrian Government about the impacts on Austria in the event of an accident he replied:

³ <https://www.irishtimes.com/news/ireland/irish-news/hse-has-no-capacity-to-deal-with-nuclear-or-biological-incident-1.3363111> , January 22nd 2018

⁴ UNECE Convention on Environmental Impact Assessment in a Transboundary Context, 1991, “The Espoo Convention”

⁵ UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998, “The Aarhus Convention”

⁶ Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment

⁷ Directive 2011/92/EU, (codified) on the assessment of the effects of certain public and private projects on the environment”, amended by 2014/52/EU

“..such accidents are so unlikely to occur it would not be reasonable to “scope in” such an issue for environmental impact assessment purposes”. Thus making it clear – the environmental impact of accidents was **not** assessed as part of the original decision - as they were considered too unlikely.

Accidents however by their very nature are accidental – no one planned the events of Three Mile Island, Chernobyl or Fukushima Dacchi. The convergence of events resulting in the catastrophe of Fukushima and its relevance for further deficits in the UK’s approach are set out in an expert statement from John Large in Annex III of our submission to the UK Government in the Hinkley Consultation

However permission⁸ was granted to the plant back in 2013. Following intense legal arguments in various fora, finally the Irish public were consulted this year– some 5 years late and after further escalation given the failure of Ireland and the UK to ensure the Irish public were consulted alongside other nations last year in a remedial consultation exercise.

Yes the consultation is five years late, but it’s not too late, highlighting issues with the approach taken and the project is essential:

- As Ireland and the UK needs to consider appropriate next steps given the deficits in the impact assessment undertaken todate on Hinkley Point C under both the Espoo Convention and the EU EIA Directive; and the very real concerns in relation to impacts, and our level of preparedness. Your input and concerns on the steps and decisions will be absolutely critical as members of this committee.
- Professor Thomas’s statement will highlight serious project issues including technical design and manufacturing issues, spiralling costs and delays, and concerns on regulatory oversight. These are specific areas where we will now need to exercise particular vigilance, if proposed safeguards and assurances are not to be compromised given other extraordinary pressures to advance Hinkley Point C.
- Additionally, specific consideration is needed for new initiatives on the disposal of radioactive waste – which includes consideration of sites on the island of Ireland – in Northern Ireland. The issue and risks of onsite waste and geological disposal are intrinsically linked to the transboundary impact assessment of the Hinkley Project, and will be even more complex in the context of Brexit.

Key lessons also have to be learned and applied to Hinkley Point and other projects in terms of:

- Failures and experiences on the assessment of transboundary impacts, to ensure they are not repeated;
- The manner in which information flows to and is assessed in Ireland, and how notifications and consultations are addressed and conducted;
- Clarity on responsibilities and accountabilities across Irish Government Departments.

We look forward to considering these further with you following our further presentation of just some of the issues.

⁸ Development Consent under the EIA Directive – effectively planning permission.