

“Responsibility, Safety and Certainty – A New Consensus on Nuclear Waste Disposal”

Summary of the Final Report of the Commission to Review the Financing for the Phase-out of Nuclear Energy

On October 14, 2015, the Federal Government took a decision to appoint a commission tasked with reviewing financing for the nuclear energy phase-out (Kommission zur Überprüfung der Finanzierung des Kernenergieausstiegs: KFK). The official resolution states: *“It is the declared aim of the Federal Government to provide the technical and financial framework required now and in the long term to ensure the safe phase-out of operations at nuclear power plants, their decommissioning and dismantling and the temporary and final disposal of radioactive waste. In doing so, the Federal government operates on the principle that the costs are to be borne by the entity that caused them. [...] The Commission is requested by the Federal Government to assess how to set up financing for decommissioning and dismantling of nuclear power plants and nuclear waste disposal in such a way that the companies responsible will be financially capable of meeting their obligations arising from nuclear energy operations on a long-term basis.”* With submission of their report of April 27, 2016, the Commission has completed this task.

The current situation is marked by the economic difficulties experienced by nuclear power plant operators as well as by the financial risks involved for both the state and society. For example, operators could become insolvent, or try to minimize their liability for the disposal of nuclear waste by restructuring their operations. The Commission’s recommendations aim to reduce these risks. In turn, both operators and the public sense the need for action. The worst option for both sides would be to do nothing. Instead, it is very important to create more secure financing for disposal of radioactive waste and to uncouple this financing from the economic fate of operators in the long run. In its work, the Commission has abandoned both opposing models currently being discussed: on the one hand, setting up a private law foundation – inadmissible because it would release operators from liability to the detriment of society and would contradict the polluter-pays principle; and on the other hand, creating a public foundation with unlimited liability for operators, which would pose an inordinate financial burden on these companies.

Instead, the Commission has proposed a new approach to financing: from now on, the entity with obligations in the nuclear waste disposal chain should also be required to ensure funding. Combining operational obligations with financial responsibility is appropriate in this context, in view of coordinating control, responsibility and liability. Specifically, the responsibility for intermediate storage and final disposal of radioactive waste should be transferred to the state, as well as the necessary funds as security. The operators should still have the responsibility for the remaining tasks, in particular decom-

missioning and dismantling of nuclear power plants and packaging radioactive waste for intermediate storage, as well as for financing these tasks.

This means:

- The government shall be assigned the tasks of intermediate storage, creating containers of waste from reprocessing for final storage as well as transport from intermediate storage to the final repository. The funds necessary for securing financing, EUR 4.7 billion plus a risk surcharge, are also to be transferred to the government.
- Funds for selection, construction, operation and decommissioning of final repositories for nuclear waste will also be transferred to the government. This will amount to EUR 12.5 billion, plus a risk surcharge.
- Accordingly, EUR 17.2 billion are to be transferred. The risk surcharge of around 35% will close the gap between provisions and actual costs.
- This total financing amount of EUR 23.3 billion is to be paid into a new public fund. As operators progressively pay off the risk surcharge they will be released from liability.
- On the other hand, unlimited liability for dismantling, decommissioning and packaging still remains with the companies, as well as the opportunity for cost savings; the Act on extended liability for dismantling and disposal expenses will need to be amended to secure claims from this liability. Financial reporting of remaining provisions and those yet to be created should be more transparent, and consequently easier to verify. Officials should be granted the right to obtain information.
- Furthermore, the Commission recommends discarding the previous option between safe enclosure and immediate dismantling, and instead making immediate dismantling mandatory. Additionally, the Federal Government and the Länder should ensure that approvals for decommissioning and dismantling are granted more quickly and efficiently.
- Finally, the Commission recommends that nuclear power plant operators drop their claims in connection with nuclear waste disposal.

Combining operational obligations with financial responsibility will form the basis for a new consensus on radioactive waste disposal. This consensus could provide greater certainty, both for operators and for the public, and could put a final end to the controversial debate on the use of nuclear power.