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THINKING OF THE NUCLEAR OPTION? THE ROLE OF THE REGULATOR

Last month we gave an overview of the building blocks that a country needs before it can put in place an internationally accepted nuclear power programme. In summary, a country will go through three phases in developing its infrastructure (as defined by the International Atomic Energy Agency):

Phase 1: Considerations before a decision to launch a program is taken

Phase 2: Preparatory work for contracting and construction of a nuclear power plant

Phase 3: Implementation

The end of each phase is marked by the achievement of a milestone which essentially describes a state of readiness that the country has achieved. The whole process, from aspiration to commissioning, will take at least 15 years, and so, for countries which have elections, the commitment has to be an enduring one capable of outlasting what may eventually turn out to be several changes in administration. The IAEA also recognises some 19 infrastructure issues, many of which we listed last month, and so this month we will take a look at the first, and possibly most important of those – the nuclear regulator.

Many countries without a commercial nuclear power plant will in any case have some form of nuclear regulator, stemming from the country having a research reactor. That regulator will need to build up its capabilities to deal with the much wider range of issues that come with a civil nuclear programme involving power reactors many hundreds of times bigger.

The most important aspect of a regulator is that it should be “independent” – but what does this mean in reality? Certainly, it can’t be associated with the owner or operator of the nuclear plant. The main aim is to avoid conflicts of interest, or even perceived conflicts. It is generally recognised that it should be part of government, and, depending on the legislation which seeks to create it and give it its remit, will depend upon which government department sponsors it. This can also be contentious, in that the government department which a regulator reports into should not be the same one as the department which is responsible for developing the nuclear program, such as the Ministry of Energy.

One of the criticisms coming out of investigations into the Fukushima accident was that the nuclear regulator (Nuclear and Industrial Safety Agency) was indeed ultimately responsible to the same ministry (Ministry of Economy, Trade and Industry (METI)) which promoted nuclear policy – that has since changed with a new regulator created, the Nuclear Regulation Authority, NRA, now reporting to the Ministry of Economy.

The regulator plays a key part in enabling the nuclear programme to be introduced. It has to establish the relevant laws, regulations and guidance and it must also have the ability to enforce

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these. It doesn't do this blind, but can rely on guidance documents from the IAEA and others, and of course, engage the services of specialist consultants and law firms.

In addition to independence, the regulator also requires the necessary financial and human resources. As an organisation, the regulator doesn't just grow overnight, but has to develop and grow with the programme. Several newcomer countries rely on "importing" the required capability until they can train up and populate their staff tree with their own nationals. This can be expensive, but in relation to the whole cost of the programme, it will be relatively insignificant.

The role of the regulator means that it does not just enforce the legislation. It is also there to help build public trust in itself, acting as their advocate in many respects in challenging the developer. Some countries also have two regulators associated with nuclear, the second one being responsible for environmental matters. The range of matters both should deal with not only covers nuclear safety, including licensing, but also nuclear security and safeguards, and transport.

This has been a brief introduction to the role of the nuclear regulator. Readers may care to look at their own country's regulatory system and whether they have the following characteristics:

- 1) Are they truly independent? Do they report into a separate government department from the one which is responsible for nuclear policy?
- 2) Do they have adequate resources, both financial and human?
- 3) Are they open and transparent in dealing with the proponent?
- 4) In developing legislation and regulations, do they seek the views of the public as well as the more usual stakeholder?
- 5) Do they seek international peer review, e.g. by the IAEA, on their regulatory capability?

Next month we will take a look at how a nuclear programme may be financed.

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