

BELGIUM

Act Amending the Act of 22 July 1985 on Third Party Liability in the Field of Nuclear Energy

Adopted on 8 June 2000

Section 1

This Act regulates a matter governed by Article 78 of the Constitution.

Section 2

Section 4 of the Act of 22 July 1985 on Third Party Liability in the Field of Nuclear Energy is replaced by the following provision:

“Section 4: Where two or more nuclear installations, or a nuclear installation and any other installation where radioactive material is stored, are run by one operator and located on the same site, they shall be considered for the purposes of this Act as being one single nuclear installation.”

Section 3

Section 7 of that same Act is replaced by the following provision:

“Section 7: The maximum amount of damage caused by a single nuclear incident for which the operator is liable shall be 12 billion francs.

By order made in the Council of Ministers, the King may increase or reduce the figure established in the first sub-paragraph for one of the following reasons:

1. in order to keep its value constant in real terms;
2. to take account of the capacity and nature of the nuclear installations or the amounts of materials being transported;
3. to fulfil the international obligations of the Kingdom and the international recommendations which it receives from competent bodies pursuant to the Paris Convention.

The amount established pursuant to the second sub-paragraph may not be less than the minimum amount specified in Article 7(b) of the Paris Convention.”

Section 4

This Act will enter into force on the first day of the third month following the month of its publication in the *Moniteur belge*.

FRANCE AND RUSSIAN FEDERATION

Agreement between the Government of the French Republic and the Government of the Russian Federation on Third Party Liability for Nuclear Damage Caused in Connection with Deliveries from the French Republic for Nuclear Installations in the Russian Federation

The Government of the French Republic and the Government of the Russian Federation,

hereinafter referred to as “the Parties”,

- desiring to develop bilateral co-operation in the field of the peaceful uses of atomic energy and in particular in relation to the improvement of the nuclear and radiological safety of nuclear installations in the Russian Federation,
- seeking to regulate bilateral relations in this field, and in order to facilitate nuclear-related scientific, technical and industrial exchanges between the French Republic and the Russian Federation,

have agreed as follows:

Article I

1. this agreement shall govern issues of liability for nuclear damage in the event of a nuclear incident within the territory of the Russian Federation that results from deliveries from the French Republic to nuclear installations in the Russian Federation. The agreement shall only apply in cases where the competent authorities designated in paragraph (3) below have notified each other in writing of the deliveries in question. Once notification of the delivery in question has been received from the French competent authority, the Russian competent authority shall confirm in writing to the French competent authority and to the supplier in question the application of the provisions of this Agreement to the supplier in question. A model letter of confirmation is annexed to this Agreement.
2. in order to accomplish the purposes set out in this Agreement, the French Party shall endeavour to ensure that the deliveries are of high quality and satisfy the safety requirements that apply to the nuclear installation in question.
3. the competent authorities for this Agreement are:
 - (a) The French Ministry responsible for Energy for the French Party;
 - (b) The Ministry of Atomic Energy of the Russian Federation for Atomic Energy for the Russian Party.

Article II

For the purposes of this Agreement:

- (a) the expression “Vienna Convention” means the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963;
- (b) the term “delivery” means deliveries and provisions of all kinds, made by the supplier and concerning all or part of a nuclear installation, delivery of means of transport, including containers for the transport of radioactive materials, components, spare parts and other equipment and goods required for nuclear installations and means of transport, as well as the transfer of know-how and the provision of services for the construction, exportation, modernisation or dismantling of nuclear installations in the Russian Federation;
- (c) the term “supplier” means any natural or legal person with their domicile, headquarters or permanent residence in the French Republic, including their branch offices, companies in which they own participating interests and associated companies (subsidiaries, joint ventures) in France or abroad, as well as their sub-contractors, including their staff, that make deliveries of agreed quantities, ranges and quality to agreed deadlines to the recipient on the basis of this Agreement and in accordance with the national legislation of the Parties, except in those cases where the recipient is simultaneously the supplier;
- (d) the term “recipient” means a Russian national or a Russian legal person who receives a delivery in accordance with this Agreement and the legislation of the Russian Federation;
- (e) the expressions “nuclear incident”, “nuclear damage” and “nuclear installation” are to be understood as defined in the Vienna Convention.

Article III

1. The Russian Party shall bring no claims against the French Party or against suppliers on grounds of nuclear damage resulting from a nuclear incident which has taken place within the territory of the Russian Federation.
2. The Russian Party shall grant the French Party and the suppliers appropriate legal protection and shall exempt them from liability for damages in the event of claims by third parties on grounds of nuclear damage resulting from a nuclear incident which has taken place within the territory of the Russian Federation.
3. The Russian Party shall not exempt the French Party and suppliers from liability for damage pursuant to paragraphs (1) and (2) above if:
 - (a) the nuclear incident and the resulting nuclear damage can be attributed to deliberate action on the part of the French Party or the supplier;

- (b) the French Party and the suppliers have not immediately informed the Russian Party of the claims for compensation brought against them or of judicial action taken against them.
- 4. The obligations undertaken by the Russian Party pursuant to this Article shall remain in force regardless of any subsequent transfer of ownership of nuclear installations.
- 5. The provisions of the present Article shall not be interpreted as an obstacle to judicial proceedings or claims vis-à-vis nationals of the Russian Federation or persons with permanent residence in the Russian Federation.
- 6. This Article shall not prevent either Party from providing compensation in accordance with their respective national legislation.
- 7. The provisions of this Article shall not be interpreted as recognition of the jurisdiction of a court or any other authority outside the Russian Federation with respect to claims by third parties where paragraph (2) above applies, unless the Russian Party has undertaken to recognise and to enforce its decisions on the basis of international agreements to which the Russian Federation is a Party.

Nothing in this Article shall be understood as a renunciation by the Russian Federation of its immunity relating to possible claims against it by third parties.

- 8. As and when necessary, the Parties may hold consultations in connection with claims and judicial proceedings, which may arise under the terms of this Article.

Article IV

- 1. Any dispute arising between the Parties concerning the application and interpretation of this Agreement will be resolved by the Parties which shall commence consultations within one month after notification of one of the Parties.
- 2. If the consultations do not lead to the resolution of the dispute within three months, the Parties shall transfer the dispute to an ad-hoc arbitral tribunal pursuant to the Arbitration Rules of the UNCITRAL (United Nations Commission on International Trade Law). The result of the arbitral tribunal proceedings shall be binding for both Parties.

Article V

- 1. This Agreement shall be applied on a provisional basis from the date of signature thereof, and shall enter into force upon reception of the last written notification regarding the completion by the Parties of the internal governmental procedures necessary for its entry into force.
- 2. This Agreement shall cease to have effect upon the entry into force, for the Russian Federation, of an international treaty, to which the French Republic is a Party, establishing rules on third party liability for nuclear damage. The Russian Party will address an appropriate written notification thereof to the French Party.

3. Notwithstanding to the provisions of Paragraph 2 of the present Article, each Party may at any time notify the other Party in writing of its intention to terminate this Agreement. In such an event, this Agreement shall cease to have effect upon expiration of a period of twelve months from the date of reception of this notification by the other Party.
4. In the event of termination of this Agreement for the reasons set out in Paragraph 3 of this Article, this Agreement shall continue to apply to nuclear damage due to a nuclear incident caused by a delivery between a supplier and a recipient before termination of this Agreement.

Done in Paris on 20 June 2000 in duplicate in the French and Russian languages, both texts being equally authentic.

Annex to the Agreement between the Government of the French Republic and the Government of the Russian Federation on Third Party Liability for Nuclear Damage caused in connection with deliveries from the French Republic for Nuclear Installations in the Russian Federation

*Model Letter of Confirmation
(Headed paper of the supplier of equipment)*

Ministry of the Russian Federation for Atomic Energy
109 180 Moscow, Staromonetny per., 26

cc: French Ministry responsible for energy
(address)

Re: Exemption of suppliers of equipment and services for nuclear installations in the Russian Federation from liability for nuclear damage

Dear Sirs,

The Government of the Russian Federation and the Government of the French Republic on (date) concluded an Agreement on third party liability for nuclear damage caused in connection with deliveries from the French Republic for nuclear installations in the Russian Federation (hereinafter referred to as the "Agreement").

In accordance with Article III of the Agreement, the Government of the Russian Federation has agreed to provide appropriate legal protection to those suppliers notified by the French competent authority who make deliveries to nuclear installations in the Russian Federation, and to exempt them from liability claims by third parties in connection with nuclear damage resulting from a nuclear incident occurring within the territory of the Russian Federation.

We hereby inform you that (supplier's name) has concluded a delivery contract within the meaning of this Agreement with (recipient's name) of (date). Please find enclosed a copy of this contract.

Our understanding is that:

- (a) the supplier within the meaning of the Agreement shall be exempted from third party liability pursuant to Article III of the Agreement;
- (b) the Government of the Russian Federation has agreed that, with regard to its obligations to the supplier pursuant to Article III of the Agreement and in the event that bilateral consultations fail to resolve the dispute within three months, any dispute, difference or legal action arising in connection with the Agreement or this letter of confirmation, including questions related to their application, shall be finally resolved by an arbitral tribunal pursuant to the Arbitration Rules of the UNCITRAL. The appointing authority within the meaning of the UNCITRAL Arbitration Rules shall be the Arbitration Institute of Stockholm Chamber of Commerce in Sweden. The seat of the arbitral tribunal shall be Stockholm, Sweden. Unless the UNCITRAL Arbitration Rules provide for any specific procedure, the arbitral tribunal shall determine its own procedure;
- (c) the provisions of Article III of the Agreement relating to exemption from claims for damages are referred to in this letter of confirmation and are binding on (supplier's name) and the Government of the Russian Federation.

Please sign this document in the place indicated to confirm that the foregoing constitutes an agreement between us.

Yours faithfully,

Date:
(Authorised representative of the supplier)

ACCEPTED AND AGREED

Date:
(Authorised representative of the Ministry of the Russian Federation for Atomic Energy)

Enclosures:
Copy of the contract list of sub-contractors