



NUCLEAR LIABILITY LEGISLATION IN RUSSIA – CURRENT STATUS AND EXPECTED DEVELOPMENTS ¹

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1. INTRODUCTION

Present report is provided by the experts of the Russian insurance business, a company-member of the Russian Nuclear Pool, and not the experts of the Ministry of Atomic Energy of Russian Federation (RF Minatom). Considering the above, the following document will outline the current status of nuclear liability legislation and insurance in Russia from a viewpoint of the insurance companies and not RF Minatom.

Performing nuclear activities for more than 50 years in a country possessing of extremely rich natural resources, the Nuclear Industrial Complex of the Russian Federation provides various kinds of services within a nuclear fuel cycle. In brief, the Russian nuclear civil complex is comprised of 4 major components:

- Power generating facilities;
- Nuclear fuel cycle facilities;
- Nuclear fuel production facilities;
- R&D facilities.

Russia is one of the largest global manufacturers of nuclear materials and providers of services on enrichment and spent fuel processing. Nuclear industry is constantly under the strict supervision of the Government and is one of the most technologically advanced branches of the Russian industry.

In the beginning of April 2000, the Acting President of Russia, Mr. Vladimir Putin, chaired an extended meeting of the Russian Government officials with top managers of the nuclear complex. Press release stated that Russia will significantly increase power production at nuclear power plants and develop relevant technologies.

Nuclear power plants of Rosenergoatom Concern (29 reactor power units) were the first facilities in Russian Federation which have got the first NTPL policies of the East European Insurance Company PLC.

¹ *The views expressed in this report do not necessarily reflect the opinion of the Government of the Russian Federation, RF Minatom and RF Gosatomnadzor.*

NUCLEAR POWER REACTORS IN OPERATION

With an installed capacity of more than 20 GWe, the Russian Federation is the largest producer of nuclear power generated electricity of the three Former Soviet Republics having NPPs in operation. At present, there are 29 reactor units in operation and 18 new units under construction. In fact, there are 6 operational VVER-440-type reactors, 7 of VVER-1000 type, 11 of RBMK-1000 type and 4 of EGP-6 type.

The technical data for each Russian NPPs under operation are listed below (Tab. 1).

Table 1.

NPP	Unit Number (in operation)	Reactor type	Start of operation	Power (Mwe)
Beloyarsk NPP	3	BN-600	08Apr80	600
Bilibino NPDHP	1	EGP-6	12Jan74	12
	2	EGP-6	30Dec74	12
	3	EGP-6	22Dec75	12
	4	EGP-6	27Dec76	12
Kola NPP	1	VVER-440	29Jun73	440
	2	VVER-440	09Dec74	440
	3	VVER-440	24Mar81	440
	4	VVER-440	11Oct84	440
Kalinin NPP	1	VVER-1000	09May84	1000
	2	VVER-1000	03Dec86	1000
Balakovo NPP	1	VVER-1000	28Dec85	1000
	2	VVER-1000	08Oct87	1000
	3	VVER-1000	24Dec88	1000
	4	VVER-1000	12May93	1000
Kursk NPP	1	RBMK-1000	19Dec76	1000
	2	RBMK-1000	28Jan79	1000
	3	RBMK-1000	17Oct83	1000
	4	RBMK-1000	02Dec85	1000
Smolensk NPP	1	RBMK-1000	09Dec82	1000
	2	RBMK-1000	31May85	1000
	3	RBMK-1000	17Jan90	1000
Novovoronezh NPP	3	VVER-440	12Dec71	440
	4	VVER-440	28Dec72	440
	5	VVER-1000	31May80	1000
Leningrad NPP	1	RBMK-1000	21Dec73	1000
	2	RBMK-1000	11Jul75	1000
	4	RBMK-1000	09Feb81	1000

In the near future, the part of the above mentioned nuclear reactor units will be transferred to the new type of fuel – the so-called MOX-fuel. These plans are well known to the Western community. On the other hand, from a viewpoint of the nuclear operator, this kind of work will require a detailed analysis of the safety and the appropriate licensing to transfer the nuclear reactor units into the new operational mode. From a viewpoint of the insuring company, it will be also an interesting practice.

It should be noticed, that the nuclear fuel cycle facilities can also cause a nuclear damage similar to that of NPPs, and the NTPL for these enterprises is also in the Russian Nuclear Insurance Pool sphere of activity.

Present experience shows that the largest risks are typical for radiochemical plants reprocessing irradiated nuclear fuel, enterprises possessing technologies on plutonium production and transportation, as well as UF₆ production and reprocessing.

Summarizing the above, we consider the Russian nuclear complex to be a very interesting field of activity for the insurance business.

2. STATUS OF THE RUSSIAN NUCLEAR LIABILITY ACT ELABORATION

PRESENT STATUS OF INSURANCE ACTIVITIES

The Constitution of Russian Federation, the Civil Code and the Federal Law on the Use of Atomic Energy are the legal basis for elaboration of the Federal Law on Civil Liability for Nuclear Damage in the Russian Federation.

Elaboration of the Federal Law has started in accordance with the RF Government Statute # 34 dated 13.01.95., and were carried out by the Working Group enclosing the representatives of RF Minatom, RF Gosatomnadzor (State Nuclear Regulatory Authority), RF Ministry of Defense, RF Ministry of Finance, RF State Committee on Defense Industry. Consultation with the western experts including NEA OECD were carried out throughout the period of elaboration of the Law.

In August 1997, the First Governmental Draft Federal Law was submitted to the State Duma for adoption.

First Governmental Draft developed the provisions of Russian current legislation in respect of the obligatory indemnification of damage caused by a legal entity utilizing nuclear materials, nuclear energy and radioactive materials being a source of high danger. These provisions were based on the Civil Code and the Federal Law on the Use of Atomic Energy.

Moreover, the international regulations and norms including, in particular, the provisions of the Vienna Convention on Civil Liability for Nuclear Damage (1963), signed by the Russian Federation in May 1996 were enclosed in the First Governmental Draft.

The basic provision of the First Draft enclosed the following:

- Channeling of nuclear damage liability to nuclear operators, with legal limitation of the nuclear operator's financial liability;
- Nuclear operator's free choice of forms of financial liability provisions;
- Complete indemnification of nuclear damage by the state in cases stipulated by the legislation;
- Ceasing of operations related to application of nuclear materials, nuclear energy, and radioactive substances when the relevant state authority does not receive the guarantees of financial indemnification of nuclear damage;

- Indemnification of nuclear damage to physical and legal entities on voluntary basis or by decision of the court;
- Definition of the amounts and forms of nuclear damage indemnification as well as the court's decision on the consistency of such indemnification.

Simultaneously, following the initiative of several State Duma deputies, the analogous Duma Draft was under elaboration and consideration. –

In September 1998, both of the Drafts were considered by the State Duma in the first Hearing. Duma Draft was accepted to become the basis for the Federal Law, with incorporation of the Governmental Draft provisions.

Major differences of the accepted Draft Federal Law were the following:

- Provision (without detailed mechanism) on indemnification of the damage to the environment;
- Two-level financial provision of operator's civil and legal responsibility (first level – 5M USD – liability insurance; second level – the difference between the max liability limit and 5M USD – mutual insurance);
- Nuclear operator's exemption from the first level of liability when the RF Government provides the Guarantee of the State;
- Creation of the State Insurance Foundation for indemnification of nuclear damage with an aim to protect the life and health of the citizens as well as the property interests of physical and legal entities, and prevention and liquidation of radiation incidents consequences.

In October 1998, the State Duma formed the Working Group to review the comments and proposals on the Draft Law and preparation of the Draft Law for the second Hearing.

The President of the Russian Federation, RF Government, RF General Public Prosecutor Office, Legal Department of the RF Federal Council Office, Higher Arbitration Court, a number of the RF State Duma committees, legal and executive authorities of the RF Federal Entities have submitted 209 amendments to the RF State Duma on the Draft Federal Law on the Civil and Legal Liability for Nuclear Damage and its Financial Coverage.

The RF Government made RF Gosatomnadzor responsible for preparation of amendments to the Draft Law.

In April 1999, the State Duma Working Group has finished the review of all amendments, and started to prepare the text of the Federal Law for the second Hearing considering the accepted amendments.

At the next stage, the State Duma Working Group reviewing the comments and proposals for the Draft Law and preparing the Federal Law for the second Hearing will discuss the following issues:

- Two-level financial coverage of the civil and legal liability of the nuclear operator, or realization of the principle of free choice of the forms of financial liability coverage by the nuclear operators;
- Conditions and mechanism of the Guarantee of the State provision;

□ Advisability of creation of the State Insurance Fund for nuclear damage indemnification. Upon completion of the Working Group activities, the Draft Federal Law will be submitted to the State Duma for the second Hearing.

The second Hearing was planned for the end-November 1999, but was not carried out. The newly elected State Duma put this Federal Law in the list for consideration. Currently, we do not possess the evident information on when the second Hearing is going to happen.

3. INSURANCE OF NUCLEAR RISK

Despite of the above outlined provisions, the work on insurance of civil and legal liability in respect of the nuclear facilities is carried out in accordance with the provisions of the Federal Law on the Use of Atomic Energy (1995), and the RF Government Statute # 865 dated 14/07/1997 (concerning Regulations on licensing of activity in the field of the use of atomic energy).

Nowadays, RF Gosatomnadzor ensures the control over observance of provisions of the above Federal Law and the RF Government Statute in respect of the continuous financial guarantees for indemnification of nuclear damage as one of the sufficient conditions in the process of obtaining the RF Gosatomnadzor license for nuclear facility operation.

At present, to define the limits of liability the internal 1997 RF Ministry of Atomic Energy recommendations defining the minimum limit of indemnity for each individual nuclear facility in the amount of 5 Million IMF SDR are utilized as basic approach.

In 1997, 20 Russian largest insurance companies have formed the Russian Nuclear Insurance Pool (RNIP). The companies have elaborated the uniform insurance regulations, various financial documents stipulating the financial mechanism of indemnification, etc.

Following are the basic principles of the RNIP:

1. Insurance agreement shall be signed by the Leader-Company on behalf of the RNIP;
2. Co-insurance and united responsibility for performance of the obligations;
3. Uniform regulations and insurance tariffs;
4. Share of responsibility is proportional to declared (and approved) participant's own limit of indemnity;
5. Participant's Insurance premium share is proportional to the share of responsibility;
6. Payments of insurance indemnity are limited by participant's share of responsibility;
7. Insurance reservations structure is uniform for all RNIP participants.

By the end 1998, the RF Ministry of Finance has licensed the Insurance Regulations for Nuclear Operators Civil Liability, and up to now RNIP adopted complete set of documentation providing the mechanism of development, signing, payment of premium and indemnification in respect of the insurance agreement.

Presently, the RNIP summarized capacity amounts to 10M USD for each individual incident. In 1999, the insurance policies were issued in the name of 29 Russian NPPs (see above) and the nuclear fuel cycle and R&D facilities. In 1999, the overall cumulative limit of indemnity summarizing all separate Limits of Indemnity for each policy issued on behalf of RNIP was

about 27M USD. The nuclear facilities insured through RNIP include the well known RF Rosenergoatom nuclear power plants (all of them), Leningrad NPP, nuclear fuel cycle enterprises including PO MAYAK, Krasnoyarsk-26 Mining & Chemical Combine, Tomsk-7 Siberian Chemical Combine, as well as the federal nuclear centers.

4. CONCLUSION

The representatives of the world nuclear industry are closely connected to each other. For example, the uranium can be mined in Canada, the fuel – produced at BNFL facilities in UK, and the Australian NPP will work on that fuel. As to the nuclear legislation and considering this worldwide labor division, Russia can not be separated for a long time from this ongoing process. Therefore, being the representatives of the insurance company, we welcome the movement towards the international NTPL legislation. Besides, the potential possibility of acceptance of the above legislation will definitely lead to a necessity of strengthening the international co-operation in the field of nuclear liability and insurance.

References:

1. The RF Federal Law “On the Use of Atomic Energy” (21/10/95)
2. The Proceedings of International Seminar on Nuclear Damage Compensation and Nuclear Insurance (15-17/04/97. Moscow)
3. OECD NEA Materials on Nuclear Third Party Liability (OECD, Paris, 1990)