



РОСАТОМ

ГОСУДАРСТВЕННАЯ КОРПОРАЦИЯ ПО АТОМНОЙ ЭНЕРГИИ «РОСАТОМ»

## CIVIL LIABILITY FOR NUCLEAR DAMAGE IN THE LEGISLATION OF THE RUSSIAN FEDERATION

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## HISTORY: MAIN MILESTONES



- 1995 adoption of a Federal Law on the Use of Atomic Energy
- 1996 the Russian Federation signed the 1963 Vienna Convention on Civil Liability for Nuclear Damage
- 1996 1<sup>st</sup> draft Bill on Civil Liability for Nuclear Damage introduced in the State Duma
- 2005 the 1963 Vienna Convention on Civil Liability for Nuclear Damage enters into force for the Russian Federation
- 2012 a revised (3<sup>rd</sup>) draft Bill on Civil Liability for Nuclear Damage introduced in the State Duma

The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system.

If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied.

## NUCLEAR DAMAGE COVERAGE

### 1963 Vienna Convention

- loss of **life**, any personal **injury** or any loss of, or **damage to, property** which arises out of or results from the **radioactive properties** or a combination of radioactive properties with toxic, explosive or other hazardous properties of **nuclear fuel** or **radioactive products** or **waste in, or of nuclear material** coming from, originating in, or sent to, a **nuclear installation**

### Federal Law on the Use of Atomic Energy

- **harm** caused to the **life** and **health** of individuals and **other losses** caused to legal entities and individuals due to **exposure to radiation** or a combination of exposure to radiation and toxic, explosive or other hazardous forms of exposure
- harm caused to the **environment** by **exposure to radiation**

## Civil Code

Legal entities and individuals performing activities creating **increased danger** for the wider public (including atomic energy use) shall be liable for damage inflicted by a **source of increased danger** unless prove that damage results from force-majeure or intent of the injured person

## Federal Law on the Use of Atomic Energy

The **operating organisation** shall be liable for **losses and harm caused by exposure to radiation** in accordance with this Federal Law regardless of **whether the operating organisation is at fault**

## 1963 Vienna Convention

The **liability of the operator for nuclear damage is absolute.**

The **operator** of a **nuclear installation** shall be liable for **nuclear damage** upon proof that such damage **has been caused by a nuclear incident** in his **nuclear installation** or involving **nuclear material coming from or originating in his nuclear installation** ... and involving **nuclear material sent to his nuclear installation**...

## Federal Law on the Use of Atomic Energy

No special provision, but the wording and interpretation of articles 53 and 54 implies this rule.

## 1963 Vienna Convention

No person other than the operator shall be liable for nuclear damage.

## PRINCIPLES: FINANCIAL SECURITY

### 1963 Vienna Convention

The operator shall be required to maintain insurance or other financial security covering his liability for nuclear damage in such amount, of such type and in such terms as the Installation State shall specify.

### Federal Law on the Use of Atomic Energy

The operating organisation shall make financial provision for the liability limit (if any). The financial provision to be made by the operating organisation in the event of compensation for losses and harm caused by exposure to radiation is made up of the state guarantee or other guarantee, its own funds or insurance policy.

## PRINCIPLES: MINIMUM LIABILITY AMOUNT

### Civil Code

**Damage** inflicted upon a person or his property **is to be fully compensated** by the person who inflicted it, unless such person is able to prove that the occurrence of damage was not due to his fault

### 1963 Vienna Convention

The **liability** of the operator **may be limited** by the Installation State to not less than **US \$5 million** for any one nuclear incident

### Federal Law on the Use of Atomic Energy

The limits of the operating organisation's **shall be established** by the laws of the Russian Federation.

The **maximum levels** of liability in any one incident **shall not be greater than the amount established by the international agreements entered into** by the Russian Federation

## PRINCIPLES: LIABILITY LIMITED IN TIME

### Civil Code

General term – 3 years

### 1963 Vienna Convention

Rights of compensation shall be extinguished if an action is not brought within **ten** years from the date of the nuclear incident.

### Federal Law on the Use of Atomic Energy

**No time-limit** shall exist for filing claims for losses and harm caused to the **life** and **health** of individuals. The time-limit for filing claims for compensation for **losses** and **harm** shall be **three years** from the day when the person became aware, or ought to have become aware, that his right had been violated

## PRINCIPLES: NON-DISCRIMINATION

### Constitution

Foreign nationals and stateless persons shall enjoy in the Russian Federation the rights and bear the obligations of citizens of the Russian Federation, except for cases envisaged by the federal law or the international agreement of the Russian Federation

### 1963 Vienna Convention

This Convention and the national law applicable thereunder shall be applied without any discrimination based upon nationality, domicile or residence.

### Federal Law on the Use of Atomic Energy

The chapter of the Act dealing with nuclear liability refers legal entities and both citizens and individuals

## OPERATOR'S EXONERATION FROM LIABILITY

### 1963 Vienna Convention

- No liability shall attach to an operator directly due to an act of armed conflict, hostilities, civil war or insurrection grave natural disaster of an exceptional character.
- The operator shall not be liable for nuclear damage to the nuclear installation or to any property on the site and to the means of transport for the nuclear material.
- If the operator proves that the nuclear damage resulted from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage

### Federal Law on the Use of Atomic Energy

- The operating organisation shall be exempt from liability for losses and harm caused by exposure to radiation which arise as a result of force majeure, warfare or armed conflicts or by intent of the injured party.
- If the operating organisation proves that the aforementioned losses and harm were wholly or partly caused by intent of the person to whom the losses and harm were caused, the operating organisation shall be wholly or partly exempt from liability for compensating said person.

## STATE RESPONSIBILITY

### 1963 Vienna Convention

The Installation State shall ensure the payment of claims for compensation for nuclear damage which have been established against the operator by providing the necessary funds to the extent that the yield of insurance or other financial security is inadequate to satisfy such claims, but not in excess of the limit, if any, established pursuant to Article V.

### Federal Law on the Use of Atomic Energy

The Government of the Russian Federation shall pay amounts to compensate for losses and harm caused by exposure to radiation for which an operating organisation is liable to the extent that the losses and harm caused exceed the liability limits laid down in article 55 of this Federal Law for that operating organisation by granting the necessary amounts until the losses and harm have been fully compensated

# The Draft Federal Law «On Civil Liability for Damage and its Financial Provision»



NOW: Federal Law on the Use of  
Atomic Energy



After adoption of the Law on Civil  
Liability for Nuclear Damage

- The operating organisation shall be liable for losses and harm caused to legal entities and individuals by exposure to radiation
- Amount of liability of the operating organization (operator) is not limited
- Limitation of actions period:  
no limitation applies to claims for personal injury and loss of life; 3 years prescription period for claims regarding damage to property or environment)

- As a general rule the operation organization shall be liable for nuclear damage. The carrier of nuclear materials may be designated as an operating organization
- Operating organization's liability is limited to 4.5 million ruble equivalents cost of one gram of gold
- Prescription period – as per the 1963 Vienna Convention – 10 years after the nuclear incident (and 3 years from the date on which the person suffering nuclear damage had knowledge or should have had knowledge of the damage).

# The Draft Federal Law «On Civil Liability for Damage and its Financial Provision»



NOW: Federal Law on the Use of  
Atomic Energy

After adoption of the Law on Civil  
Liability for Nuclear Damage

- The operating organisation shall make financial provision for the liability in the form of:
  - 1)the state guarantee or other guarantee,
  - 2)its own funds or its insurance policy.
- Full or partial exoneration of operating organization from liability if loss or damage is caused by radiation exposure, results from force majeure, acts of war, armed conflict, the intent of the victim

- Financial security shall be maintained in the form of insurance
- Operating organization shall not be liable for nuclear damage resulting from:
  - armed conflict, hostilities, civil war or insurrection grave natural disaster of an exceptional character;
  - gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage;
  - damage to the nuclear installation or to any property on the site and to the means of transport for the nuclear material

# THE MOST «CONTROVERSIAL» ASPECTS OF THE BILL



## FINANCIAL SECURITY

**It was suggested that in addition to the insurance financial security may be provided by state guarantee.**

**The Ministry of Finance of the Russian Federation was reluctant to include state guarantee as a form of financial security under the Bill.**

Only Insurance

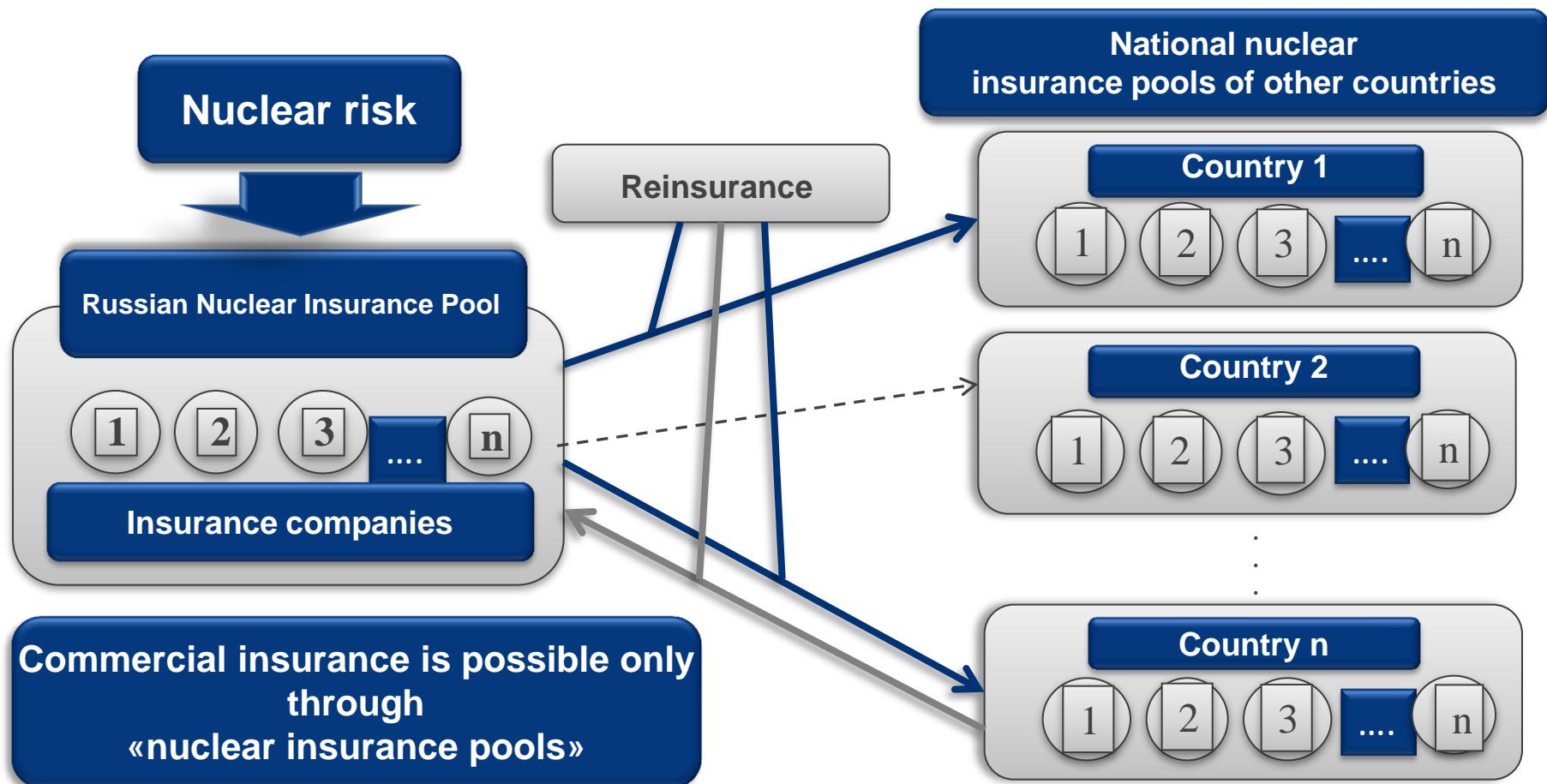
## STATE RESPONSIBILITY

**Currently the Federal Law on Atomic Energy Use provides for State participation in compensation for nuclear damage above the limits of the operating organization. The Government shall compensate such damage in full amount.**

**The Draft Law:** loss or damage in excess of the liability of the operating organization shall be reimbursed by the state in accordance with the legislation of the Russian Federation

Postponed Decision regarding Amount

# Russian Nuclear Insurance Pool



# Mutual Insurance Association (MIA)



Nuclear operators have a whole set of factors, allowing them to form a mutual insurance association to insure their risks of civil liability for nuclear damage.

MIA is created by legal (or physical) persons having common nature of the business or economic interests.  
MIA insures only specific risks common to the participants

The Law on Organization of Insurance Business in Russia  
The Law on Mutual Insurance  
The Law on Non-Profit Organizations  
The Civil Code of the Russian Federation

Legal basis for the creation of MIA:

✓ Mutual insurance association is a non - profit organization

✓ Member of the MIA is simultaneously the policy holder and the insurer

✓ Capital of the company is formed by the contributions of the participants

**THANK YOU  
FOR YOUR ATTENTION!**