

NUCLEAR
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Bulletin
number 2

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FOREWORD

The favourable response to the first issue of the Bulletin confirms the interest shown for an exchange of information between countries on legislation and case law in the field of nuclear energy. Following the numerous requests for the Bulletin, the Agency now envisages a paying annual subscription system which might help cover part of the cost of the Bulletin.

Most of the information and texts which have been published were supplied by experts who kindly agreed to continue to do so on a regular basis. We should like to express our sincere thanks to them for their co-operation.

Readers are invited to make any suggestions for improving the contents and layout of the Bulletin. They may also send the Agency Secretariat requests for information on nuclear legislation, which we hope to be able to satisfy whenever possible.



PROVISIONAL LIST OF CORRESPONDENTS TO
THE NUCLEAR LAW BULLETIN

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DENMARK	Mr. SPLETH, Judge, Supreme Court
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LEGISLATIVE AND REGULATORY ACTIVITIES

• *Belgium*

CARRIAGE OF RADIOACTIVE MATERIALS

Ministerial Order of 3rd November 1966 (Belgian Official Gazette of 18th July 1968)

The Ministerial Order dated 3rd November 1966, published on 18th July 1968 and supplemented by an Instruction from the Customs and Excise Administration dated 14th October 1968, lists the Belgian customs control points through which radioactive materials may be imported or admitted in transit, by road, rail, sea or inland waterway, or by air.

• *Denmark*

THIRD PARTY LIABILITY

The Danish Nuclear Installation Act of 16th May 1962 aimed at enabling Denmark to ratify the Paris Convention of 29th July 1960. After the adoption of the Brussels Supplementary Convention of 31st January 1963, the Vienna Convention of 21st May 1963 and the revision of the Paris and Supplementary Conventions through Additional Protocols of 28th January 1964, a legislative committee working in co-operation with representatives from Norway, Sweden and Finland undertook consideration of a revision of the 1962 Act with a view to enabling Denmark to ratify the Paris Convention as amended by the aforementioned Additional Protocol and - if appropriate - to ratify the Supplementary Convention and the Vienna Convention as well.

In May 1968 the Committee forwarded its report to the Danish Government. The Committee recommended that Denmark ratify the Paris Convention and the Supplementary Convention. For the time being, the Committee did not recommend the ratification by Denmark of the Vienna Convention. The Committee elaborated a draft Act which would allow ratification of the two former Conventions. In addition, it worked out a draft act presupposing the ratification of the Vienna Convention as well, showing how the differences between the Paris and the Vienna Conventions could be dealt with. Both drafts are the result of co-operation with the other Nordic representatives. They are based on the same concepts and subsequent ratification of the Vienna Convention will therefore not require substantial amendments to an Act based solely upon the Paris and Supplementary Conventions. It is expected that a Bill will be brought before the Folketing in the autumn of 1968.

The Danish draft presupposing only the ratification of the Paris Convention and the Supplementary Convention is very similar to the Swedish Act of 8th March 1968. The Norwegian draft Act mentioned in Nuclear Law Bulletin No. 1 differs in some more points because it aims at making it possible to ratify the Vienna Convention as well.

The following is a summary of the contents of the Danish draft which presupposes only the ratification of the first two Conventions. Reference is also made to the Swedish Act (hereinafter referred to as SA), and the Norwegian draft (hereinafter referred to as ND).

Section 1 contains definitions corresponding to SA Section 1 and ND Section 1. Whilst the definitions of the 1962 Act were based exclusively upon those of the Paris Convention, the draft takes up some definitions from the Vienna Convention as well, especially the definitions of "nuclear damage" and "nuclear incident". Moreover, damage caused by any other ionizing radiation emitted by any source of radiation inside a nuclear installation is included as nuclear damage and will be compensated as such. It may be mentioned that, in the draft, the exception concerning radioisotopes is not made from the definition of radioactive products - as in the Paris Convention - but from the definition of nuclear substances. This does not, however, make any difference in substance. It is expressly stipulated that the exception covers only radioisotopes having reached the final stage of fabrication. Nuclear reactors comprised in a means of transport are not excepted from the definition of nuclear installations; nevertheless, under Section 10 reactors used as a source of power in a means of transport are excepted from the provisions concerning compensation. In this respect, the draft is in conformity with ND Sections 1 and 49, whilst SA makes the exception in the definition.

Section 2 gives the Minister the power to make exceptions according to Article 1(b) of the Paris Convention (SA Section 2, ND Section 2).

Section 3 empowers the Minister to consider two or more installations on the same site and belonging to the same undertaking as a single nuclear installation (SA Section 3, ND Section 3).

Sections 4 to 9 contain provisions regarding the right to operate nuclear installations. These are unaltered from the 1962 Act. It may be mentioned that Section 9 will make it possible to adopt administrative provisions governing compensation for nuclear damage caused by nuclear ships in Danish territorial waters (ND Section 49). Use was made of this authorisation on the occasion of the visit of n/s Savannah (No. 243 of 29th July 1964).

Section 10 has been mentioned above.

Section 11 governs the territorial scope of the draft Act. It is in substance unaltered from the 1962 Act. Nuclear damage caused by an incident in a non-Contracting State is not covered. Nor is damage suffered in such State covered, except where the incident has occurred in Denmark and a Danish operator is liable. Such damage may, however, be excluded by administrative regulation, if the non-Contracting State does not offer equal compensation for nuclear damage suffered in Denmark. As for operators in other Contracting Parties, the law of the Installation State concerning the territorial limits will apply. (SA Section 3, ND Section 20). It may be pointed out that damage falling within the territorial limits of the draft Act will only be compensated according to the provisions therein where jurisdiction over actions concerning damage lies with Danish courts (see Section 40).

Under Section 12, the Minister may direct that a non-Contracting State shall be dealt with - partly or wholly - as a Contracting Party as far as the provisions on compensation are concerned. Such rights will, of course, be given only with respect to the obligations of the Paris Convention. This is stipulated in SA Section 4 (ND Section 21).

Section 13 provides for the liability of the operator for damage caused by a nuclear incident in his installation. An exception is made, pursuant to Article 5(b) of the Paris Convention, when the incident involves only nuclear substances stored therein incidentally to their carriage. It is presupposed that this will not exclude the liability of the operator of the installation where such liability has been assumed by him according to the express terms of a contract in writing. In SA Section 5 this case has been specifically mentioned. ND Section 22 will, on the other hand, only exclude the liability of the operator of the installation where the storage takes place, if another operator is liable according to a contract in writing.

Sections 14-15 contain provisions concerning liability for nuclear incidents occurring in the course of carriage, in accordance with Article 4 of the Paris Convention (SA Sections 6-7, ND Section 23).

The Danish draft contains a special provision according to which the Minister may decide in which cases and on what conditions Danish operators shall or may make special agreements concerning transfer of liability. It may be decided that a Danish operator may not take over liability for nuclear substances sent from an operator in another Contracting Party, until the substances have left the territory of the other Contracting Party.

Section 15 also deals with liability for carriage of nuclear substances through Denmark which are not covered by the Paris Convention. For nuclear damage caused by nuclear substances during such carriage the person authorised to carry the substances shall be liable, and he shall, for the purposes of the provisions on compensation, be considered as an operator of an installation in Denmark. SA Section 7 contains a similar provision, whilst ND Section 23 establishes different rules.

According to Section 16, the provisions governing carriage of nuclear substances shall also apply to storage incidental to their carriage (SA Section 8, ND Section 23).

Section 17 contains provisions dealing with nuclear incidents occurring outside a nuclear installation in cases not governed by the provisions concerning carriage. In conformity with Article 5(c) of the Paris Convention, it is provided that the operator who had the substances in charge at the time of the nuclear incident or - if the substances were not in the charge of any operator at that time - the last operator who had them in charge before the incident, shall be liable. In cases where the substances were in the course of carriage before the incident and had not been taken in charge by another operator after the interruption of the carriage, it is provided that the operator who was liable at the time of the interruption of the carriage shall be liable for damage caused by the incident (SA Section 9, ND Section 24).

Section 18 contains provisions concerning the taking over of liability by a carrier in conformity with Article 4(d) of the Paris Convention (SA Section 10, ND Section 25).

Section 19 provides that the liability of the operator shall be absolute, with the exceptions mentioned in Article 9 of the Paris Convention; damage caused by an incident directly due to a grave natural disaster of an exceptional character is also excluded (SA Section 11, ND Section 26). In this respect the draft differs from the 1962 Act. Furthermore, under the 1962 Act common law applies where the operator is not liable in application of this exception. The present draft, however, provides that only an individual who has caused the damage with intent to cause damage shall be liable (Section 22, subsection 2; SA Section 14, ND Section 29).

Section 20 contains provisions concerning damage to the nuclear installation itself or to property on its site which is used or intended to be used in connection with the installation, and provisions concerning damage to the means of transport upon which the nuclear substances were at the time of the nuclear incident. Under the 1962 Act both damage to the installation and damage to the means of transport are excluded. The draft, however, only excludes damage to the installation etc., but includes - as far as Danish operators are concerned - damage to the means of transport. The inclusion of damage to the means of transport cannot reduce compensation for other damage to less than an amount equal to 5 million EMA u/a. Where an operator of another Contracting Party

is liable, the legislation of the Installation State will decide whether damage to the means of transport shall be covered. SA Section 12 and ND Section 27 differ in wording but not in substance. In particular, they do not mention that Swedish, or Norwegian, operators shall be liable for damage to the means of transport, but this results from the mere fact that such damage is not excepted. Provision for the earmarking of 5 million EMA u/a to cover damage other than damage to the means of transport are made in SA Section 17 and ND Section 32.

Under the 1962 Act common law applies where the operator is not liable according to the provisions just mentioned. The draft excludes the liability of other persons under common law, except for individuals having caused the damage with intent to cause damage. Where a foreign operator is not liable for damage to the means of transport according to the legislation of the Installation State he shall, nevertheless, be liable under ordinary rules of compensation (Section 22, subsection 2; SA Section 14, ND Section 29).

Section 21 provides that compensation may be reduced or disallowed on account of fault on the part of the victim, unless the contributory negligence is only slight. Under SA Section 13 and ND Section 28 full compensation shall be paid unless there has been gross negligence by the victim.

Section 22 excludes the liability of persons other than the operator liable. Where the operator is dead or the operation of the installation has ceased, the claim may be directed against the insurer. SA Section 14 and ND Section 29 do not contain the last provision, as they have general provisions concerning direct action against the insurer (SA Section 24, ND Section 39).

Subsection 3 of the same Section reserves the rights provided for in international agreements in the field of transport. SA Section 14 and ND Section 29 make - besides this reservation - a similar reservation concerning national legislation founded on such agreement (see reservation 2 to the Paris Convention).

Section 23 provides for the rights of subrogation mentioned in Article 6(d) and (e) of the Paris Convention (SA Section 15, ND Section 30).

Section 24 contains provisions in conformity with Article 3(b) of the Paris Convention (SA Section 16, ND Section 31).

Section 25 establishes the maximum liability of Danish operators for damage caused by a single nuclear incident at 75 million Danish Crowns (approximately 10 million EMA u/a). The corresponding amounts in SA Section 17 and ND Section 32 are 50 million Swedish Crowns and 70 million Norwegian Crowns, respectively. In special cases, a different maximum amount may be established, taking into account the scope and nature of the installation, the extent of carriage covered by the liability and any other relevant circumstances.

This draft and ND do not contain any restrictions concerning personal damage, whilst SA restricts compensation for personal injury or death to 1 million Swedish Crowns.

Section 26 provides for the liability of operators of different nuclear installations involved in a single nuclear incident, according

to Article 5(d) of the Paris Convention. As between the operators, liability shall be divided having regard to their share in the damage and other circumstances (SA Section 18, ND Section 33).

Where the total nuclear damage caused by a single nuclear incident exceeds the maximum amount established for the operator, Section 27 provides that compensation shall be reduced by the same fraction. Where it is anticipated that reduction will be necessary, the Minister may decide that, for the time being, only a specified fraction may be paid (SA Section 19, ND Section 34). It is foreseen that in this case supplementary legislative steps may be necessary. ND draft empowers the Minister to give priority to personal injury over other damage. Such a provision is not contained in SA or the Danish draft.

Section 28 provides for a right of recourse by the operator against an individual who has caused the damage with intent to cause damage or where this right is recognised according to an express provision of a contract (SA Section 20, ND Section 35).

Section 29 contains provisions concerning limitation in time. Claims for compensation will be statute-barred pursuant to the Act of 22nd December 1908, the provisions of which are in conformity with Article 8(c) of the Paris Convention. The period of limitation of that Act is five years, but for nuclear damage this is reduced to three years. The period may be interrupted by the victim only if he brings legal proceedings against the operator. As concerns claims against the operator under Article 6(d) and (e) of the Paris Convention it is stipulated that the period of limitation shall be reckoned from the time when the beneficiary, by exercising usual care, should have brought legal proceedings against the operator.

Furthermore, a period of extinction of ten years from the date of the nuclear incident is established pursuant to Article 8(a) and (b) of the Paris Convention. Provisions with respect to prolongation of the periods provided for under Article 8(d) of the Paris Convention have also been included.

The draft is in conformity with ND Section 36. SA provides for interruption of the shorter period by merely notifying the claim to the operator liable. SA leaves the problem of extension of the periods provided for under Article 8(d) to administrative regulation.

It is not felt necessary to make a special provision concerning Article 8(e) of the Paris Convention. Danish law is in conformity with the provisions of that Article.

Sections 30 to 33 make provision concerning insurance or other financial security. These provisions are substantially shorter than the corresponding provisions of SA Sections 22 to 27 and ND Sections 37 to 39 and are to be completed by administrative regulations. The insurance or other financial security is to be approved by the Minister. Insurance taken out on a per installation basis for a given period may also be approved. Contrary to SA Section 24 and ND Section 39, direct action against the insurer is not envisaged, but this question is likely to be reconsidered by the Government.

Section 34 makes certain provisions concerning State guarantee. Where the insurance or other financial security of the operator has

proved to be insufficient, the State is obliged to pay compensation to the victims and other persons who may claim compensation from the operator, but not above the limit established according to Section 25. In such cases the State has a right of recourse pursuant to Section 39. Compensation under this Section will not be given for nuclear damage caused under circumstances mentioned in Section 19 (acts of war etc.); see Section 37. The draft is in conformity with SA Sections 28 and 34. ND Section 40 only gives a right against the State when the victim has not been able to obtain compensation from the operator or the insurer.

Sections 35 and 36 contain provisions on compensation pursuant to the Brussels Supplementary Convention. It is specifically provided that persons having their habitual residence in Denmark shall be treated as Danish nationals in application of Article 2(b) of the Supplementary Convention. ND Section 41 contains a similar provision, whilst such provision has not been included in SA. Where the total amount of compensation cannot be covered by the 120 million EMA u/a provided for in the Convention, proportional decreases shall be made in the same way as mentioned in Section 27 (SA Sections 29-31, ND Sections 41-42). In this connection it may be mentioned that SA Section 33 contains a provision according to which supplementary compensation may be given for damage suffered in Sweden which is not covered by the Supplementary Convention. ND and the Danish draft do not contain a corresponding provision.

Section 38 provides for compensation from the State where the claim against the operator is extinguished pursuant to the ten-year limit of Section 29. Such compensation shall be made only where there is a reason for not having brought the action before extinction of the claim. Claims against the State will also be statute-barred pursuant to the Act of 22nd December 1908. They will be extinguished at least 30 years after the nuclear incident that caused the damage. The right against the State is given only where a Danish operator is liable. It is also a condition that the damage must have been suffered in Danish territory, but the Minister may direct that such compensation shall also be given to cover damage suffered outside Danish territory. It is expected that such widening of the territorial scope will be granted on the basis of reciprocity. Where other corresponding claims have been reduced on account of the limits established in Sections 27 or 36, compensation under this Section shall be reduced accordingly. Very similar provisions are made in SA Section 32 and ND 43.

Section 39 makes provision concerning recourse for amounts paid by the State. Such recourse is generally given against individuals who have acted with intent to cause damage. Where the State has covered the liability of the operator according to Section 34, the State will also have recourse against insurers or other guarantors who have assumed liability etc. The State will only have a right of recourse against the operator himself where he has not taken out and maintained duly approved insurance or other financial security, or where the security has proved unsound. Where the State has approved insurance which does not fully cover the liability of the operator, e.g. because it is granted on a per installation basis, or on account of the extension of the period of extinction provided for in Article 8(b) of the Paris Convention, the State will have no right of recourse against the operator for what it has had to pay outside the insurance cover. This restriction of the right of recourse against the operator is not found in SA Section 36. In other respects SA and ND Sections 40 and 43 are very similar to the Danish draft.

Section 40 makes provisions with respect to the jurisdiction of Danish courts in actions under Sections 13-17 or 23. An action may be brought in this country (a) where the nuclear incident has occurred wholly or partly in Danish territory or (b) where the claim is directed against a Danish operator, and the incident has occurred entirely outside the territory of any Contracting Party or the place of the incident cannot be established with certainty. As these provisions will lead to Danish jurisdiction in some cases where the Tribunal mentioned in Article 17 of the Paris Convention may decide that actions shall be brought in some other Contracting Party, it is laid down that as a consequence of such a decision jurisdiction shall no longer lie with Danish courts.

Similar provisions are made in SA Section 36, whilst ND Section 46 has been drafted in a different way. Contrary to SA Section 37 and ND Section 47, the Danish draft contains no special provisions about local jurisdiction in Denmark.

Sections 42 and 43 contain provisions about enforcement of foreign judgments and about certificates in conformity with Articles 13(d) and 4(c) of the Paris Convention (SA Sections 38 and 39, ND Sections 48 and 18).

The final Sections of the draft deal with relations with other legislation, penal provisions and final provisions. It may be mentioned that a person employed at a nuclear installation and covered by industrial insurance taken out by the operator liable is entitled to compensation under the Act only in so far as his loss is not covered by the insurance. The insurer has no right of recourse against the operator (Section 43). Other persons covered by such insurance and their insurers are fully entitled to claim compensation from the operator.

● *France*

THIRD PARTY LIABILITY

Act No. 65-956 of 12th November 1965, on the third party liability of operators of nuclear ships, is the subject of an amending Bill now before Parliament.

This Bill aims at dealing with two questions.

The first is the desire to claim the benefit, should a foreign nuclear ship enter French territorial waters, and in the absence of special agreement with the State whose flag she flies, of the maximum amount of liability on the part of the foreign nuclear operator under the law of the flag. The second concern of the draftsman is to harmonise the provisions of the "maritime" Act of 12th November 1965 with those of the new Act No. 68-943 of 30th October 1968 on third party liability in the field of nuclear energy.

The text of the Act on the third party liability of operators of nuclear ships, including the changes introduced by the amending Act, will be published, after the latter comes into force, in the Nuclear Law Bulletin.

Act No. 68-943 of 30th October 1968 /Official Gazette of 31st October 1968/

Section 21 of Act No. 68-943 of 30th October 1968 on third party liability in the field of nuclear energy, provides that it will not come into force until after publication of the Paris Convention of 29th July 1960, which is expected to take place very shortly.

The full text of this Act is reproduced under the heading "texts" in this issue of the Nuclear Law Bulletin/

RADIATION PROTECTION

Orders of the Minister for Social Affairs of 18th, 19th, 20th, 22nd, 23rd and 24th April 1968 /Official Gazette of 8th June 1968/

These six Orders were made by the Minister for Social Affairs during April 1968, pursuant to Decree No. 67-228 of 15th March 1967, on protection of workers against ionizing radiations.

The first such Order, dated 18th April 1968, grants approval for the control methods evolved by the Central Service for Protection against Radiation pursuant to the Decree of 15th March 1967; it lays down the methods to be used, in principle, for carrying out checks in regard to sealed or unsealed sources, installations or electrical equipment generating ionizing radiations and their protective devices, and for monitoring the environment.

The second, dated 19th April 1968, lays down conditions for use of personal dosimeters intended for monitoring the dose equivalents received by workers directly employed on work in the presence of radiation and exposed to external radiation risks, as prescribed by the Decree of 15th March 1967; this text requires, inter alia, the wearing of film badges by all workers directly employed on work in the presence of radiation.

The third Order, dated 20th April 1968, determines the frequency of checks on sealed sources, installations and electrical equipment generating ionizing radiations and their protective devices, as provided in the Decree of 15th March 1967; such checks must be carried out once a year for sealed sources and every two or three years for electrical equipment generating ionizing radiations, according to whether the installations are mobile or fixed.

The fourth Order, dated 22nd April 1968, lays down the conditions and procedures for approval of the bodies empowered to carry out the checks prescribed by Chapter 2 of Title 2 of the Decree of 15th March 1967; the Central Service for Protection against Ionizing Radiations (S.C.P.R.I.) is henceforth empowered to carry out such checks.

The fifth Order, dated 23rd April 1968, approves the recommendations to doctors responsible for carrying out medical surveillance as provided by the Decree of 15th March 1967; these recommendations specify the method of carrying out medical examinations (both general clinical examinations and X-ray lung examinations or other

special tests) and of interpreting the results (grading of personnel as unsuitable, and placing under observation).

The last of these Orders, dated 24th April 1968, provides derogations from certain provisions of the abovementioned Decree in favour of the Atomic Energy Commission; these relate in particular to administrative formalities and to the storage of radiation sources. The Radiation Protection Service (S.P.R.) at each centre is entrusted with the duty of marking out controlled areas and carrying out checks, which normally would be within the province of approved outside bodies.

Order by the Minister of the State responsible for Social Affairs of 7th November 1968 /Official Gazette of 10th November 1968/

This Order amends certain provisions of the Order of 10th November 1967, on the professional qualifications of physicians who may be authorised to use artificial radioelements in unsealed sources for medical purposes, details of which were given in the previous issue of the Nuclear Law Bulletin.

In particular, by way of derogation from the Order of 10th November 1967, certain limited authorisations may be given by the Minister of State responsible for Social Affairs, for specific uses of a restricted nature requiring activity not exceeding 5 microcuries for any one medical examination, to Doctors of Medicine having spent a period of training, either in a service for functional exploration by the use of radioactive isotopes, or in the Central Service for Protection against Ionizing Radiation.

ATOMIC ENERGY COMMISSION

Decree No. 68-852 of 25th September 1968 introducing changes in membership of the Atomic Energy Committee /Official Gazette of 3rd October 1968/

This Decree, which amends Article 2 of the Ordinance of 18th October 1945, as worded following the Decrees of 3rd January 1951 and 14th December 1956, raises from four to five the number of persons qualified to be members of the Atomic Energy Committee by reasons of their accomplishments in the scientific and industrial fields, and from three to five the number of senior officials selected by the Prime Minister to be members of the Committee.

As a result of this amendment, the membership of the Atomic Energy Committee is as follows: one Administrator-General, Delegate of the Government; five persons qualified to sit by reason of their accomplishments in science or industry, one of whom acts as High Commissioner; one person of note chosen by the Prime Minister on the proposal of the Minister of the Armed Forces; the Director of the National Centre for Scientific Research; five senior officials chosen by the Prime Minister. It will be recalled that the Atomic Energy Committee, which is presided over by the Prime Minister or by a Minister or Secretary of State delegated by him, and them failing, by the Administrator-General, is the Committee which administers the Atomic Energy Commission in accordance with the directives of the Government.

Order dated 12th October 1968 introducing changes in membership of the Financial Committee attached to the Atomic Energy Commission /Official Gazette, 13th October 1968/

This Order, which amends the Order of 28th November 1962 setting up the Committee, makes a slight change in its membership. Two persons chosen for their qualifications, appointed by the Minister responsible for atomic questions, will be members of the Committee instead of the Chairman and a member of the Commission's Industrial Equipment Committee.

The Financial Committee will henceforth consist of the following:

- The Administrator-General, Government Delegate to the Atomic Energy Commission, Chairman;
- The Secretary General of the Government, Vice-Chairman;
- The Director of the Budget or his representative;
- The Director of the Treasury or his representative;
- The Head of the Audit Board of the Atomic Energy Commission;
- The Chairman of the Consultative Committee on contracts of the Atomic Energy Commission;
- Two persons chosen for their qualifications, appointed by the Minister responsible for atomic questions.

The Financial Committee is the body responsible for examining all questions relating to the general policy of the Atomic Energy Commission in financial matters.

● *Germany*

GENERAL NUCLEAR LEGISLATION

Act on statutory offences (OWIG), revised version dated 24th May 1968; /Legal Gazette of the Federal Republic of Germany, I, No.33 of 30th May 1968/

Certain provisions of the Atomic Energy Act of 23rd December 1959 are amended as from 1st October 1968, as a result of the coming into force of a revised version of the Act on statutory offences (OWIG). The amendments to the Atomic Energy Act mainly concern the provisions of Section 46 (offences contravening the system of licensing, the rules as to financial guarantees, and immediately enforceable orders), and of Section 49 (confiscation). In addition Section 50 (compensation for confiscated property not belonging to persons prosecuted for an offence) is repealed.

RADIATION PROTECTION

Radioluminous timepieces

The German Parliament is expected to pass during the present session a Law ratifying the Decision of the O.E.C.D. Council on the adoption of radiation protection standards for radioluminous timepieces. In accordance with Constitutional Law, the Federal Government must ratify the Decision before it can be enforced in the Federal Republic⁽¹⁾. The Ratification Bill also includes an amendment to the Atomic Energy Law whereby it would be possible to issue regulations prohibiting certain uses of radioactive materials insofar as may be necessary to give effect to decisions of international organisations and to safeguard public health.

Seventh Ordinance on Industrial Diseases (7.BKVO) of 20th June 1968 /Legal Gazette of the Federal Republic of Germany, I: page 721/

The Seventh Ordinance on Industrial Diseases (7.BKVO) constitutes a revision of the existing regulations regarding accident insurance for industrial diseases; in particular it contains amendments to the previous Ordinances.

Annex I deals, under heading No. 27, with diseases caused by X-rays, by radiation from radioactive materials, or by other ionizing radiations.

• *Greece*

GENERAL NUCLEAR LEGISLATION

Mandatory Act No.451 of 18th June 1968 /Official Gazette of 20th June 1968/

"Mandatory Act" No. 451 of 18th June 1968 is concerned with the reorganisation of the Greek Atomic Energy Commission.

The text of this "Mandatory Act" which greatly modifies without however abrogating the preceding Decrees No.3891 of 7th November 1958 and No. 4115 of 9th October 1960, has been translated, and figures in the Supplement to this issue of the Bulletin.

⁽¹⁾ Article 59 (paragraph 2, sub-paragraph 1) of the Basic Law (Constitution) stipulates that when decisions of international organisations concern legislative matters - as is the case here - they must be approved under the Federal Law.

• *Iceland*

RADIATION PROTECTION

Regulation of the Minister of Justice and Ecclesiastical Affairs of 12th January 1968

The Minister of Justice and Ecclesiastical Affairs issued a Regulation on 12th January 1968, pursuant to the Act of 20th December 1962 on safety measures against ionizing radiations, setting up a State Laboratory for health protection against radiation. This Laboratory is placed under the authority of the Director-General of Health at the Ministry of Health.

Its function is to check equipment and substances capable of emitting ionizing radiations and requiring authorisation from the Minister of Health, and to ensure that the relevant safety measures are complied with. The Laboratory is also responsible for surveillance of workers exposed to ionizing radiation, and for monitoring the environment. The work of this body in the field of radiation protection is based on the recommendations of the International Commission on Radiological Protection.

The Laboratory is also a participant in the ENEA supervision and emergency warning system in cases of increase in environmental radioactivity.

Upon this Regulation coming into force on 12th January 1968, Regulation No. 190 of 12th August 1964, on inspection of apparatus emitting ionizing radiations, ceased to have effect.

• *Italy*

RADIATION PROTECTION

New Decree

The only provisions introduced since October 1968 in the matter of radiation protection are as follows:

1. Ministerial Decree (Ministry of Labour) of 6th June 1968, published in the Official Gazette of 30th August 1968. No.220, fixing the maximum permissible doses and concentrations with a view to the protection of workers against ionizing radiation.

2. Decree in the course of publication concerning the definition of types of equipment generating radiations, use of which may create ionizing radiation hazards for workers and the population generally.

Work in progress

Two texts are being drafted concerning, on the one hand, the determination of quantities of radioactivity, specific activities and the concentration and intensity of exposure doses falling within the scope of the Decree of the President of the Republic of 13th February 1964, No.185, on protection against ionizing radiation and on the other hand, the recognition of competence to manage and operate nuclear installations.

ESTABLISHMENT OF A MINISTRY FOR RESEARCH IN SCIENCE AND TECHNOLOGY

A Bill on the establishment of a Ministry for Research in Science and Technology has again been submitted to Parliament (A.S. No.154). The previous Bill referred to in Bulletin No. 1 became out of date at the end of the previous legislature.

The new Government has taken the necessary steps to resubmit the Bill, the text of which is the same as the previous one.

On the initiative of several Senators, a bill has been tabled concerning the establishment of a national office for nuclear energy (A.S. No.204). The text of this Bill has been translated and is reproduced under the heading "Texts" in the present issue of the Bulletin

The new organisation which would be known as the "Ente nazionale dell'energia nucleare" (ENEN) would replace the present "Comitato Nazionale per l'Energia Nucleare" (CNEN). Its task, inter alia, would be to further the industrial application of the results of its studies and research in the nuclear energy sector, directly, by transfer of patents, or by setting up joint-stock companies or having a financial interest in such companies.

The ENEN would be concerned in fundamental research in nuclear physics, and would also contribute to the financing of the work of the Institute for Nuclear Physics (IFN).

● *Portugal*

JUNTA DE ENERGIA NUCLEAR

Decree Law No. 48-288 of 23rd March 1968 /Official Gazette of 23rd March 1968/

Decree Law No. 48-288, amending Article 6 of Decree Law No. 41-995 of 5th December 1958, increased the membership of the

Consultative Council of the Junta de Energia Nuclear by adding to it the Directors-General of the Hydraulics and Urbanisation Departments of the Ministry of Public Works and the Director-General of Electricity Services of the Ministry of the Economy.

• *Spain*

GENERAL NUCLEAR LEGISLATION

Act No. 25 of 20th June 1968 /Official State Gazette of 21st June 1968/

Sections 9 and 16 of Act No. 25 on Nuclear Energy of 29th April 1964⁽¹⁾ have been amended by Act No. 25 of 20th June 1968.

The wording of Sections 9 and 16 of the Act on Nuclear Energy is henceforth as follows:

.....

Section 9 (relating to the "Junta de Energia Nuclear")

"The Chairman of the Junta de Energia Nuclear shall be appointed by the Head of State by means of a Decree bearing the signature of the Minister of Industry.

The Board, the composition and number of members of which shall be laid down by Decree, shall consist of representatives of Government departments or official bodies, one representative at least of the trade union organisation, and scientific, technological and industrial personalities of nationally recognised competence. The technical Secretary-General of the Junta de Energia Nuclear shall act as Secretary and minute-writer, with the right to express opinions but not to vote."

Members of the Board shall be appointed by the Minister of Industry, on the proposal of the relevant bodies and departments as regards the members appointed in a representative capacity, and at his own discretion as regards the others.

On the proposal of the Chairman of the Junta and after hearing the views of the Board, the Minister of Industry shall appoint two Vice-Chairmen from among the members of the Board, and the Director-General.

⁽¹⁾ The text of this Act was translated and distributed by ENEA. A copy will be sent on request.

The offices of Chairman and Vice-Chairman of the Junta de Energia Nuclear, as also that of Council Member, may not be filled by persons aged over 60 years. The office of Director-General may not be filled by a person having reached the age of 65.

.....

Section 16 (relating to the Institute of Nuclear Studies):

"The Chairman shall be appointed by the Government, on the proposal of the Minister of Industry.

The latter, in agreement with the Minister of Education and Science, shall also appoint the members of the Board. Similarly, the Minister of Industry shall appoint, on the proposal of the Board, the Director of this latter. The provisions relating to the age limit for the Chairman of the Junta, which appear in the last paragraph of Section 9, shall apply to the Chairman of the Board; similarly the provisions of the same section regarding the age limit for the Director-General of the Junta itself, shall apply to the Director."

THIRD PARTY LIABILITY

Decree No. 2177 of 22nd July 1967 /Official State Gazette of 25th April 1968/

Decree No. 2177 of 22nd July 1967⁽¹⁾ made on the proposal of the Minister of Finance and containing regulations for the insurance of nuclear hazards, was also amended as regards its Article 66, by Decree No. 742 of 28th March 1968.

The new wording of the second paragraph of Article 66 of the regulation on insurance of nuclear hazards is as follows:

.....

"The State shall, when the conditions appertaining to the situations considered above are found to be present, have a right of recourse, but only in those cases where such a right belongs to the operator or the insurer liable to pay compensation, and solely against those persons against whom this latter right may be exercised."

⁽¹⁾ A detailed account of this important Decree was published in the first number of the Nuclear Law Bulletin.

• *Sweden*

THIRD PARTY LIABILITY

New Swedish Nuclear Liability Act *

Early this year a bill was submitted to Parliament with a view to replacing the Nuclear Liability Act of 3rd June 1960 (No.246) by permanent legislation based on the Paris and Brussels Supplementary Conventions (see Nuclear Law Bulletin, No. 1, page 21). The bill was approved by Parliament in March 1968 and the new Nuclear Liability Act was promulgated on 8th March 1968 (No. 45). The Act came into force on 1st April 1968 and on the same day, Sweden deposited its instruments of ratification of the Paris and Brussels Supplementary Conventions with the ENEA and the Belgian Government respectively, thus bringing the Paris Convention into force.

The new Swedish Nuclear Liability Act was worked out in close co-operation with the Danish, Finnish and Norwegian Authorities. The draft nuclear liability acts now under consideration within the ministries concerned in Finland, Denmark and Norway are largely identical with the new Swedish Act in substance. The Danish draft is commented in detail in the present issue of the Bulletin and several references are made to both the new Swedish Act and the Norwegian draft; a general survey of the substantive content of the Swedish Act is also included. The following note is intended, therefore, to draw attention only to certain aspects of the Swedish Act which might be of particular interest, especially as regards matters which the Paris Convention has left to be governed by national law.

A short introduction concerning the general structure of the Swedish Nuclear Liability Act seems, however, to be desirable. The Act is divided into six parts. Part I (Sections 1-4) contains introductory provisions such as definitions and provisions regarding the territorial scope of the Act. Provisions regarding the liability of an operator of a nuclear installation are contained in Part II (Sections 5-21) and include rules concerning the designation of the operator liable in respect of nuclear incidents occurring in or outside a nuclear installation, the principle of absolute liability and exceptions from this liability for certain nuclear incidents and nuclear damage to on-site property, the principle of channelling of the liability on to the operator, and limitation of the operator's liability in amount and in time. Part III (Sections 22-27) lays down rules on compulsory insurance or other financial security. Provisions regarding compensation out of public funds are contained in Part IV (Sections 28-35). These provisions concern the liability of the State to pay compensation should the insurance or other financial security prove to be inadequate, the

* A translation of the full text will be found in the Supplement to this issue.

obligation imposed on the State to pay compensation under the Brussels Supplementary Convention and the liability of the State to pay compensation in respect of nuclear damage which has come to light only after the right against the operator has been extinguished. Rules on jurisdictional competence and on the enforcement of foreign judgements are laid down in Part V (Sections 36-38), and Part VI contains certain general provisions (i.e. on transport certificates).

The various definitions included in Section 1 of the Swedish Act are with few exceptions based on the definitions contained in Article 1 of the Paris Convention. For legal-technical reasons the definitions of nuclear damage and nuclear incident have, however, been based on the corresponding definitions contained in Article I of the Vienna Convention of 1963, but these definitions are deemed to have in substance the same content as the definitions laid down in the Paris Convention.

The decision recently taken by ENEA's Steering Committee on the exclusion of certain small quantities of nuclear substances from the scope of the Paris Convention has been reflected in Section 1 of the Royal Decree of 8th March 1968 (No. 46), issued by virtue of Section 1(b) of the Swedish Act.

The King in Council may by virtue of Section 2 of the Act determine that two or more nuclear installations of the same operator and situated on the same site shall be considered as one nuclear installation. A decree to this effect has been issued with regard to all installations operated by the partly State-owned "Aktiebolaget Atomenergi" at Studsvik near the town of Nyköping and with respect to the installations operated by this company in Stockholm.

As regards the territorial scope of the Act, partial use has been made of the possibilities afforded under Article 2 of the Paris Convention to extend the scope of the Convention, and this has been done only with regard to the particular case where a nuclear incident for which the operator of a Swedish nuclear installation is liable occurs in Swedish territory and causes damage in a non-Contracting State; such damage is included under the Act [Section 3(b)]. However, in respect of damage suffered in non-Contracting States, the King in Council may, by virtue of Section 3(c), determine that the right to obtain compensation in Sweden for such damage - either under the present Act or under general rules of the law of tort - shall be subject to reciprocity.

Should a non-Contracting State establish a compensation system equivalent to that of the Paris Convention without becoming a Party to the Convention, Section 4 enables the King in Council to determine that such State shall, for the purposes of the Act, be put on an equal footing with the Contracting States. Such decision may not, of course, entail consequences which would be incompatible with the Paris Convention, and it is therefore expressly provided that any decision under this Section shall be subject to Sweden's obligations under the Convention.

The provisions of Sections 5-9 regarding the designation of the operator liable are in full conformity with Articles 3-4 of the Paris Convention. It should be pointed out that in respect of a nuclear incident occurring in a nuclear installation but involving exclusively nuclear substances stored therein incidentally to the carriage of the substances to or from another nuclear installation, the rule on

exclusive liability of the consignor or the consignee operator pursuant to Section 5 will not apply where the operator of the storage installation assumes liability pursuant to the terms of a contract in writing; in such case this operator will be solely liable.

In Section 7(c) provisions have been laid down to the effect that in respect of nuclear damage caused by a nuclear incident occurring within Swedish territory in the course of transport of nuclear substances between non-Contracting States, the person authorised under Swedish law to undertake such carriage will be considered an operator of a Swedish nuclear installation and will consequently be held liable under the same terms as those which would have been applicable had the incident occurred in the course of carriage to or from a Swedish nuclear installation.

Use has been made of Article 4(d) of the Paris Convention regarding the substitution of a carrier for the operator of a Swedish nuclear installation (Section 10). Pursuant to Section 3 of the aforementioned Royal Decree of 8th March 1968, the Swedish Atomic Energy Commission is authorised to take decisions under Section 10 of the Act. No such decision has yet been taken.

The Swedish Act excludes from its scope of application not only nuclear damage to on-site property and damage caused by nuclear incidents which are directly due to acts of armed conflict, hostilities, civil war or insurrection but also damage arising out of nuclear incidents due to a grave natural disaster of an exceptional character (Section 11). In respect of nuclear damage caused to the means of transport carrying nuclear substances involved in a nuclear incident occurring in the course of carriage, the Swedish Act makes no exception - use has been made of Article 7(c) of the Paris Convention (Section 12(b), cf Section 17(a), last sentence).

Contributory negligence by the victim may be taken into account as a ground for exonerating the operator from his liability, wholly or partly, only in case of wilful misconduct or gross negligence on the part of the victim (Section 13).

In connection with the rules on channelling of liability on to the operator (Section 14), attention should be drawn to Section 2 of the aforesaid Royal Decree of 8th March 1968 [cf Section 14(c), last sentence] by which use has been made of Reservation No. 2 to the Paris Convention made by Austria, Greece, Norway and Sweden. The Reservation stipulates that these States reserve the right to consider their national legislation which contain provisions equivalent to those included in the international agreements referred to in Article 6(b) of the Paris Convention as being international agreements within the meaning of Article 6(b) and (d) of the Convention. Hence, certain domestic provisions concerning maritime and air law have for the purpose of the application of the principle of channelling been put on an equal footing with the provisions of the international conventions - i.e. the Hague Rules and the 1929 Warsaw Convention - on which these national provisions are patterned without being directly based on the conventions.

The liability of an operator of a Swedish nuclear installation shall, under Section 17 of the Swedish Act, be limited to an amount of 50 million Swedish crowns per nuclear incident (approximately 10 million EMA u/a). The King in Council may, however, taking into

account the size or character of a nuclear installation, the size of a nuclear consignment or similar circumstances, determine that the amount of liability shall be reduced to a lower amount, but not less than 25 million Swedish crowns. By virtue of this provision it has been decided that the amount of liability for the operator of a Swedish factory for the manufacture of nuclear fuel, situated near the town of Västerås and operated by the Swedish General Electric Company (ASEA) shall - with minor exceptions - be 25 million Swedish crowns.

Compensation for death or personal injury shall, pursuant to Section 17(b), in no case exceed an amount of one million Swedish crowns per person killed or injured.

As between two or more operators jointly and severally liable in respect of one single nuclear incident, liability shall be apportioned taking account of the extent to which each installation involved has contributed to the damage caused as well as other relevant circumstances [Section 18(b)].

In case of a nuclear incident causing nuclear damage exceeding the applicable amount of liability, the sums of compensation awarded to the individual victims shall be reduced proportionally. Following an incident of major importance the King in Council may decide provisionally that compensation shall be awarded only to a certain percentage of full compensation [Article 19(a) and (b)].

The rules in Section 20 on the operator's right of recourse are equivalent to those laid down in Article 6(f) of the Paris Convention.

The Swedish Act provides for a prescription period of ten years as from the date of the nuclear incident. Hence, use has not been made of the possibility offered by the Paris Convention to national legislation to extend the period of prescription. On the other hand, use has been made of Article 8(c) of the Paris Convention pursuant to which national legislation may establish a shorter period of prescription to be computed from the date on which the person suffering damage acquired or ought reasonably to have acquired knowledge of the damage caused and the person liable. The prescription period has been established at three years [Section 21(b)] but may be interrupted by a mere announcement of the claim directed against the operator liable.

As for the Swedish rules on compulsory insurance or other financial security [Sections 21-27], it should be noted that the Act allows the operator to take out insurance on a per-installation basis, provided that the insurance amount exceeds, at all times, the amount of liability by 20 per cent [Sections 22-23]. The Act provides for a right of direct action against the insurer or guarantor [Section 24]. The latter provision - as well as the provisions of Section 25, patterned on Article 10(b) of the Paris Convention - shall be applicable as soon as actions for compensation may be brought before Swedish courts and even if foreign national law is applicable to the legal relationship between the insurer and the operator, or if the nuclear installation involved is situated outside Sweden [Section 26]. Hence, a person suffering nuclear damage in Sweden will always be able to bring his action directly against the insurer or guarantor.

The King in Council may, by Royal decree, exempt an operator from the obligation to cover his liability by insurance, on condition that the operator provides other financial security considered to be satisfactory, and gives proof that he has made proper arrangements for the settlement of claims for compensation brought against him [Section 27(b)]. Use has been made of this rule in that Aktiebolaget Atomenergi has been exempted from its obligation to take out insurance since the State itself has undertaken to provide financial security and to arrange for the settlement of claims for compensation.

Where there is no insurance or financial security or the yield of the insurance (security) proves to be insufficient to satisfy claims due under the Swedish Act or under the national legislation of another Contracting State and brought against the operator of a Swedish nuclear installation, the State will intervene and guarantee the compensation due [Section 28(a)]. The liability of the State under this Section will, however, in no case go beyond the amount of liability established pursuant to Section 17 of the Swedish Act. This means that should an incident occur in a State which has made use of Article 7(e) of the Paris Convention to the effect that the applicable amount of liability will exceed the amount established by the Installation State, there will be no State backing in respect of that part of the amount of compensation which falls within the amount of liability established by the latter State but which exceeds the amount established by the Installation State.

In Sections 29-31 provisions have been laid down to give effect to the compensation system established by the Brussels Supplementary Convention. These provisions are not yet applicable however, for the simple reason that the Convention itself has not come into force. The said provisions of the Swedish Act will be put into force by a Royal decree to be issued when the Convention comes into force.

Sections 29-31 reflect very precisely the substantive provisions on compensation out of public funds laid down in the Supplementary Convention. It should be pointed out that under the Swedish Act an obligation is imposed on the Swedish State to pay out to the victims the total amount falling within the second and third tranches under the Supplementary Convention in all cases where that Convention is applicable and actions for compensation under the Paris Convention are to be brought before Swedish courts. The State is thus liable to pay compensation irrespective of whether the nuclear installation involved is situated in Sweden or in another State Party to the Supplementary Convention. Naturally, no rules are laid down in the Act itself regarding the means by which the Swedish State may recover part of this compensation from other States Party to the Convention, as this is a question to be settled under public international law.

The Swedish Act contains provisions for additional compensation out of public funds even in cases where the Supplementary Convention is not applicable. Under Section 33, such compensation shall be paid out to the extent, and under the terms determined in casu by the King in Council and Parliament, that damage caused by a nuclear incident which is not covered by the Supplementary Convention exceeds the applicable amount of liability. Compensation will be awarded only for damage suffered within Sweden, but regardless of whether the installation of the operator liable is situated in Sweden or in another

Contracting State. Until the Supplementary Convention and Sections 29-31 of the Swedish Act come into force, Section 33 will apply also in cases which fall within the scope of Sections 29-31.

In Section 32 of the Swedish Act, certain rules are laid down with a view to ensuring that victims of a nuclear incident shall not be left without compensation on the grounds that their damage has not come to light before the expiry of the ten-year extinction period. Under this Section, in case of a nuclear incident involving the liability of the operator of a Swedish nuclear installation, compensation for nuclear damage suffered within Swedish territory but coming to light only after the right to obtain compensation from the operator liable has been extinguished pursuant to Section 21(b) or the corresponding provisions of the national law of another Contracting State, compensation shall be paid out of public funds. In principle, such compensation shall be paid out under the same terms as would have been applicable had the operator himself been liable for the damage. The reasons for restricting the scope of this compensation system to incidents for which Swedish operators are liable and to damage sustained within Swedish territory is that it has been considered to be the most natural solution that, in respect of delayed damage, the Contracting Parties to the Paris Convention should build up as between them a system for State compensation based on reciprocity. In accordance with this philosophy, Section 32(b) of the Swedish Act entitles the King in Council to decide that compensation under the said Section may be awarded also for damage sustained outside Sweden; but as regards damage sustained within the territory of another Contracting State such decision is not intended to be taken unless reciprocity has been obtained. On the other hand, nothing will prevent the taking of such a decision with regard to damage suffered on or over the high seas.

Where compensation out of public funds has been paid out under any of the provisions of Sections 28-33, the State shall have a right of recourse only against an individual who has caused the damage by an act of wilful misconduct and, as regards compensation awarded under Section 28, against the operator liable and his financial guarantor Section 35. Any other State Party to the Supplementary Convention will, under Section 35, have a right of recourse in respect of any sum paid out under the said Convention only in case of wilful misconduct. Although there is no express rule to this effect, it is assumed that the State can nevertheless exercise a right of recourse based on the express terms of a contract in writing.

Where under Article 13 of the Paris Convention and Section 36 of the Swedish Act, actions for compensation for nuclear damage are brought before Swedish courts, jurisdictional competence is, under Section 37 of the Swedish Act, conferred upon the national district court which has jurisdiction over the place where the nuclear incident occurs. If two or more courts would be competent under this rule, actions may be brought before either of them. Where the nuclear incident occurs outside Swedish territory, actions shall be brought before the District Court of Stockholm.

Rules on transport certificates Article 4(c) of the Paris Convention are laid down in Section 39 of the Swedish Act. The King in Council has, by the aforementioned Royal Decree of 8th March 1968, issued a form for transport certificates to be used by Swedish operators and their insurers. This form is largely the same as the one adopted recently by the Steering Committee of ENEA and differs from the latter form only in details of minor importance. The Swedish form has already been used on several occasions and has proved satisfactory to both operators and insurers.

• *Switzerland*

RADIATION PROTECTION

Ordinance of the Federal Department of the Interior, of 18th April 1968

The Federal Department of the Interior published, on 18th April 1968, an Ordinance concerning radioactive timepieces which cancels the Ordinance of 7th October 1963 concerning radioactivity of luminous dials.

The new Ordinance, based on the recommendations adopted on 19th July 1966 by the Council of the O.E.C.D. (on proposals of the Steering Committee of ENEA), and on 19th September 1966 by the Board of Governors of the International Atomic Energy Agency, applies to all timepieces fitted with radioactive luminous paint manufactured in Switzerland, imported or exported. It contains radiation protection provisions in respect of the protective cover, the adhesion and solubility of the radioactive substance, the permitted nuclides and their maximum permissible activity, and the regulations concerning compulsory authorisation and notification.

The Annex contains certain definitions and procedural conditions concerning inspection of timepieces.

The Federal Public Health Department is responsible for seeing that the Ordinance is carried out.

The Ordinance came into force on 15th May 1968.

• *United Kingdom*

RADIATION PROTECTION

An important draft regulation on the protection of workers exposed to ionizing radiation from unsealed radioactive substances and by articles contaminated by such substances is now being prepared in the Ministry of Labour.

The draft will probably contain, in addition to the conditions for radiological and medical protection and inspection of workers, provisions on the improvement of workplaces, handling of substances, and measures against contamination. Annexed to it will be tables of maximum permitted radiation doses and contamination of levels. These regulations will, when they come into force, revoke the Factories (Luminising) Special Regulations of 1947.

Orders of the Minister for Housing and Local Administration, of
27th June 1968 /Statutory Instruments 1968, No.935 and 936/

Two short orders made by the Minister for Housing and Local Administration, giving exemption in respect of certain radioactive substances, came into force on 27th June 1968. Order No. 935 concerns tokens used in automatic vending machines, and Order No. 936, vouchers used in automatic encashment machines.

These two Orders exempt owners and users of tokens or vouchers of low radioactivity, used in operating automatic vending machines and automatic encashment machines respectively, from the registration requirement in the Radioactive Substances Act 1960.

Users of such tokens and vouchers are also exempt from application of the provisions of the 1960 Act as regards disposal of radioactive waste.

• *United States*

THIRD PARTY LIABILITY

Carriage of Radioactive Materials on the High Seas

The United States Senate was tabled with a Bill (document S.3961 of 1st August 1968) which amends the provisions of Section 170 (Price-Anderson amendment) of the Atomic Energy Act of 1954 with the object of providing financial cover for the carriage of certain radioactive materials on the high seas.

Under this Bill the Atomic Energy Commission is authorised until 1st August 1977 to enter into agreements for indemnification with holders of a licence to operate a nuclear reactor or contractors engaged in activities in the United States covered by an indemnity agreement with the Commission.

These agreements are concerned with third party liability in excess of the level of any financial cover required from Contracting Parties to these agreements, arising from nuclear incidents which occur during the carriage, on a vessel registered in the United States and outside the territorial limits of the United States or any other nation, of source, special nuclear or by-product material to or from the installation of the Contracting Party.

Within the terms of these indemnification agreements, the financial cover required from the beneficiary of such an agreement is set in principle at \$15 million, but the Commission is empowered to establish another amount, best adapted to the situation.

In addition, the aggregate amount of indemnity for such nuclear incident is \$115 million, \$100 million being the maximum amount payable by the Federal Government.

Criteria for Determination of an Extraordinary Nuclear Occurrence

Part 140 ("Financial Protection Requirements and Indemnity Agreement") of Title 10 - Atomic Energy, Federal Rules, is amended by a set of criteria which determine extraordinary nuclear occurrences as clearly as possible. This amendment which was first submitted to interested persons for comment, was published on 31st October 1968 in Volume 33, Number 213 of the Federal Register.

The purpose of this text is to include in Federal Legislation and make applicable the amendments made in 1966 to Section 170 of the Atomic Energy Act of 1954 (Price-Anderson amendment), and provide for nuclear operators and their insurers waivers of defence in relation to the conduct of the claimant as well as the waiver of certain restrictive rules in this field. Thus these provisions are intended to facilitate and accelerate the procedure for compensation in respect of nuclear damage. This amendment came into force thirty days after publication in the Federal Register.

Inventories of Special Nuclear Material

The regulations applicable to the Atomic Energy Commission have recently been amended (Chapter 1 - Title 10 on Atomic Energy, Federal Rules). Under the terms of this amendment published on 27th June 1968 in Volume 33 of the Federal Register, the Commission requires that licensees who possess at any one time and location more than 350 grammes of contained uranium 235, uranium 233, plutonium or any combination thereof to submit to it semi-annual inventories of privately owned special nuclear material.

Henceforth, licensees must also submit reports to the Commission of each transfer or receipt of such nuclear material involving more than one gramme. These reports will enable the Commission to maintain, in the interest of national security, complete and current records of the location of special nuclear material in private hands. This amendment became effective thirty days after publication in the Federal Register.

INTERNATIONAL ORGANISATIONS AND AGREEMENTS

INTERNATIONAL ORGANISATIONS

● *International Atomic Energy Agency*

COURSE ON THE LEGAL ASPECTS OF THE PEACEFUL USES OF ATOMIC ENERGY

The first training course ever organised on a fully international basis to study the legal aspects of peaceful uses of atomic energy was held by the IAEA in Vienna in April 1968. Over two weeks, about 40 participants and observers coming from 32 countries and ENEA attended a series of lectures given by 13 experts and 16 IAEA staff members on all aspects of nuclear law. The lectures were followed by discussions in seminars covering a wide range of practical issues. As a first result of the course, several requests for IAEA assistance in the framing of nuclear legislation have been made by various developing countries. Many participants in the course also suggested that seminars on the development of nuclear law should be planned for the coming years with a view to furthering the elaboration of appropriate legislation. This has in turn been taken into account in the IAEA programme for 1969-74, under which such seminars are scheduled to take place at two-yearly intervals, beginning in 1970.

SAFEGUARDS SYSTEM AND AGREEMENTS

Two agreements were signed on 17th June 1968 between Pakistan, the United States and the IAEA as a result of which Pakistan was to receive enriched uranium supplied by the United States to assist the Karachi nuclear power project. This was the first time supplies of nuclear material had been arranged by the IAEA for a power station.

Six Safeguards Transfer Agreements were concluded between the Governments indicated below and the IAEA on the following dates:

Denmark/United States	-	29th February 1968
Venezuela/United States	-	27th March 1968
Japan/United States	-	10th July 1968
Philippines/United States-		15th July 1968
Turkey/United States	-	30th September 1968
Japan/United Kingdom	-	15th October 1968

On 27th June 1968, an agreement was signed between the IAEA and Romania concerning the application of safeguards to small quantities of nuclear material. An agreement providing for the application of safeguards under the Treaty for the Prohibition of Nuclear Weapons in Latin America was concluded between the IAEA and Mexico on 6th September 1968.

The IAEA Board of Governors approved in February 1968 the provisions prepared by its Working Group for safeguarding conversion plants and fabrication plants. These additional provisions, which have been issued as an Annex to the IAEA Safeguards System reproduced in document INFCIRC/66/Rev.2, are subject to review at any time and, in any case, after two years of application pursuant to the decision of the Board. It may be recalled that the IAEA Safeguards System, first adopted in 1961, was extended in 1964 to cover large reactor facilities. Following its revision in 1965, additional provisions for reprocessing plants were adopted in 1966. The revised system, as now extended, contains further additional provisions for safeguarded nuclear material in conversion and fabrication plants.

SAFETY STANDARDS

A code of practice for the safe operation of nuclear power plants was approved by the Board in June 1968. The code, which had been prepared with the advice of an expert panel and took into account comments received from Member States, is intended to provide guidance in the design, construction and operation of power plants. The Board of Governors authorised the Director General to promulgate the code as part of the IAEA safety standards and to recommend it to Member States for the elaboration of national regulations or directives. The recommendations laid down in the code are compatible with safety practices in several advanced countries in the nuclear field.

FOOD IRRADIATION

A survey of existing legislation on irradiated food, prepared by the Legal Division of the IAEA Secretariat, has been sent to Member States for consideration and comments. This study was based on the material received from 62 countries in reply to a request addressed to 131 governments. In the light of the information obtained, at least 13 countries have to some extent enacted legislation on food irradiation: Australia, Belgium, Canada, France, Germany, Israel, Italy, Luxembourg, Madagascar, Spain, Switzerland, the United Kingdom and the United States.

• *Euratom*

On 30th July 1968, the Council of the European Communities settled, in application of Article 7 of the Euratom Treaty, a decision with respect to a programme which includes the participation of the Community in the Dragon Project (as regards the extension of the Dragon Agreement, see "Agreements" Section of this Chapter).

This programme concerns the period from 1st January 1968 to 31st March 1970. The ceiling of amounts committed was fixed at 4,300 million EMA u/a (Official Gazette of the European Communities of 2nd August 1968, No. L192). On the basis of this decision, the Community was able to take part in this extension, until 31st March 1970, of the Agreement concluded in 1959, revised and extended in 1962 and 1966, relating to the Dragon high-temperature gas-cooled reactor project. The scale of participation of the Community was reduced from 46 per cent to 40 per cent of the total expenditure for the project.

• *European Nuclear Energy Agency*

REVISION OF THE BASIC NORMS FOR PROTECTION AGAINST RADIATION

On 18th December 1962 the O.E.C.D. Council approved the text of basic norms for radiation protection amending those adopted in 1959. In its Decision the Council empowered the Steering Committee of ENEA to revise these norms in the light of any new recommendations by the International Commission on Radiological Protection. As new recommendations were published by that body in 1964 and 1966, it became desirable to make certain consequential amendments to the O.E.C.D. norms.

The revised text of the O.E.C.D. norms was adopted by the Steering Committee on 25th April 1968, and the Committee recommended the Member countries of ENEA to ensure that measures taken in the field of protection against ionizing radiation be founded on the text of these basic norms.

Since, however, the norms have not been radically re-written it was not considered that countries already having regulations based on the 1962 norms need bring these into line immediately.

The main changes concern the classification of persons exposed to radiation, maximum permissible doses for workers and for the population in general, and the tables of maximum permissible concentrations (M.P.C.) of radionuclides in water and air for persons exposed to them in the course of their work. M.P.C. values have also been laid down for a number of new nuclides. The revised norms are based on the same principles as those previously in force.

THIRD PARTY LIABILITY

As reported in the last issue of the Nuclear Law Bulletin, the ENEA Group of Governmental Experts on Third Party Liability in the Field of Nuclear Energy held a series of meetings in December 1966 and in April 1967 to consider various questions concerning the interpretation and application of certain provisions of the Paris Convention. In the course of their meetings, the Experts came to a number of conclusions which were subsequently submitted to the Steering Committee for Nuclear Energy. At its sessions of 19th October 1967 and 25th April 1968 the Steering Committee approved these conclusions and recommended that they should be taken into account by Signatory countries in adopting measures to apply the Convention. (The text of the Steering Committee's recommendation appears in the section "Texts" of this Bulletin).

One of the major problems discussed by the Group of Governmental Experts was that of determining criteria which could be used to aid Signatories in defining more precisely the term "nuclear installation" in the context of the Convention. It was agreed that certain installations which use only limited quantities of nuclear materials could be excluded from the special third party liability system of the Convention because they were not of the kind which gave rise to risks of an exceptional character. A proposal was submitted to the ENEA Steering Committee in June 1967 and whilst expressing its agreement with respect to the contents thereof the Steering Committee requested that consultation be undertaken with the International Atomic Energy Agency before a final decision were taken. As part of this consultation the problem was submitted to the Standing Committee of the Vienna Conference in October 1967. The Standing Committee declared itself favourable to allowing the possibility that small quantities of nuclear material be excluded from the Vienna Convention while such material was within a nuclear installation but there was not unanimous agreement on the criteria for such exclusion.

Considering the importance of the question and the fact that there was agreement in principle on the desirability of adopting criteria for exclusion, it was felt that further studies should be undertaken and, at its meeting of 19th September 1968, the ENEA Steering Committee authorised the Director General to organise an ad hoc meeting of legal and technical experts to pursue this work. A meeting has been convened for 9th and 10th December 1968 with a view to reaching agreement on criteria which would enable the exclusion of certain nuclear installations from the scope of application of the Paris Convention.

As part of the work intended to aid in the implementation of the special regime of the Paris Convention, agreement was reached in 1967 on a model Certificate of Financial Security for the Carriage of Nuclear Substances. The Paris Convention requires that the operator liable provide the carrier with such a Certificate and it seemed preferable that, to the extent possible, the form of the Certificate should be standardised in order to facilitate the carriage of nuclear substances over national borders. When agreeing to the model Certificate in June 1967, the Steering Committee charged the ENEA Secretariat with contacting competent national authorities in order to harmonise the formal presentation of Certificates in different countries. Contacts were taken and a revised version of the model Certificate has now been issued, taking account of comments received

from national authorities of Signatory countries as well as suggestions made during the last meeting of the Standing Committee of the Vienna Conference (the text of the model Certificate as adopted will be found in the section "Texts" of this Bulletin).

At its meeting of 25th April 1968, the ENEA Steering Committee agreed to make two formal corrections to its Decision of 26th November 1964 on the exclusion of small quantities of nuclear substances from the application of the Paris Convention upon despatch of such substances from a nuclear installation. These corrections are on very minor details and were made to take account of similar corrections made to the text of the decision of the IAEA Board of Governors of 11th September 1964 which approves the same exclusions in the context of the Vienna Convention.

• *ENEA-IAEA*

MONACO SYMPOSIUM ON THIRD PARTY LIABILITY AND INSURANCE IN THE FIELD OF MARITIME CARRIAGE OF NUCLEAR SUBSTANCES

The legislation relating to transport of nuclear substances by sea raises complex problems. Circumstances can arise in which not only the rules on liability laid down by the nuclear conventions apply, but also the provisions of the international maritime conventions and of the legislation of countries that are not Signatories to nuclear conventions. This uncertainty as to the legal position gives rise to difficulties in connection with insurance; the consignors and consignees of nuclear substances, and the carriers, shipowners and harbour authorities given the task of loading or unloading them are not always certain of the source or the extent of the liability they might incur in case of an incident. This situation obliges them to insure against liability in excess of that laid down in the nuclear conventions.

In order to study these problems the European Nuclear Energy Agency took the initiative in organising a Symposium jointly with the International Atomic Energy Agency on third party liability and insurance in connection with the transport of nuclear substances by sea, which took place at Monaco from 7th to 11th October 1968. The Symposium brought together representatives of 22 countries⁽¹⁾ and of the IAEA, the Intergovernmental Maritime Consultative Organisation (I.M.C.O.), Euratom and ENEA.

The representatives nominated by various international and national organisations concerned with maritime transport and its insurance took an active part in the work of the Symposium. Particular

(1) In addition to those O.E.C.D. Member countries concerned with maritime transport, Argentina, Australia, Brazil, the Malagasy Republic, Monaco and Yugoslavia were represented.

mention should be made of the International Maritime Committee, the International Chamber of Shipping, the International Chamber of Commerce, the Standing Committee on Atomic Risks of the European Insurance Committee, the International Union of Marine Insurance, Foratom, the United States Atomic Industrial Forum, and various national nuclear insurance pools and national maritime law associations.

The Symposium was opened by Mr. Pierre MALVY, Counsellor for the Interior of the Government of the Principality of Monaco. The first session was devoted to a general review of the rules of third party liability arising out of the international nuclear and maritime conventions. At the second session the maritime transport situation in practice was studied: the technical and economic problems of such transport, the I.M.C.O. safety regulations for transport of dangerous substances (Chairman: Mr. Bruno de MORI, Chairman of the Italian Insurance Pool for Atomic Risks), and insurance problems (Chairman: Mr. M. Enrique ZALDIVAR, Legal Adviser, National Atomic Energy Board of Argentina). The conditions of insurance were described by representatives of nuclear insurers and insurers specialising in marine business. The third session (Chairman: Mr. Ronald MCGILLIVRAY, Director, Marine Regulations Branch, Department of Transport of Canada) was an opportunity to review the various questions raised by the application of rules of law: the relationship between nuclear third party liability under maritime law, measures of application of the nuclear conventions at the national level, the sphere of application of the legal systems at present in force and conflicts between them, damage to vessels, etc. In all, 37 papers were presented.

Following these three sessions a Restricted Committee (Comité des Sages) made up of eminent representatives of the various interests concerned, considered the whole field that had been covered and drew up a synoptic report which was submitted on the last day to the fourth plenary session of the Symposium (Chairman: Mr. P. HUET, Chairman of the French Atomic Industrial Forum). The report of this Committee, which is appended hereto, was favourably received by the participants and was the subject of constructive comments.

The proceedings of the Symposium will be published jointly by ENEA and the IAEA at the beginning of next year.

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REPORT OF THE RESTRICTED COMMITTEE

1. The Restricted Committee set up by the two Agencies which organised the Symposium on Third Party Liability and Insurance in the Field of Maritime Carriage of Nuclear Substances met on Thursday, 10th October, following the meetings which had taken place during the first three days of the Symposium.

The Committee was made up of the following persons:

- Mr. Niklas KIHLOBOM, Chairman of Nuclear Information Committee of the International Union of Marine Insurance, Vice-Chairman of Swedish Atomic Pool, Managing Director, Atlantica Insurance Co. Ltd.
- Mr. Albert LILAR, Chairman of the International Maritime Committee
- Mr. Georges MARTIN, Chairman of the Permanent Commission on Atomic Risks, European Insurance Committee
- Mr. Albert RASPI, Manager Secretary General, Compagnie des Messageries Maritimes
- Mr. Roy SHOULTS, Consultant, Atomic Product Division, General Electric Company
- Mr. John Patrick Hampden TREVOR, Assistant Treasury Solicitor, Treasury Solicitor's Department, Ministry of Power Branch
- Mr. Pierre HUET, Chairman of the French Atomic Industrial Forum, Chairman of the final Session of the Symposium

The Committee elected Mr. J.P.H. TREVOR as its Chairman.

2. The Committee took note of the fact that in some countries difficulties had arisen in organising such carriage since carriers felt that the present legal system left in doubt the extent of their potential liability for damage which might result and that, therefore, it was difficult and sometimes impossible to obtain cover required.

With this in mind, the Committee reviewed the main problems raised both in the papers and during discussions as well as measures proposed to resolve them, in order to envisage the follow-up which could be given to these proposals.

Naturally, the list which follows is incomplete and other problems may be brought out in the course of the discussions which are to take place.

Technical problems

3. The technical uncertainties which exist in some quarters with regard to maritime carriage of nuclear substances could prevent the normal development of such carriage.

The Committee took particular note of the following:

- (a) the fact that not all the parties interested, and certainly not the public or the press, were sufficiently informed as to the kind of hazard involved in such carriage or as to the extent of the damage which might result;

this may lead to over-evaluation of the extent of the insurance cover required.

- (b) the gaps which remain in rules covering safety conditions during carriage and the divergencies in the manner in which these rules are applied in different countries.

Legal problems

4. The Committee recognised that the main problem arose from the possible simultaneous application of nuclear and maritime law. Double liability might result and consequently reciprocal rights of recourse arise between the nuclear operator and the carrier. This might in turn create the necessity for double insurance.

5. The Committee then considered problems arising from the nuclear conventions themselves and, in particular:

- (a) the existence of two different nuclear conventions which will not necessarily be binding on the same States;
- (b) limitations imposed on the scope of application of these conventions owing to their ratification by a limited number of States. Moreover, it is possible that the courts of non-Contracting States may not take account of the application of the nuclear conventions (especially as concerns the high seas), by virtue of rules of private international law;
- (c) the diversity in measures of application which may be taken by various Contracting States as concerns the options left to them under the nuclear conventions (field of application of the Paris Convention, inclusion of damage to the means of transport, substitution of the carrier for the operator, etc.).

6. The Committee also considered the following problems raised by the possible application of maritime law:

- (a) determination of the maritime conventions which could be applied to liability in the case of a nuclear incident, by virtue of Article 6(b) of the Paris Convention and Article II(5) of the Vienna Convention;
- (b) the applicability of these two Articles to amendments to the maritime conventions made subsequent to the signature of the nuclear conventions;
- (c) difficulties which might arise from the application of maritime law to questions of liability resulting from a nuclear incident (liability based on fault, unlimited liability of the carrier).

Measures envisaged

7. The Committee considered the various measures proposed in the course of the Symposium in order to resolve these problems. These would appear to fall into two categories:

- (a) practical measures which insurers and shipowners could adopt within the present system. The Committee felt that these measures would be facilitated by the work done both during and after the Symposium which should result in reducing the technical and legal uncertainties which at present complicate the maritime carriage of nuclear substances;
- (b) measures which might be taken by governments, the most important of which is early ratification of the nuclear conventions or accession to them. Others are the harmonisation of legislative options taken within the framework of the conventions, agreed interpretations of certain provisions in the conventions by the competent bodies of the IAEA and of ENEA, provision of cover for carriers, etc.

8. The Committee felt that amendments to existing conventions should be considered if the above measures proved to be insufficient. In such a case, the amendments should, so far as possible, bring about the primacy of nuclear law over maritime law as concerns the maritime carriage of nuclear substances.

Suggestions of the Committee

- 9. (a) With regard to the analysis of technical aspects of maritime carriage of nuclear substances, the Committee considered that it would be useful to undertake a new review of the nature of the risk and the extent of possible damage. It also felt that the work of unifying safety measures should be pursued and that steps should be taken to improve means for application of these measures.
- (b) With respect to legal problems, it would be useful if competent organisations undertook further studies of the problems mentioned above and of the proposals envisaged to resolve them.
- (c) In the light of these studies, a meeting including all interested parties should be called together to arrive at concrete solutions for these problems.

10. The Committee expressed its satisfaction at the noteworthy results of the Symposium in adding considerably to the information available to the various interests concerned and in promoting this initial and most fruitful exchange of views.

It hoped that competent international organisations would perfect these results in making possible the proposed consultations.

AGREEMENTS

• *Germany-Netherlands*

NUCLEAR SHIP

An Agreement was signed on 28th October 1968 between the Federal Republic of Germany and the Kingdom of the Netherlands concerning the use of the Dutch coastal waters and ports by the first German nuclear research ship "Otto Hahn".

• *European Nuclear Energy Agency*

AGREEMENT FOR THE FURTHER EXTENSION OF THE REVISED AGREEMENT CONCERNING THE HIGH-TEMPERATURE GAS-COOLED REACTOR PROJECT (DRAGON)

The Dragon Project was set up in April 1959 under an Agreement concluded between the United Kingdom Atomic Energy Authority, the Austrian and Swiss Governments, the national atomic energy authorities of Denmark, Norway and Sweden, and the Euratom Commission (representing Belgium, France, Germany, Italy, Luxembourg and the Netherlands). A new agreement signed in 1962 extended the activities of the Project until 31st March 1967 with an increase in the overall budget from £13.6 million to £25 million. An Agreement for a further extension of the Project's activities until 31st December 1967 and increasing its budget by £1.5 million was signed in May 1966.

Later, negotiations were opened to obtain a prolongation for a longer period and led to a further extension of the Agreement until 31st March 1970 which was signed in London on 26th November 1968 by representatives of the Signatories to the preceding Agreements.

The present Agreement has retroactive effect from 1st January 1968 and the provisions of the 1966 Dragon Agreement which are not contrary to the present Agreement will remain unchanged.

The Signatories will consult together regarding a further extension of the joint programme to determine whether the Dragon Agreement should be extended beyond 31st March 1970. It is agreed that the question of further extension will be determined not later than 30th September 1969.

Expenditure relating to the carrying out of the Dragon Project will be borne by the Signatories, for the duration of the Agreement, within the limits of a sum fixed at £ 4.447 million, thus increasing the overall budget of the Project to £31 million.

MISCELLANEOUS

ENEA ANALYTICAL STUDY ON NUCLEAR LEGISLATION*

UPDATING OF ENEA ANALYTICAL STUDY ON NUCLEAR THIRD PARTY LIABILITY

Since publication of the volume "Nuclear Third Party Liability" several legislative and regulatory texts in this field have been published in France and Spain. The ENEA Secretariat has updated the chapters which relate to both countries in the Study. These chapters figure below.

• *France*

Act No. 68.943 of 30th October 1968 on Nuclear Third Party Liability was published in the "Journal Officiel" of the French Republic (Official Gazette) on 31st October 1968. It will not however enter into force before the date on which the Paris Convention of 29th July 1960 on nuclear third party liability is published in the Official Gazette. The Act of 30th October 1968 replaces Act No. 65.955 of 12th November 1965 which introduced, as a temporary measure, special rules of liability for incidents of nuclear origin.

* The analytical study of the major aspects of nuclear energy legislation in force in OECD countries, has been prepared by ENEA, after consultation with the competent services of the countries concerned. This study includes the following four sections:

- Nuclear third party liability (already published)
- General organisation of nuclear activities, and administration (to be published in 1969)
- Rules with respect to nuclear installations and health protection
- Transport of nuclear matter.

NATURE OF THIRD PARTY LIABILITY

I - DAMAGE ENTAILING LIABILITY

Act of
30.10.1968
Section 3

Damage entailing the liability of a nuclear operator for the purposes of this Act shall be that specified in the Paris Convention, that is to say damage resulting from radioactive properties or the combination of radioactive, toxic and explosive properties or other dangerous properties of nuclear fuel or radioactive substances or waste, damage resulting from ionizing radiation emitted by a radiation source in his installation, and, finally, damage to the means of transport on which nuclear substances are being carried at the time of the incident.

II - PERSONS LIABLE

(a) Installations

Section 2

The Act shall apply to operators of civil or military installations falling within the scope of application of the Paris Convention and the Brussels Supplementary Convention and which are also listed in Decree No. 1228 of 11th December 1963 on nuclear installations, implementing Act No. 842 of 2nd August 1961 combating atmospheric pollution and odours.

(b) Carriages

The carrier of nuclear substances may, if he fulfils the necessary conditions, assume liability in lieu of the operator, by a procedure still to be determined by Decree.

(c) Rights of recourse

Section 14

The nuclear operator shall have the rights of recourse to which he is entitled under the Paris Convention, that is to say in cases of international damage or where recourse is provided for by contract. When persons suffering nuclear damage have been compensated directly by the insurer or by the person providing financial security, the latter shall have the rights of recourse to which the nuclear operator is entitled.

III - EXONERATION FROM LIABILITY

Section 1

Under the provisions of the Paris Convention, the nuclear operator shall not be liable for any damage caused by a nuclear incident arising directly out of armed conflict or civil war or exceptional natural disaster.

FUNCTIONING OF THIRD PARTY LIABILITY

I - FINANCIAL SECURITY

Section 1 The nuclear operator is required to take out an insurance or other financial security to cover his liability, and to maintain this cover.

 The financial security must be approved by the Minister for Finance and Economic Affairs; the latter is also empowered to provide operators of nuclear installations with Government financial security, on the proposal of the Minister for Atomic Affairs.

a) Limits of liability and insurance

Section 4 The maximum liability of the operator is fixed at Frs.50 million (about 10 million EMA u/a) for any one incident, whatever the number of installations he is operating on the same site.

Section 9 However, in the case of carriage of nuclear substances in transit through the national territory, evidence must be provided of financial security of at least Frs.600 million (about 120 million EMA u/a). Derogations from this latter provision may be allowed by Decree, though the security required may not be less than Frs.50 million.

Section 7 The insurer may not suspend or terminate the insurance without written notification two months in advance to the Minister responsible for Atomic Affairs.

b) State intervention

Section 5 The State pays compensation for damage exceeding the liability of the operator, in accordance with the provisions of the Brussels Supplementary Convention, that is to say up to Frs.350 million (about 70 million EMA u/a); compensation for the portion of damage from Frs.350 million to Frs.600 million (about 120 million EMA u/a) is covered by contributions from the Contracting Parties to the said Convention.

Section 22 However, until such time as the Brussels Supplementary Convention is published in the Official Gazette of the French Republic this supplementary State compensation shall be payable only in respect of damage suffered on the territory of the French Republic.

Section 5 The State shall, further, pay compensation up to Frs.600 million to persons suffering damage caused by incidents occurring in installations used for non-peaceful purposes.

Section 12 In the case of installations used by a Government department, the State shall also intervene in respect of compensation for damage to property which does not belong to the operator but which is on the site of the installation in which the incident occurs, for the portion exceeding Frs.25 million (about 5 million EMA u/a) provided that compensation for victims does not reach the limit of Frs.600 million. Total payments by the State may not however exceed its liability under the Brussels Supplementary Convention in the event of an incident involving damage amounting to Frs.600 million.

Section 8 Finally, when the victims of a nuclear incident are unable to obtain compensation for their damage owing to default by the operator or the insurer, the State shall step into their shoes.

II - COMPENSATION

Section 16 Methods of compensation for victims of a nuclear incident shall be in conformity with the rules established by legislation on social insurance and compensation for industrial accidents. When the victim is employed by the operator and the nuclear incident has been caused by a person other than the operator, the victim and the organisation which has paid his social insurance contributions shall exercise against the operator himself their right to claim compensation from the person responsible for the incident, in accordance with the principle of the channelling of liability. Rights of recourse may also be exercised against the operator when victims of a nuclear incident who are not in the employ of that operator have been compensated in respect of industrial accidents or occupational diseases.

Section 13 When the maximum sums available under the present Act are likely to be insufficient to compensate for the whole of the damage suffered as a result of a nuclear incident, a Decree made in Council of Ministers and published not later than six months after the date of the incident shall define procedures for the counting of victims and methods for distributing the sums available. In this case personal injuries shall be compensated in priority, in accordance with legislation on industrial accidents, the remaining sums being distributed among the victims, in proportion to any remaining personal injuries and to material damage suffered.

Section 6 In view of its financial obligations the State, in the person of the legal representative of the Treasury, must be informed by nuclear operators of any claim for compensation.

III - LIMITATION IN TIME

Section 15 Claims in respect of compensation shall be brought within a period of three years from the date at which the person suffering damage had or could reasonably be expected to have had knowledge of the damage and of the identity of the operator responsible, or alternatively ten years after the day of the incident.

Where the incident occurs on French territory and a French court has jurisdiction under the Paris Convention, the State shall compensate damage which comes to light more than ten years after the date of the incident, in respect of which no claim for compensation has therefore been made. In this case the claim for compensation shall be submitted within a maximum period of five years from the end of the first ten-year period.

Section 19 These special provisions exclude application of special regulations concerning the barring by limitation of claims against the State, the Departments, Communes and public establishments.

IV - COMPETENT COURT AND MISCELLANEOUS PROVISIONS

Section 17 The law courts shall be competent to hear actions brought under the present Act. Should a matter be referred to the Criminal Court the latter may in no case deliver judgement on the civil action.

Section 23 All the provisions of the present Act shall lapse on the date when the Paris Convention comes to an end, following notice of termination or on its expiry.

Comments:

The new French Act on Third Party Liability in the Field of Nuclear Energy was drafted to fit into the legal framework of the Paris and Brussels Conventions; the essential purpose of its provisions is consequently to define those measures which the Conventions leave to the discretion of the Contracting Parties. The present Act must be supplemented by Decrees of application, notably as concerns the competent court.

It should also be noted that the provisions for State intervention have particularly wide scope and provide for compensation of persons suffering from nuclear damage in certain cases not covered by the provisions of the Paris Convention.

• *Spain*

The Spanish Nuclear Energy Act of 29th April 1964, was published in the Spanish Official Gazette of 4th May 1964, and came into force the following day. Only Chapters VII to X inclusive deal with third party liability and financial cover. The Act of 29th April 1964 was supplemented by an administrative Decree, No. 2177 of 22nd July 1967, regulating the cover for nuclear risks. This Decree was in turn amended by Decree No. 742 of 28th March 1968 and the Act was further amended by Decree No. 2864 of 7th November 1968 setting the amount of financial cover for nuclear hazards.

NATURE OF THIRD PARTY LIABILITY

I - DAMAGE ENTAILING LIABILITY

Act of
29.4.1964
Section 2(16)

Under Spanish law any loss of life or personal injury, and any loss of or damage to property, constitutes nuclear damage when such damage results from the radioactive, toxic, explosive or other hazardous properties of nuclear fuels or radioactive products or waste, or from any ionizing radiation.

Section 46(1)
and (2)

A distinction is made between nuclear damage occurring in a nuclear installation and damage caused by an incident occurring in the course of any other activity involving radioactive substances or ionizing radiation.

In either case a distinction is also drawn between immediate damage and deferred damage, depending on whether it occurs or becomes apparent within ten years from the date of the incident or later.

II - PERSONS LIABLE

(a) Installations

Section 45

The liability of the operator of a nuclear installation for any nuclear damage is absolute within the limits of the maximum cover provided by the Act.

Section 52

Only the operator liable for the nuclear incident is required to pay compensation. Where a number of operators are liable for damage, they are jointly and severally so.

Section 49

If nuclear damage is caused by an incident occurring outside a nuclear installation, the person liable is the operator of the last installation concerned or the person performing the last activity relating to the substance which caused the damage.

Section 53

The absolute liability of the operator for nuclear damage does not preclude further third party liability arising from other distinct causes and the possibility of another being declared liable for damage.

Section 54

The State is considered to be an operator in respect of nuclear installations and activities financed by government appropriations, the operation of which has not been ceded to the private sector.

(b) Carriage

Section 47

When a nuclear incident occurs during the transport of nuclear substances on national territory or towards another country, the consignor-operator is liable, unless liability has been expressly assumed by another operator.

Section 48

In the case of nuclear substances being imported, the consignee is liable from the time that he assumes responsibility for the consignment, subject to the provisions of international conventions. The international conventions apply in the case of nuclear substances in transit.

Section 50

A carrier of nuclear substances or a person handling radioactive waste may be considered as the operator in regard to these activities in place of the operator normally concerned, provided such substitution is allowed by the responsible authority.

(c) Rights of recourse

Section 53

The operator has a right of recourse whenever a contract so provides expressly.

III - EXONERATION FROM LIABILITY

Section 45

A nuclear operator is not liable for damage caused by a nuclear incident resulting from armed conflict, hostilities, civil war or insurrection or from a grave natural disaster of an exceptional character.

This general exception can be extended to include fault or negligence of the victim which, if it contributed in whole or in part to the nuclear damage, may, depending on the view of the competent court, release the operator from his obligation to compensate the person in question.

Decree of
27.7.1967
Section 1

A further exception from the field of application of the regulations governing nuclear liability is that of persons using radioactive substances or equipment which, under the standards in force, are not capable of emitting radiation constituting a serious risk.

FUNCTIONING OF THIRD PARTY LIABILITY

I - FINANCIAL SECURITY

Section 55

Nuclear activities in Spain are subject to licensing, and operators are also required to constitute financial security as cover against the hazards of nuclear incidents, excluding deferred damage.

Section 56

This financial security must be provided in the form of an insurance policy or the deposit of cash or securities approved by the Ministry of Finance.

Section 56

Such security must be reconstituted by the operator when it has been drawn on to pay compensation.

(a) Limits of liability and insurance

Section 57
Decree of
7.11.1968
Section 1

For nuclear installations the total cover required is 350 million pesetas (approximately 5 million EMA u/a); this figure will be increased automatically whenever necessary to the amount considered to be a minimum in pursuance of the international conventions ratified by Spain.

Act of
29.4.1964
Section 58

Liability arising out of nuclear activities may be covered by insurance companies authorised to write third party liability insurance on terms specially approved by the Ministry of Finance. For this purpose the insurance companies may combine to form pools.

Decree of
22.7.1967,
Sections 55
and 58

Such pools have legal personality and remain under the supervision of the Office of the Director-General of Insurance. The insurance companies and pools must, in addition to the normal reserves, constitute a special technical reserve fixed by the Ministry of Finance. If the amount required by the present Act as cover cannot be raised jointly by the companies, the Insurance Compensation Consortium, a body responsible to the Office of the Director-General of Insurance, will share with them in covering the risk, and will effect reinsurance.

Section 51

Because of the special nature of the risks covered it has been decided to require the insured to bear the first 5 per cent of claims arising out of each incident.

Act of
29.4.1964
Section 64

The State is not required to take out third party liability insurance in respect of its own nuclear activities and merely undertakes to pay the compensation required by the present Act.

(b) State intervention

Section 51(1) If, when compensation is paid, the financial security proves insufficient, the State will take appropriate measures to make good the difference in cases of personal injury or loss of life.

Section 68 The Ministry of Finance will decide appropriate procedures for the payment of sums for which the State is liable by way of compensation for nuclear damage, independently of third party liability, in cases covered by the present Act and by international conventions ratified by Spain.

The Government will take appropriate measures to pay compensation in respect of deferred damage.

II - COMPENSATION

Section 51(1) Payment of compensation for nuclear damage is subject to an order of priority. First in order is personal injury, compensation for which must equal at least the scales laid down in workmen's compensation insurance; compensation for personal injury is never scaled down on a pro rata basis. Second in the order of priority is damage to property, for which compensation is paid after claims in respect of personal injury have been fully met. In this case, if the cover proves insufficient, the compensation is paid on a pro rate basis according to the amount of damage suffered.

Section 51(2)

III - LIMITATION IN TIME

The time limits for bringing actions are ten years in the case of immediate damage and twenty years in the case of deferred damage. For this purpose, experts rule on the nature of the damage. Any person who has brought an action within the period provided may make a further claim in respect of any aggravation of the damage after the expiry of such period, provided that final judgment has not been given meanwhile.

IV - COMPETENT COURTS AND MISCELLANEOUS PROVISIONS

Section 65 Claims for compensation are the subject of legal actions brought before the ordinary courts.

These actions are brought jointly against the operator and the insurance company or companies concerned. When cover has been provided by the deposit of cash or securities, the plaintiffs may ask the court to take precautionary measures.

Section 66 The court having jurisdiction is that of the place where the damage occurred.

Comments:

The text re-states the essential principles laid down in the Paris Convention. The Spanish Act of 1964 is an outline law designed to be supplemented by administrative regulations such as that on cover for nuclear risks.

One of the special features of the Act is the distinction between immediate and deferred damage. As in most of the legislation of the countries Signatory to the Paris Convention, nuclear activities are subject to licensing and the constitution of adequate financial security is an essential condition for such licensing.

It will be noticed that in paying compensation after a nuclear incident, priority is given to personal injury.

TEXTS

● *France*

ACT CONCERNING THIRD PARTY LIABILITY IN THE FIELD OF NUCLEAR ENERGY *
/Act No. 68-943 of 30th October 1968; Official Gazette of 31st October 1968/

Section 1

The aim of the present Act is to lay down those measures which, pursuant to the Convention on Third Party Liability in the Field of Nuclear Energy signed in Paris on 29th July 1960, the Supplementary Convention signed in Brussels on 31st January 1963 and the Additional Protocol to those Conventions signed in Paris on 28th January 1964, are left to the initiative of each Contracting Party.

Section 2

The provisions of the present Act shall apply to any individuals or bodies corporate, public or private, operating a civil or military nuclear installation to which the Paris Convention applies, and which is regulated by the implementing Decrees made under Section 8 of Act No. 61-842 of 2nd August 1961 on Air Pollution and Odours and amending the Act of 19th December 1917.

A Decree shall establish the procedure whereby a carrier meeting the requirements set forth in Section 7 may, in agreement with the operator of a nuclear installation, request that he be made liable under Section 4 in place of the operator.

Section 3

The operator's liability by virtue of the Paris Convention shall be extended to cover damage by ionizing radiation emitted by any source of radiation in his installation.

The operator's liability shall likewise be extended to include damage to any means of transport on board which the nuclear substances are at the time the incident occurs.

Section 4

The maximum liability of the operator shall be 50 million francs per incident, regardless of the number of installations operated by him at a given site.

* This text is an unofficial translation prepared by the European Nuclear Energy Agency's Secretariat.

Section 5

Compensation in excess of the operator's liability shall be paid by the State under the conditions and within the limits specified in the Brussels Supplementary Convention.

In the case of installations for other than peaceful purposes, victims who under the terms of the Brussels Convention would have been entitled to compensation if the installation were for peaceful uses shall be compensated by the State, provided that total compensation paid shall not exceed 600 million francs per incident.

Section 6

Operators shall inform the law agent to the Treasury of all claims for compensation.

Section 7

Each operator shall provide and maintain insurance or other financial security equal to the amount of his liability for a single incident. Any financial security must be approved by the Minister for Economic Affairs and Finance.

Upon the proposal of the Minister responsible for Atomic Energy, the Minister for Economic Affairs and Finance may provide a State guarantee for operators of nuclear installations and such guarantee shall, pro tanto, take the place of insurance or other financial security.

Insurers or any other persons who have provided financial security shall be required to give at least two months written notice to the Minister responsible for Atomic Energy before suspending or cancelling the insurance or security.

Section 8

In the event of the victims of a nuclear incident being unable to recover compensation from the insurer, guarantor or operator, this shall be met in the last resort by the State, up to the limit set in Section 4 and without prejudice to the application of Section 5.

Section 9

It shall be a condition of the transport of nuclear substances in transit on national territory that proof be provided of the existence of financial security up to the amount of at least 600 million francs.

Derogations may be granted by Decree for cases where the nature of the substances transported and the conditions of carriage are such that it appears unnecessary to require such proof. The security required in such cases shall, under no circumstances, be less than the amount specified in Section 4 here above. Should the security, as a result of any derogation granted, prove insufficient to cover the damage, all compensation in excess of the aforementioned security shall be paid by the State up to the limits and subject to the conditions specified in this Act.

Section 10

As regards bodily injuries, a Decree issued after a report from the Minister responsible for Atomic Energy and the Minister for Social Affairs shall establish, having regard to the irradiation and to the contamination received, and to the time elapsed before the disorder was observed, a non-restrictive list of disorders that shall be presumed to have been caused by the incident, in the absence of proof to the contrary.

Section 11

The provisional or final compensation actually paid to victims may not be reduced on account of the limits of liability and financial guarantee provided for in Sections 4 and 5 here above.

Section 12

In the case of installations engaging mainly in public service activities, the excess over 25 million francs of any damage to property not belonging to the operator that may be on the site of the installation which gave rise to the incident, and is used or to be used with such installation, shall be paid by the State, provided the total amount of compensation paid to all victims of the incident in question under the terms of the Act is less than 600 million francs; provided, however, that the total amount of compensation paid by the State shall not exceed the aggregate of the sums that would have been payable by it under Sections 3 and 12 of the Brussels Supplementary Convention in the case of an incident entailing damage amounting to 600 million francs.

Section 13

If at the time of a nuclear incident it appears that the maximum sums available under this Act are likely to be insufficient to compensate for the whole of the damage sustained by the victims, a Decree made in Council of Ministers and published not later than six months after the date of the incident shall recognise this exceptional situation and specify the manner in which the sums referred to in Sections 4 and 5 are to be disbursed.

Such a Decree may, inter alia, establish special control measures for the population in order to detect any such persons as may have sustained injury and, having regard to the insufficiency of the sums referred to in the previous paragraph and to the following order of priority, lay down rules for calculating the compensation to which each victim is entitled for bodily injury or damage to property.

In this event, the sums available under the present Act shall be allocated as follows:

- (a) priority shall be given to the compensation of bodily injuries, in manner to be determined by analogy with the legislation concerning industrial accidents;
- (b) any sums remaining after payment of the compensation aforesaid shall be allocated among the victims in proportion to any bodily injury left uncompensated and to damage to property, assessed in accordance with the principles of common law.

Section 14

Any victims sustaining damage shall be entitled to bring direct action against the insurer of the responsible operator or any other person who has provided financial security.

The person compensating the victims shall have the rights of recourse to which the operator is entitled by virtue of the Conventions referred to in Section 1. In this event, the State shall have priority in recovering such sums as it may have disbursed.

Section 15

Claims for compensation must be brought within three years either of the date at which the person suffering damage has knowledge or from the date at which he ought reasonably to have known of both the damage and the operator responsible; provided, however, that in no case may proceedings be instituted more than ten years after the incident.

In the event of an incident occurring within the territory of the French Republic and being recognised by the Paris Convention as falling within the jurisdiction of a French Court, the State shall likewise pay compensation for damage which, having manifested itself more than ten years after the incident, cannot be claimed. Even in this case, the sum total of the compensation awarded, on whatever basis, shall not exceed the maximum amount established by this Act. Claims for compensation must be brought against the State no more than five years after expiration of the ten-year period specified in the foregoing paragraph.

Section 16

This Act does not derogate from the rules established by the legislation concerning social insurance and compensation for industrial injuries and occupational diseases and by the legislation on these subjects special to various occupations, more particularly as concerns proceedings.

Except in cases where the victim, having been employed by the operator at the time of the nuclear incident, has received compensation as for an industrial accident proper or an occupational disease, proceedings shall be instituted against the operator, his insurance company or the persons providing financial security.

Should a victim employed by the operator at the time the nuclear incident occurred receive compensation as for an industrial accident proper or an occupational disease, in respect of an incident caused by a person other than the operator or his agents and servants, the victim and the agency paying him insurance benefits shall be entitled to use their right of recourse against the person causing the incident, to pursue the operator.

Claims may be brought within the limits and subject to the conditions specified in Sections 4 and 5.

Section 17

The civil courts shall have jurisdiction in all cases of claims brought in application of this Act. In no case shall any criminal court in which proceedings may be instituted entertain a civil claim.

Section 18

Failure to comply with the provisions of Sections 7 and 24 of the present Act shall make the offender liable to imprisonment for from two to six months and/or a fine of 10,000 to 100,000 francs.

Once an official report has been made out concerning a breach of the provisions of Sections 7 and 24, the Minister responsible for Atomic Energy and, if necessary, the Minister within whose sphere of competence the installation falls, may suspend operation of the installation until the breach has been remedied.

Section 19

The provisions of the present Act override the special rules concerning the prescription of claims against the State, departments, local administrations and public bodies.

Section 20

The present Act shall apply to the overseas territories, without prejudice to:

- (1) The jurisdiction of the Chamber of Deputies of the "Territoire français des Afars et des Issas" as defined by Section 31 of Act No. 67-521 of 3rd July 1967,
- (2) The jurisdiction of the Chamber of Deputies of the Comoro Archipelago, as defined by Section 7 of Act No. 68-4 of 3rd January 1968.

Section 21

The present Act shall come into force upon publication of the text of the Paris Convention in the Official Gazette of the French Republic; whereupon, the provisions of Act No. 65-955 of 12th November 1965, introducing, as a temporary measure, special rules of liability for incidents of nuclear origin, shall be abrogated.

Section 22

Until publication of the Brussels Convention in the Official Gazette of the French Republic, or after its expiry, or should the Government of the French Republic withdraw therefrom, the Supplementary State Compensation provided for in Section 5, in the amount of 600 million francs per incident, shall apply only with respect to damage suffered in the territory of the French Republic.

Section 23

The whole of the provisions of the present Act shall cease to have effect upon termination of the Paris Convention, whether by withdrawal or by expiration.

Section 24

Within three months from the date on which the present Act comes into force, all operators must be able to produce proof that their liability is covered as stipulated in Section 7 here above.

The present Act shall be enforced as an Act of the State.

Done in Paris on 30th October 1968.

• *Italy*

BILL NO. 204 ON THE ESTABLISHMENT OF A NATIONAL OFFICE FOR NUCLEAR ENERGY (ENEN) (1)

Section 1

The National Committee for Nuclear Energy, set up by Act No. 933 of 11th August 1960, shall be renamed the "National Office for Nuclear Energy" (ENEN).

The Office shall be a public law corporation with headquarters in Rome; it shall be subject to control by the Ministry for Industry, Commerce and Crafts, and pursue its activities in accordance with the directives of the Interministerial Committee for Economic Planning.

Section 2

The task of the ENEN in connection with the development of nuclear energy for purely peaceful purposes shall be:

- (1) to undertake and co-ordinate studies, research and experiments in nuclear disciplines, advanced technologies and their applications;
- (2) to prepare projects, and to construct and develop nuclear prototypes and installations, including those to be used for nuclear fuels, reprocessing, nuclear substances and related technologies;
- (3) to carry out studies and research with respect to the use of radioactive substances and nuclear technology in those sectors where the Office shall consider such uses to be appropriate;
- (4) to continue and develop co-operation with international and foreign organisations working in the fields indicated in the foregoing paragraphs;

(1) This text is an unofficial translation by the Secretariat of the European Nuclear Energy Agency.

- (5) to contribute, subject to approval by the CIPE, to the industrial application of the results of work in the fields mentioned in the foregoing paragraphs, directly, by transfer of knowledge, patents and equipment, or by creating joint-stock companies or participating in the latter by contributions of capital, staff and technical resources;
- (6) to apply a security control to installations in any way concerned with nuclear activities, and to ensure the protection of persons against ionizing radiations;
- (7) to promote and encourage the technical training of staff with specialised knowledge in the field of nuclear energy and its industrial applications as well as in other advanced technologies;
- (8) to disseminate knowledge of nuclear problems and results of research;
- (9) to give its opinions and co-operate with Government departments in all questions relating to ores, source materials and radioactive substances and to installations producing nuclear energy and, in general, all matters relating to nuclear energy and its applications.

Section 3

The Interministerial Committee for Economic Planning:

- (1) shall approve the programmes of the Office and bring them into line with those of the ENEL and other public bodies in the nuclear energy field;
- (2) shall approve the draft programme to be submitted to Parliament;
- (3) shall issue directives concerning the activity of the ENEN;
- (4) shall be consulted in advance with a view to determining the State contribution and its distribution, notably in the fundamental research sector.

Section 4

The Minister for Industry, Commerce and Crafts:

- (1) shall ensure that the work of the ENEN corresponds to the objectives for which the Office was set up;
- (2) in agreement with the Minister for the Budget and Economic Planning, shall ensure that the work of the Office is in accordance with the programme approved and the directives given by the CIPE under Section 3 of the present Act;
- (3) shall fix the emoluments of the Chairman and members of the Board of Directors and of the Auditors;
- (4) shall approve the nomination of the General Manager;
- (5) shall approve the budget and balance sheet of the Office and be responsible for its transmission to the CIPE.

Section 5

The structure of the ENEN shall be as follows:

- the Chairman;
- the Board of Directors;
- the Auditors;
- the Staff Commission.

Section 6

The Chairman, Vice-Chairman and members of the Board of Directors are appointed by Decree of the President of the Republic, on the proposal of the Minister for Industry, Commerce and Crafts, after consultation with the Council of Ministers; their term of office shall be five years.

Members of the Board of Directors who cease to hold office for any reason shall be replaced by the same procedure for the remainder of the term.

The functions of a member of the administration and of the internal control body shall be incompatible with those of administrator, official of public economic bodies, member of the management or trade unions of commercial companies, or employee of enterprises set up in the form of companies.

Should the Chairman, Vice-Chairman and other members of the Board of Directors be in the situation referred to in the foregoing paragraph they shall be automatically relieved of their office if, within the fifteen days following the notice of appointment, this situation of incompatibility has not come to an end. The same shall apply to Government civil servants and administrators or officials of non-economic public services appointed to the same posts if they are not released within fifteen days of the notice of appointment.

Section 7

The Chairman:

- (a) shall be the legal representative of the Office;
- (b) shall call and preside over meetings of the Board of Directors and prepare the Agenda after consultation with the General Manager;
- (c) shall supervise the general working of the Office;
- (d) shall submit to the Minister of Industry, Commerce and Crafts, and to the Interministerial Committee for Economic Planning (CIPE) after consultation with the Board of Directors, the draft programme which is to be submitted to Parliament and the annual report which situates the activity of the Office within the context of national efforts in the sector.

Section 8

The Board of Directors shall be composed of the Chairman of the Office, who presides it, and six advisers; four of these advisers shall be chosen among persons having special technical qualifications, and the other two among experts in organisation or in administrative and technical matters.

At the time of his nomination, one of the advisers shall be appointed Vice-Chairman.

The Board of Directors:

- (a) shall approve the balance sheet before 30th April;
- (b) shall ensure that the directives of the CIPE are followed, and draw up annual or pluri-annual programmes of activity for the Office in the light of those directives;
- (c) shall approve the Statute and rules of procedure of the Office;
- (d) shall appoint the General Manager of the Office and fix his salary;
- (e) shall approve the recruitment and dismissal of management personnel, on the proposal of the General Manager, after obtaining the opinion of the Commission referred to in Section 10;
- (f) shall determine the number of staff and take decisions concerning the conclusion and periodic renewal of the collective labour contract;
- (g) shall decide upon commitments for expenditure in respect of which authority has not been delegated to other bodies or services;
- (h) shall approve projects submitted for the opinion of the CIPE in accordance with Section 2(5) and, if this opinion is favourable, decide that they should be implemented. To enable the CIPE to formulate an opinion detailed explanations must be provided concerning the value of the projects submitted and the method chosen to implement them;
- (i) shall take decisions on all other matters in which it is competent by virtue of its Statute.

The Board shall take its decisions by majority vote. Its decisions shall be valid only if five members at least are present, including the Chairman or acting Chairman. Where there is an equal number of votes for and against, the Chairman or acting Chairman shall have the casting vote.

The Board shall be convened by the Chairman whenever he considers it necessary; it must also be convened at the request of three or more members.

Section 9

The Board of Auditors shall be composed of three regular members, one of whom is Chairman, and two deputies. They shall be appointed by Decree of the Minister of Industry, Commerce and Crafts, in agreement with the Minister for the Treasury. Their term of office shall be five years, and may not be renewed.

The Auditors shall examine the administrative acts of the Office from the accounting point of view. To this end they may scrutinize the account books of the Office and documents concerning each entry. They shall draw up a report on the balance sheet and also report on their audit to the Minister for Industry, Commerce and Crafts, and to the Minister for the Treasury.

The Chairman of the Board of Auditors or one of its members delegated by the Chairman may attend meetings of the Board of Directors. A copy of the Minutes of Auditors' meetings must be transmitted to the Chairman of the Office.

The Auditors shall also exercise their functions during periods of management by a Government Commissioner.

Section 10

The Staff Commission shall be composed of eight members nominated by the staff in accordance with the procedures established by the collective labour contract.

The Commission shall give its prior opinion:

- (a) on the annual or pluri-annual programmes of the Office;
- (b) on the financial policies to be adopted to carry out these programmes;
- (c) on the organisation and internal working of the Office.

In accordance with the procedures established by the collective labour contract, representatives of the Commission shall participate in decisions concerning recruitment and management of staff covered by the contract.

Section 11

The General Manager shall be appointed by the Board of Directors; his appointment shall be subject to the approval of the Minister for Industry, Commerce and Crafts.

The provisions in sub-paragraphs 3 and 4 of Section 6 concerning incompatibility of functions with other public or private functions shall apply to the General Manager.

Section 12

The General Manager:

- (a) shall participate in an advisory capacity in meetings of the Board of Directors and shall have the power to initiate and propose action;

● *European Nuclear Energy Agency*

INTERPRETATION OF THE PARIS CONVENTION: TEXT OF THE RECOMMENDATION ADOPTED BY THE STEERING COMMITTEE FOR NUCLEAR ENERGY AT ITS SESSIONS OF 19TH OCTOBER 1967 AND 25TH APRIL 1968

The Steering Committee recommends that, with a view to achieving harmonisation in the application of the Paris Convention, Signatory countries, in adopting measures to apply the Convention, should take account of the following conclusions:

1. The Paris Convention is applicable to nuclear incidents occurring on the high seas or to damage suffered on the high seas.⁽¹⁾
2. Radioisotopes which are used or intended to be used for any industrial, commercial, agricultural, medical or scientific purpose and have reached the final stage of fabrication for such purpose are not within the scope of the Paris Convention when they are in the course of carriage.
3. As a general rule, damage to nuclear matter itself, when such matter is in the course of carriage, should not be considered as falling within the third party liability of the operator as provided under the Convention, however, this does not preclude the liability of the operator where he is responsible for shipping nuclear substances which belong to another operator or where more than one shipment of nuclear substances are carried on the same means of transport and damage is caused by the nuclear substances of the operator to the nuclear substances of the other operators.
4. Assumption of liability pursuant to the express terms of a written contract shall be considered as a specific example of taking in charge and as being included, therefore, within the terms of Article 5(c) of the Convention.
5. Where a Contracting Party to the Paris Convention makes use of Article 7(e) thereof to subject the transit of nuclear substances through its territory to the condition that the maximum amount of liability of the foreign operator concerned be increased, the maximum total liability for a nuclear incident occurring in the territory of that country will be the higher amount thus required pursuant to Article 7(e) or, if the incident occurred elsewhere, the amount originally established by the installation State as the maximum liability of that operator.
6. Article 8 of the Convention, as amended by the Additional Protocol, should be interpreted as if the reference to time in paragraph (d) of that Article made specific mention of paragraphs (b) and (c) of the Article, in addition to paragraph (a) thereof.

(1) The Belgian Authorities made it known that although they did not object to the Steering Committee's recommending Conclusion 1, they wished to point out that they did not envisage including an express provision to this effect in their national legislation, as they preferred leaving the question to the appreciation of Belgian courts.

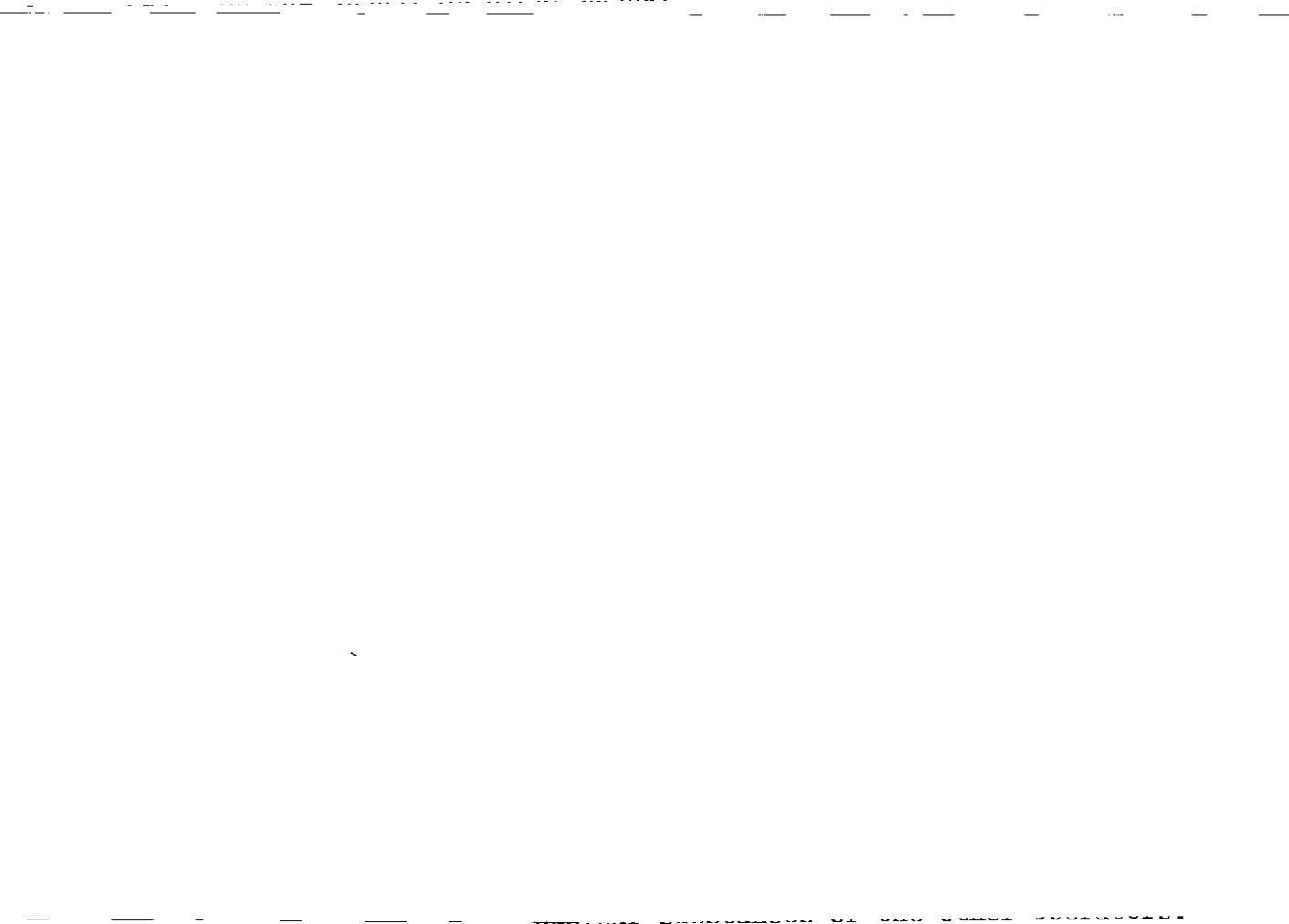
NUCLEAR LAW BULLETIN NO. 2

E R R A T U M

Certificate of Financial Security
for the Carriage of Nuclear Substances

Pages 65, 66, 67, 68 should be read in the following sequence:

66, 65, 68, 67



CERTIFICAT DE GARANTIE FINANCIERE POUR LE TRANSPORT DE SUBSTANCES NUCLEAIRES
CERTIFICATE OF FINANCIAL SECURITY FOR THE CARRIAGE OF NUCLEAR SUBSTANCES

établi conformément à l'article 4(c) de la Convention de Paris sur la responsabilité civile dans le domaine de l'énergie nucléaire, en date du 29 juillet 1960 et à la loi
issued in accordance with article 4(c) of the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29th July 1960 and the Law

1

1.	NUMERO DU CERTIFICAT CERTIFICATE NUMBER
2.	NOM ET ADRESSE DE L'EXPLOITANT RESPONSABLE NAME AND ADDRESS OF THE OPERATOR LIABLE	
	Nom Name
	Adresse Address
3.	MONTANT DE LA GARANTIE AMOUNT OF THE SECURITY
4.	TYPE DE GARANTIE TYPE OF SECURITY
5.	DUREE DE LA GARANTIE DURATION OF THE SECURITY
6.	DESIGNATION DES SUBSTANCES NUCLEAIRES COUVERTES PAR LA GARANTIE NUCLEAR SUBSTANCES IN RESPECT OF WHICH THE SECURITY APPLIES

**CERTIFICAT DE GARANTIE FINANCIERE
POUR LE TRANSPORT
DE SUBSTANCES NUCLEAIRES**

**CERTIFICATE OF FINANCIAL SECURITY
FOR THE CARRIAGE
OF NUCLEAR SUBSTANCES**

**Modèle de Certificat recommandé par le Comité de Direction de l'ENEA
Model Certificate recommended by the ENEA Steering Committee**

L'EXPLOITANT RESPONSABLE
THE OPERATOR LIABLE

dont le siège est
whose address is

certifie que le transport de substances nucléaires décrit ci-après est effectué pour son compte et qu'il est visé par la garantie mentionnée dans le Cadre I.
certifies that the carriage of nuclear substances described hereinafter is carried out on his behalf and that such carriage is covered by the security mentioned in Part I.

DESIGNATION DES SUBSTANCES NUCLEAIRES COUVERTES PAR LA GARANTIE
NUCLEAR SUBSTANCES IN RESPECT OF WHICH THE SECURITY APPLIES

ITINERAIRE COUVERT PAR LA GARANTIE
CARRIAGE IN RESPECT OF WHICH THE SECURITY APPLIES

Délivré à le par
Issued in on for and on behalf of

Signature :

L'exploitant responsable
The Operator liable

7. ITINERAIRE COUVERT PAR LA GARANTIE
CARRIAGE IN RESPECT OF WHICH THE SECURITY APPLIES

.....
.....

8. NOM ET ADRESSE DE L'ASSUREUR (OU DES ASSUREURS) ET (OU) DE LA (OU DES) PERSONNE(S) AYANT
ACCORDE UNE GARANTIE FINANCIERE
NAME AND ADDRESS OF THE INSURER(S) AND/OR GUARANTOR(S)

Nom
Name

Adresse
Address

DELIVRE A LE PAR
ISSUED IN ON FOR AND ON BEHALF OF

(a) Le (ou les) garant(s)
The guarantor(s)

Designation

Signataire et titre
Signer and title

(b) L'Etat [le cas échéant]
The State [where applicable]

Signataire et titre
Signer and title

II

Je soussigné, certifie que la personne visée au paragraphe 2 est un exploitant au sens de la Convention de Paris.
I hereby certify that the party mentioned in Paragraph 2 is an operator within the meaning of the Paris Convention.

Délivré à le par
Issued in on for and on behalf of

.....
.....
.....

(L'Autorité publique compétente)
(The Competent Public Authority)

**NOTICE EXPLICATIVE
RELATIVE AU CERTIFICAT DE GARANTIE FINANCIERE
POUR LE TRANSPORT DE SUBSTANCES NUCLEAIRES**

CADRE I

En-tête

L'en-tête pourra comprendre une référence à l'autorité publique compétente du pays qui établit le certificat.

Paragraphe 2

Lorsque, conformément à l'article 4(d) de la Convention de Paris, la loi nationale prévoit que la responsabilité du transporteur peut être substituée à celle de l'exploitant normalement responsable, et qu'il est fait usage de cette faculté, le nom et l'adresse du transporteur devront remplacer ceux de l'exploitant.

Paragraphe 3

Le montant indiqué pour la garantie doit être par accident; toutefois, s'il n'est pas possible d'obtenir une couverture par accident, il doit être précisé si la couverture est par période ou par voyage. Si le montant global de la garantie résulte de plusieurs garanties différentes, le montant de chacune d'elles doit être précisé. Le montant global de la garantie doit être conforme aux dispositions de l'article 7 (b) et (c) de la Convention. Si la garantie financière résultant d'une assurance ou d'une autre source est insuffisante, les autorités nationales compétentes doivent indiquer l'importance des fonds mis à disposition par l'Etat ou les mesures complémentaires prises par celui-ci.

Paragraphe 4

Le certificat doit mentionner s'il s'agit d'une assurance (et, dans ce cas, préciser le numéro de la police) ou bien s'il s'agit d'une autre forme de garantie financière. Si la garantie est fournie sous plusieurs formes différentes, celles-ci doivent être énumérées y compris, le cas échéant, les fonds publics.

Paragraphe 5

L'inscription «durée de la garantie» doit préciser la date d'effet de la garantie. Il est rappelé, qu'aux termes de l'article 10(b) de la Convention, l'assureur ou le garant ne peuvent suspendre ou mettre fin à la garantie financière pendant la durée du transport.

Paragraphe 6

La description doit permettre d'identifier de façon précise les substances nucléaires faisant l'objet du transport. Toutefois, dans le cas où l'exploitant est titulaire d'une police d'assurance ou d'autres garanties couvrant en permanence toute une série de transports pendant une période définie, la description donnée au paragraphe 6 pourra être de caractère général, à condition que le Cadre III, d'usage facultatif, soit alors rempli et permette l'identification précise des substances nucléaires faisant l'objet du transport particulier pour lequel le certificat est délivré.

Paragraphe 7

Dans la mesure où les principaux points de passage du transport, en particulier aux frontières, sont connus par avance, ceux-ci doivent être indiqués. Le nom et l'adresse du destinataire pourront éventuellement être précisés.

Paragraphe 8

Lorsque la garantie constituée par une police d'assurance est complétée par une garantie accordée par l'Etat ou un autre garant, leur signature doit figurer au bas du Cadre I.

CADRE II

En certifiant que la personne désignée au paragraphe 2 du Cadre I est un exploitant au sens de la Convention de Paris, les autorités compétentes pourront également faire figurer les garanties fournies par l'Etat, ou les autres mesures prises par lui, pour assurer l'indemnisation des victimes, conformément à la Convention.

CADRE III

Le Cadre III, d'usage facultatif, est rempli par l'exploitant lui-même lorsque la garantie figurant au paragraphe 6 du Cadre I fournit une couverture générale valable pour toute une série de transports. Le Cadre III vise alors le transport particulier dont il donne la description. Le Cadre III ne peut en aucun cas constituer à lui seul un certificat valable et il ne peut être utilisé qu'en complément du Cadre I.

**EXPLANATORY NOTICE
ON THE CERTIFICATE OF FINANCIAL SECURITY
FOR THE CARRIAGE OF NUCLEAR SUBSTANCES**

PART I

Heading

If desired, the heading may include a reference to the competent public authority of the country where the Certificate is issued.

Item 2

Where, in accordance with Article 4(d) of the Paris Convention, national law provides that the carrier may be liable in place of the operator who would normally be liable and when use is made of that option, the name and address indicated should be that of the carrier rather than that of the operator.

Item 3

The amount of security indicated shall be per incident; if, however, per incident coverage is unobtainable, it must be indicated whether the coverage is per period or per carriage. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated. The total amount of security must conform to the provisions of Article 7(b) and (c) of the Convention. If the financial security furnished by insurance or from some other private source is insufficient, the competent national authorities should indicate the funds made available by the State or other supplementary measures taken by the State.

Item 4

The Certificate should stipulate whether the security furnished is by insurance (including in such cases the insurance policy number) or whether such security is furnished in some other form. If security is furnished in several forms, these should be enumerated, including State funds.

Item 5

The entry "duration of the security" must stipulate the date on which such security takes effect. It should be recalled that Article 10(b) of the Convention provides that no insurer or other financial guarantor shall suspend or cancel the financial security during the period of the carriage in question.

Item 6

The description given of the nuclear substances should be sufficiently complete to enable them to be positively identified. However, where the operator holds an insurance policy or other financial security providing continuous cover for a whole series of carriage for a defined period, a general description may be given in Item 6, provided that Part III, of optional use, is completed and enables the exact identification of the nuclear substances involved in the particular carriage for which the Certificate is delivered.

Item 7

The major points of transit should be indicated where known, notably the crossing of national borders. Where desired, the name and address of the consignee may also be given.

Item 8

Where the State or some other guarantor completes the security furnished by insurance, they must also sign at the bottom of Part I.

PART II

In certifying that the party mentioned in Item 2 of Part I is an operator within the meaning of the Convention, the competent authorities may also include mention of the security furnished by the State or of other measures which it has taken, to ensure the compensation of persons suffering damage, in conformity with the Convention.

PART III

Part III, of optional use, should be completed by the operator himself when the security mentioned in Item 6 of Part I provides general coverage for a whole series of carriage described therein. Part III may, in no case, constitute a valid certificate in itself and is only valid when used in conjunction with Part I.

NUCLEAR LAW

Bulletin

*toute médiation corrigée en 1969
(4^e Bulletin)*

S U P P L E M E N T T O N O 2

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November 1968



G R E E C E

"MANDATORY ACT" ON THE REORGANISATION OF
THE GREEK ATOMIC ENERGY COMMISSION (GAEC)*

(Act No.451 of 18th June 1968)**

CONSTANTINE

KING OF THE HELLENES

On the proposal of the Council of Ministers we have decided and it is hereby enacted as follows:

Section 1

The Greek Atomic Energy Commission, operating in accordance with Decree No. 3891/1958 "on the reorganisation of the Greek Atomic Energy Commission", which was amended and completed by Decree No. 4115/1960, is a special public service placed under the direct control of the Prime Minister.

Section 2

1. The Greek Atomic Energy Commission shall promote, support or conduct scientific and technical research aimed at furthering the utilisation of nuclear energy in the various branches of science, industry, agriculture and national defence.

2. The said Commission shall, in particular:

(a) keep informed of international developments relating to new techniques for the production of nuclear energy and propose to the competent agencies appropriate measures to benefit therefrom;

(b) propose measures for the protection of individuals and property in Greece against radiation and see that they are applied;

* This text is an unofficial translation prepared by the European Nuclear Energy Agency Secretariat.

** Official Gazette of 20th June 1968.

(c) concern itself with the training of specialists and technicians from among its staff, in other countries and in Greece, with a view to providing the scientific and technical potential needed to meet the requirements arising from the applications of nuclear energy in various spheres;

(d) collaborate with other national agencies, and particularly with higher education establishments, in the preparation of common programmes for scientific research related to its activities in the scientific field;

(e) collaborate with other agencies and enterprises in general, with a view to prospecting and processing radioactive ores;

(f) suggest to competent agencies the names of persons qualified to represent Greece in relation to the respective agencies of other Governments and at congresses and in international nuclear energy organisations;

(g) inform the public by all possible means about questions relating to nuclear energy;

(h) provide scientific and technical advice and assistance to public administrations, public and private agencies and private enterprises on the applications of nuclear energy.

Section 3

The Greek Atomic Energy Commission:

(a) shall be consulted regarding the authorisations required for the importation, installation and operation in Greece of all types of nuclear reactors for whatever purpose;

(b) shall have power to grant the said authorisations concerning the production, storage and utilisation of radioactive materials (radio-isotopes and radioactive waste) and all types of radioactive sources including fissionable materials;

(c) shall be consulted in regard to control, sale and utilisation of radioactive ores mined in Greece.

Section 4

1. The various bodies of the Greek Atomic Energy Commission shall be the following:

- (a) The Scientific Planning Council (SPC)
- (b) The Steering Committee
- (c) The Chairman
- (d) The Scientific Director

2. The Legal Adviser to the Prime Minister's Office shall act as Legal Adviser to the GAEC.

Section 5

The Scientific Planning Council shall be empowered to make proposals on the general orientation and scientific activities of the GAEC.

Section 6

1. The Scientific Planning Council shall have twenty-five members, namely:

(a) ten practising teachers, of university status, of whom:

- (i) three specialising in natural science;
- (ii) two in technology, preference being given to nuclear physics;
- (iii) two in chemistry or pharmacology;
- (iv) one in medicine;
- (v) one in biological science;
- (vi) one in agriculture;

(b) five members, one for each of the following agencies: Industrial Research Foundation, Royal National Foundation, Royal Research Foundation, Union of Greek Industrialists and Public Electricity Enterprise;

(c) at least nine civil servants (of not less than Grade 3) one for each of the following Ministries: Prime Minister's Office, Co-ordination, Education and Religion, Economics, Industry, Commerce, Public Works, Social Insurance, Health and Agriculture;

(d) a suitably qualified officer from the Armed Forces.

2. The above members, who shall be chosen by the Prime Minister, shall be appointed by Royal Decree upon his proposal; those members who are not civil servants shall take the Civil Service oath in the presence of the Prime Minister before taking up their duties, in accordance with Section 35 of Act No. 1811/1951.

3. Members of the Council shall be appointed for three years. They may be however dismissed by the Prime Minister at any time by Royal Decree issued upon his proposal.

Membership of the Scientific Planning Council shall be honorary and shall not entitle the holder to any salary; acceptance of membership shall be compulsory for civil servants.

4. Once the Council has been set up as a body, it shall elect from its members the Chairman, Vice-Chairman and Secretary-General. The presence of at least fourteen of its members is required to form a quorum. Its decisions shall be taken by majority vote; in the event of a split vote the Chairman shall have the casting vote.

5. In order to perform the functions specified in the preceding Section, the Council shall meet in ordinary session half-yearly at a date to be fixed by the Steering Committee and in extraordinary session whenever the Prime Minister or Steering Committee shall deem it necessary.

Section 7

1. The Steering Committee, being the highest body of the Greek Atomic Energy Commission, shall be empowered to adjudicate upon all matters concerning it.

2. The Steering Committee may delegate certain powers to its Chairman in specific cases.

Section 8

1. The Steering Committee shall be made up of seven members, namely:

(a) its Chairman,

(b) five members, preferably chosen from members of the Scientific Planning Council, who shall be appointed by Order of the Prime Minister for three-year terms and may be dismissed before their term of office expires, and

(c) the Scientific Director of the GAEC.

2. The Steering Committee shall elect two of its members other than the Scientific Director, as first Vice-Chairman and second Vice-Chairman; these shall, in that order, perform the Chairman's duties, should the Chairman's post fall vacant or in the event of any other impediment. The duties of Secretary of the Steering Committee shall be performed by a member of the staff of the GAEC appointed by the Chairman.

3. Four members of the Steering Committee shall constitute a quorum. It shall take decisions by a majority vote of members present; in the event of a split vote, the Chairman shall have the casting vote.

4. Should the post of Scientific Director fall vacant, or in the event of his absence or any other impediment, the Steering Committee may lawfully continue to operate.

5. The Board shall meet in ordinary session once a month, at a time to be fixed by the Chairman, and in extraordinary session whenever the latter or four of the members shall deem it necessary.

Section 9

The Chairman of the Steering Committee:

(a) shall execute the decisions of the Steering Committee;

(b) shall supervise and run the services of the Greek Atomic Energy Commission;

(c) shall decide on, or approve, any necessary expenditure up to an amount to be fixed by decision of the Steering Committee;

(d) shall sign decisions and recruitment contracts and decisions for the dismissal of the GAEC's non-scientific staff;

(e) shall report on the matters discussed by the Steering Committee and attend, without the right to vote, the meetings of the Scientific Planning Council.

(f) shall sign letters emanating from the GAEC and may authorise those of his subordinates he deems qualified to sign some of these.

Section 10

1. The Chairman of the Steering Committee of the Greek Atomic Energy Commission shall be appointed by Royal Decree upon the proposal of the Prime Minister. He shall be an applied science graduate from a Greek higher education establishment or an equivalent seat of learning abroad and shall be reputed for his personal qualities and ability to organise and manage. He shall be appointed for a five-year term but may be dismissed by the same procedure by which he has been appointed before his term of office expires, on grounds of public interest to be decided upon by the Prime Minister.

2. The office of Chairman of the Steering Committee of the GAEC shall be incompatible with the exercise of any other public office or other profession or occupation.

3. Where the person appointed Chairman of the Steering Committee is a civil servant or employed by a public body his period of service with the GAEC shall be treated as actual service in his original post.

Section 11

The salaries of the Chairman of the Steering Committee, the Scientific Director and Members of the Steering Committee shall be determined by a joint decision of the Prime Minister, or the Minister delegated in accordance with Section 26 of this Act, and of the Minister of the Economy.

Section 12

1. The Scientific Director shall make proposals regarding the preparation of research and training programmes and, after they have been approved by the competent bodies, shall be responsible for their execution and application.

2. He shall direct the staff of the research laboratories and be responsible for the smooth and harmonious running of the said laboratories.

Section 13

The Scientific Director shall be appointed by Royal Decree, upon the proposal of the Prime Minister and for a three-year term; he shall be a nuclear science expert of high repute with sufficient experience in the conduct and management of research.

Section 14

Within the framework of the GAEC the following bodies shall operate:

(a) The DEMOCRITOS Nuclear Research Centre.

(b) Centres for the sampling and measuring of radioactivity in the environment.

(c) Training centres or institutes other than those provided for under Section 20 of this Act.

Section 15

Royal Decrees, upon the proposal of the Prime Minister or the Minister delegated in accordance with Section 26 of this Act and of the Minister of the Economy, shall govern all matters concerning the receipt and administration of GAEC income that is derived:

(a) from gifts, inheritance or legacies, or all other types of contribution from natural persons or legal entities whether Greek or non-Greek, granted with the object of pursuing or promoting atomic research;

(b) from the sale, or in general, the exploitation by the Commission of radioactive materials, specialised reviews and publications and the supply of services.

Section 16

1. In order to attain the objectives laid down in the Act, the Greek Atomic Energy Commission shall incur the necessary expenditure having no regard for provisions governing public accounts and the execution of public works, or any other general or specific measure of a similar kind.

2. The amount of appropriations against which drawings can be authorised in the form of ordinary orders for payment or orders for advance payment signed on behalf of officials of the GAEC, independently of the restriction of one-twelfth of the provisional budget, shall be fixed by a decision of the Minister of the Economy.

3. A Department of Committed Expenditure shall be set up within the GAEC and the Department's staff shall be appointed by decision of the Minister of the Economy and made up of officials from the General Accounting Office of the Government without any corresponding increase in the number of organic posts in that Office.

4. The payment and administration abroad of a fixed advance of up to \$20,000 shall be authorised.

The provisions for the application of the present subparagraph shall be determined by a joint decision of the Prime Minister or Minister delegated in accordance with Section 26 of this Act, and of the Minister of the Economy, and upon the proposal of the Steering Committee of the GAEC.

5. The daily allowance to be paid to the staff or members of the GAEC or other persons sent on mission abroad at the expense of the GAEC shall be fixed in each case by the Minister of the Economy upon the proposal of the GAEC Steering Committee within the limits set by "Mandatory Act" No. 271/68.

Section 17

The Bank of Greece shall authorise the import and export of currency of an amount not exceeding \$100,000 a year without compliance with the required formalities, in order to enable the GAEC to import and export radioisotopes, fissionable materials, laboratory animals and special equipment.

Section 18

Authorisation may be granted by decision of the Prime Minister or the Minister delegated in accordance with Section 26 of this Act, and on the proposal of the Steering Committee of the GAEC, for the following activities to be undertaken in pursuit of the Commission's objectives and at its expense:

- (a) advanced studies abroad for specialist scientists or other technicians;
- (b) invitations to specialist scientists from abroad;
- (c) the sending of advisers, scientists or other specially qualified persons abroad to represent the country or the Commission at international congresses and in international organisations;
- (d) recruitment of scientists of Greek nationality.

Section 19

Inventions by a member of the staff of the Greek Atomic Energy Commission, in the context of its work, shall be the property of the Commission, without prejudice to the operation of Section 668 of the Civil Code.

Section 20

Authorisation may be granted by Royal Decree, on the proposal of the Prime Minister, for the creation within the "DEMOCRITOS" Nuclear Research Centre, of Centres or institutes for specialised and advanced studies in nuclear sciences, organised and operated according to the rules outlined above. A specialist diploma shall be awarded to persons on completion of studies in the above establishments.

Section 21

1. The contractual relationships between the staff of the Commission, other than the Chairman of the Steering Committee and the Scientific Director, and the State shall be one of public law.
2. Recruitment and dismissal of scientific staff shall take place by decision of the Prime Minister or the Minister delegated by him in accordance with Section 26 of this Act, on the proposal of the Steering Committee.
3. The maximum number of GAEC staff of all categories shall be fixed each year by joint decision of the Prime Minister, or the Minister delegated by him in accordance with Section 26 of this Act, and of the Minister for the Economy, on the proposal of the Steering Committee.

Section 22

Civil servants and military personnel, and officials of public bodies or Government agencies, who are required to work full time for the Greek Atomic Energy Commission, may be seconded by order of the Prime Minister, on the proposal of the Steering Committee of the Commission. Their period of service with the GAEC shall be regarded as equivalent in all respects to a period of service in the department from which they are detached.

Section 23

Regulations proposed by the Steering Committee and approved by the Prime Minister, or the Minister delegated by him in accordance with Section 26 of this present Act, and by the Minister for the Economy, and which must be published in the Official Gazette, shall determine:

(a) the organisation, composition and operation of the Greek Atomic Energy Commission;

(b) the conditions of recruitment to posts with the GAEC, the method of classifying staff at the different salary levels, conditions of remuneration and the general regulations concerning all categories of GAEC staff.

Section 24

The Chairman of the Steering Committee may decide, after consultation with the Board and subject to the approval of the Prime Minister, to employ up to ten persons of foreign nationality over and above the number stipulated in Section 21(3), to meet exceptional requirements. Such persons shall be recruited either by contract for hire of services or by contract of employment, and shall be employed by the GAEC, by reason of their scientific qualifications and specialised knowledge, in specific fields.

Section 25

The past service of the scientific staff of the Greek Atomic Energy Commission, in whatever category they were classified, shall be regarded as a superior qualification in the event of a new appointment to any other Government department or public body; the period of service with the GAEC shall be taken into account for the classification of the official, in accordance with the provisions of the Civil Service Code, the age limit for the appointment referred to above being fixed at 50 years.

Section 26

The Prime Minister may delegate all or some of his powers under the present Act to a Minister or a Secretary of State.

Section 27

All existing fixed term employment contracts of GAEC staff shall expire within six months of the entry into force of the present Act, whatever the date originally fixed for their termination.

Section 28

The appointment of the Chairman, the members of the Steering Committee and the Scientific Director of the GAEC shall come to an end with the appointment, in accordance with Sections 8, 10 and 13 of the present Act, of the Chairman, the members of the Steering Committee and the Scientific Director of the GAEC.

Section 29

From the entry into force of the present Act all general or special provisions in respect of matters covered by the Act shall cease to have effect. The present Act shall enter into force on the date of its publication in the Official Gazette.

Done at Athens, 18th June 1968



S W E D E N

NUCLEAR LIABILITY ACT*

8th March 1968 (No. 45)

INTRODUCTORY PROVISIONS

Section 1

(a) For the purposes of this Act:

(i) "Nuclear fuel" means fissionable material consisting of uranium or plutonium metal, alloy or chemical compound and such other fissionable material as the Government shall determine;

(ii) "Radioactive products" means any radioactive material other than nuclear fuel, and radioactive waste, if the material or waste has been produced in the process of producing or utilizing nuclear fuel or has become radioactive by exposure to radiation incidental to such production or utilization;

(iii) "Nuclear substances" means nuclear fuel other than natural uranium or depleted uranium, and radioactive products other than radioisotopes which are used or prepared to be used for any industrial, commercial, agricultural, medical or scientific purpose;

(iv) "Nuclear reactor" means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process can occur therein without an additional source of neutrons;

(v) "Nuclear installation" means any nuclear reactor other than one with which a ship or any other means of transport is equipped for use as a source of power; any factory for the production or processing of nuclear substances; any factory for the separation of isotopes of nuclear fuel; any factory for the reprocessing of irradiated nuclear fuel; any facility where nuclear substances are stored with the exception of any facility intended exclusively for storage incidental to the carriage of such substances; any such other installation containing nuclear fuel or radioactive products as the Government shall determine;

* English translation, prepared within the Swedish Ministry of Justice with the assistance of the Secretariat of the European Nuclear Energy Agency.

(vi) "Installation State", in relation to a nuclear installation, means the Contracting State within the territory of which that installation is situated or, if it is not situated within the territory of any State, the Contracting State by which the nuclear installation is operated or which has authorized its operation;

(vii) "Operator" means, in relation to a nuclear installation situated in Sweden, the person operating or in charge of the installation, whether authorized thereto under the Atomic Energy Act of 1st June 1956 (No. 306) or not, and, in relation to a nuclear installation outside Sweden, the person recognized under the law of the Installation State as the operator of that installation;

(viii) "Nuclear damage" means

(1) any damage caused by the radioactive properties of nuclear fuel or radioactive products or a combination of radioactive properties with toxic, explosive or other hazardous properties of such fuel or products;

(2) any damage caused by ionizing radiation emitted from any source of radiation inside a nuclear installation other than nuclear fuel or radioactive products;

(ix) "Nuclear incident" means any occurrence or series of occurrences having the same origin which causes nuclear damage;

(x) "Paris Convention" means the Convention on Third Party Liability in the Field of Nuclear Energy, signed in Paris on 29th July 1960 and amended by the Additional Protocol signed in Paris on 28th January 1964;

(xi) "Supplementary Convention" means the Convention supplementary to the Paris Convention, signed in Brussels on 31st January 1963 and amended by the Additional Protocol signed in Paris on 28th January 1964;

(xii) "Contracting State" means any State Party to the Paris Convention.

(b) The Government may prescribe that any nuclear installation, nuclear fuel or radioactive products shall be excluded from the application of this Act, if the small extent of the risks involved so warrants.

Section 2

The Government or an authority appointed by the Government may in respect of nuclear installations situated in Sweden determine that two or more installations operated by one and the same operator and located at the same site shall, for the purposes of this Act, be deemed to be one single installation.

Section 3

(a) This Act does not apply to nuclear damage resulting from nuclear incidents occurring in the territory of a non-Contracting State.

(b) Where liability lies with an operator of a nuclear installation situated in Sweden, this Act applies to nuclear damage suffered in the

territory of a non Contracting State only if the nuclear incident occurred in Sweden. Where liability lies with an operator of a nuclear installation situated outside Sweden, the territorial extent of the liability is governed by the law of the Installation State.

(c) In relation to a non-Contracting State the Government may determine that compensation for nuclear damage suffered in the territory of that State shall be payable in Sweden only if and to the extent that compensation for nuclear damage suffered in Sweden would be payable in that State. Such decision shall not, however, affect liability arising under any such international agreement as referred to in Section 14 (c) by which Sweden is bound.

(d) Provisions regarding the right in certain cases of a person who has paid compensation for nuclear damage to bring, notwithstanding the provisions of this Section, an action of recourse against an operator of a nuclear installation are laid down in Section 15.

Section 4

The Government may, having due regard to Sweden's obligations under the Paris Convention, determine that a non-Contracting State shall for the purposes of this Act be deemed to be a Contracting State.

COMPENSATION

Section 5

The operator of a nuclear installation shall be liable to pay compensation for nuclear damage caused by a nuclear incident in his installation. However, except if otherwise stipulated by express terms of a contract in writing, the operator shall not be liable in respect of a nuclear incident involving only nuclear substances which have been stored in the installation incidentally to their carriage to or from another nuclear installation situated in the territory of a Contracting State.

Section 6

(a) The operator of a nuclear installation shall be liable to pay compensation for nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances from a nuclear installation situated in Sweden or in the territory of another Contracting State, except if otherwise provided in paragraphs (b) or (c) of this Section. *Consignor*

(b) In the case of ^{such} carriage of nuclear substances to a nuclear installation situated in Sweden or in the territory of another Contracting State the liability for damage caused by a nuclear incident occurring in the course of the carriage shall lie with the consignee operator as from the time which has been fixed by a written contract between him and the consignor. In the absence of such contract the liability shall be transferred to the consignee when the nuclear substances are taken in charge by him. *Consignee*

(c) In the case of carriage of nuclear substances to a nuclear reactor with which a ship or any other means of transport is equipped and which is intended to be used therein as a source of power, the consignor operator shall cease to be liable when the nuclear substances have been

taken in charge by the person duly authorized to operate or be in charge of that reactor.

Section 7

(a) Where nuclear substances are sent from a non-Contracting State to a nuclear installation situated in Sweden or in the territory of another Contracting State with the written consent of the operator of that installation, the latter shall be liable for nuclear damage caused by any nuclear incident occurring in the course of the carriage, except if otherwise provided in paragraph (b) of this Section.

(b) In the case of carriage of nuclear substances from a nuclear reactor with which a ship or any other means of transport is equipped and which is intended to be used therein as a source of power, to a nuclear installation situated in Sweden or in the territory of another Contracting State, the operator of that installation shall be liable from the time when he takes charge of the nuclear substances.

(c) Liability for nuclear damage caused by a nuclear incident occurring in Sweden in the course of carriage of nuclear substances, other than carriage from or to a nuclear installation situated in Sweden or in the territory of another Contracting State, shall lie with the person authorized under the Atomic Energy Act to perform the carriage. The provisions of this Act relating to an operator of a nuclear installation situated in Sweden shall in such case apply to the person thus authorized.

Section 8

The provisions of Sections 6 and 7 of this Act on liability for nuclear damage caused by a nuclear incident in the course of carriage of nuclear substances shall apply also in respect of nuclear incidents occurring while the substances are stored incidentally to their carriage, except where the substances have been stored in a nuclear installation and the operator of that installation is liable pursuant to such contract as referred to in Section 5.

Section 9

Where nuclear damage in cases other than those governed by Sections 5 - 8 of this Act has been caused by nuclear substances which came from a nuclear installation situated in Sweden or in the territory of another Contracting State or, prior to the nuclear incident, had been in the course of such carriage as referred to in Section 7 of this Act, the operator who had the substances in his possession at the time of the incident shall be liable for such damage; provided that, if at the time of the incident no operator had the nuclear substances in his possession, liability shall lie with the operator who last had the substances in his possession. However, if prior to the nuclear incident the nuclear substances had been in the course of carriage and no operator had taken charge of the substances after the carriage was interrupted, liability shall lie with the operator who at the time when the carriage ended was liable pursuant to Section 6 or 7 of this Act for nuclear damage caused by a nuclear incident occurring in the course of the carriage.

Section 10

(a) On request of a carrier performing such carriage as referred to in Section 6 or 7 the Government, or an authority appointed by the Government, may determine that the carrier shall be liable, in place of the operator of a nuclear installation situated in Sweden, for nuclear damage caused by a nuclear incident occurring in the course of or in connection with the carriage. Such decision may be taken only if the operator concerned has consented thereto and the carrier has demonstrated that insurance has been taken out pursuant to Sections 22 - 26 or that other financial security has been furnished pursuant to Section 27. Where such decision has been taken, any provision of this Act relating to the operator concerned shall apply to the carrier instead of the operator in respect of nuclear incidents occurring in the course of or in connection with the carriage.

(b) Where a similar decision has been taken according to the law of another Contracting State in respect of nuclear damage for which an operator of a nuclear installation situated in that State would be liable, such decision shall under this Act have the same effect as a decision pursuant to paragraph (a) of this Section.

Section 11

(a) The operator of a nuclear installation shall be liable to pay compensation due under this Act even if there has been no fault or negligence on his part.

(b) However, the operator of a nuclear installation situated in Sweden shall not be liable under this Act for nuclear damage caused by a nuclear incident directly due to an act of war, armed conflict, civil war or insurrection or caused by a grave natural disaster of an exceptional character. The operator of a nuclear installation situated in the territory of another Contracting State shall in such case be liable only if the law of the Installation State so provides.

(c) In cases referred to in paragraph (b) of this Section, liability under rules of the law of torts other than those laid down in this Act shall arise only to the extent provided for in Section 14 (b).

Section 12

(a) The operator of a nuclear installation shall not be liable under this Act for damage to the nuclear installation itself or to any property which, at the time of the nuclear incident, was on the site of the installation and was used or intended to be used in connection with that installation.

(b) Where the operator of a nuclear installation situated in the territory of another Contracting State is liable for damage caused by a nuclear incident occurring in the course of carriage of nuclear substances, the question whether compensation shall be awarded for damage to the means of transport shall be governed by the law of the Installation State.

(c) In cases referred to in the preceding paragraphs of this Section liability under rules of the law of torts other than those laid down in this Act shall arise only to the extent provided for in Section 14 (b).

Section 13

- (a) Except as otherwise provided in this Act, compensation payable under the Act shall be fixed in accordance with the general rules of the law of torts.
- (b) Where the person suffering damage has contributed thereto the operator may be exonerated, wholly or partially, from his liability only where such person has acted or omitted to act with intent to cause damage or where there has been gross negligence on his part.

Section 14

- (a) Claims for compensation for nuclear damage covered by the provisions of this Act relating to compensation for such damage or by the corresponding legislation of another Contracting State may not be brought against any person other than the operator or the person providing insurance covering the liability of the operator, except as otherwise provided in the second sentence of Section 16.
- (b) Claims for compensation for nuclear damage for which the operator, pursuant to Section 11 or 12 of this Act or the corresponding provisions of the law of another Contracting State, is not liable can be brought only against an individual who has caused the damage by an act or omission done with intent to cause damage. The operator shall, however, be liable in accordance with the general rules of the law of torts for such damage to a means of transport as referred to in Section 12 (b).
- (c) As regards liability for nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances or nuclear damage otherwise arising in connection with the operation of a ship or any other means of transport the provisions of the preceding paragraphs of this Section shall not affect the application of any international agreement in force or open for signature, ratification or accession on 29th July 1960 or of any provisions of national legislation based on such agreement. The Government may determine that this shall apply also to other provisions of the law of a Contracting State which are equivalent to the provisions of such agreement.
- (d) Provisions on compensation out of public funds are laid down in Sections 28 - 35.

Section 15

- (a) Any person who has been held liable to pay compensation for nuclear damage under ~~such~~ international agreement or provisions of national legislation as referred to in Section 14 (c) of this Act or under the law of any foreign State shall acquire by subrogation the rights of the person suffering the damage against the operator liable for the damage under this Act. Where the compensation paid relates to damage covered by a decision taken under Section 3 (c) of this Act, the person liable shall have a right of recourse against the operator, who would have been liable for the damage if no such decision had been taken.
- (b) Any person who has his principal place of business in Sweden or in the territory of another Contracting State or who is the servant of such person and who has been held liable to pay compensation for nuclear damage for which the person suffering damage, by virtue of the provisions of Section 3, has no right to compensation under this Act shall, subject to the application, mutatis mutandis, of the provisions of the first

the receiving installation

sentence of paragraph (a) of this Section, have a right of recourse against the operator who, but for the provisions of Section 3, would have been liable for the damage; provided, however, that in the case of nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances to a non-Contracting State, the operator of the nuclear installation from which the nuclear substances were sent shall incur no liability after the substances have been unloaded from the means of transport by which they have arrived in the non-Contracting State, and in case of nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances from a non-Contracting State the operator of [that installation] shall incur no liability until the nuclear substances have been loaded on the means of transport by which they are to be carried from the territory of the non-Contracting State.

(c) A person who is himself liable for nuclear damage pursuant to Section 20 of this Act shall have no right of subrogation or recourse under the preceding paragraphs of this Section.

Section 16

Where a person has simultaneously suffered nuclear damage for which he is entitled to compensation under this Act and other damage, the provisions of this Act regarding liability for nuclear damage shall apply equally to such other damage if and to the extent that such damage is not reasonably separable from the nuclear damage. These provisions shall not, however, limit or otherwise affect the liability of a person other than the operator liable under this Act as regards damage caused by an emission of ionizing radiation not covered by this Act.

Section 17

(a) The liability under this Act of an operator of a nuclear installation situated in Sweden shall not exceed fifty million kronor in respect of nuclear damage caused by any one nuclear incident. The Government or an authority appointed by the Government may, taking account of the size or character of a nuclear installation, of the extent of a carriage or of any other circumstances, fix a lower amount, which shall, however, in no event be less than twenty-five million kronor. The amount of liability of an operator of a nuclear installation situated outside Sweden shall be determined pursuant to the law of the Installation State. In case of a nuclear incident occurring in the course of carriage of nuclear substances the liability of the operator under this Act for damage other than damage to the means of transport shall in no case be limited to an amount less than twenty-five million kronor.

(b) Compensation payable in respect of loss of life or personal injury shall be limited to one million kronor for each person killed or injured.

(c) The amounts referred to in the preceding paragraphs of this Section shall not include any interest or costs awarded by a court.

Section 18

(a) Where nuclear damage gives rise to the liability of two or more operators, they shall be jointly and severally liable to pay compensation; provided that the liability of each operator shall be limited to

the amount established with respect to him pursuant to Section 17 (a). However, where the damage has arisen in the course of carriage of more than one consignment of nuclear substances carried on one and the same means of transport or while more than one consignment have been stored in one and the same nuclear installation incidentally to their carriage to aggregate liability of the operators shall not exceed the highest amount established with respect to any of them.

(b) The apportionment of the aggregate liability as between the operators liable shall be determined with due regard to the extent to which the damage caused is attributable to each of the nuclear installations involved as well as to any other relevant circumstances.

Section 19

(a) If the maximum amount of liability applicable pursuant to Section 17 (a) or Section 18 (a) is not sufficient to satisfy in full the claims of those who are entitled to compensation, their compensation and any interest accruing thereto shall be reduced proportionally.

(b) If, following a nuclear incident, there are reasons to believe that a reduction pursuant to the preceding paragraph of this Section will prove necessary the Government or an authority appointed by the Government may decide that until further notice the compensation payable shall be reduced by such percentage of the full amount of compensation as shall be determined by the Government or competent authority.

Section 20

In respect of any sum that the operator of a nuclear installation has been held liable to pay as compensation under this Act or under the corresponding legislation of another Contracting State, the operator shall have a right of recourse against any individual who has caused the damage by an act or omission done with intent to cause damage or against any person who has assumed liability for the damage under the express terms of a contract in writing with the operator. Except as otherwise provided in the second sentence of Section 16 or in Section 18 (b) the operator of a nuclear installation shall in no other case have a right of recourse against any person in respect of any sum he may have paid as compensation under this Act or under the corresponding legislation of another Contracting State.

Section 21

(a) The right to bring an action for compensation for nuclear damage under Section 5, 6, 7, 8, 9 or 15 of this Act against the operator of a nuclear installation or against the person providing insurance to cover such liability shall be extinguished if a claim for compensation has not been made against the operator within three years from the date at which the person suffering damage had knowledge or by observing due diligence ought reasonably to have known both of the fact that he has suffered damage entitling him to compensation under this Act and of the operator liable or, in cases referred to in Section 15 (a) or (b), from the date at which the claim for compensation was made against him.

(b) The right to compensation for nuclear damage shall be extinguished if an action is not brought against the operator or his insurer

within ten years from the date of the nuclear incident. In the case of nuclear damage caused by a nuclear incident involving nuclear substances which had been stolen, lost or abandoned and had not yet been recovered, no action for compensation may, however, be brought later than twenty years after the date of the theft, loss or abandonment. In cases where it is necessary in order to comply with the provisions of the Paris Convention, the Government shall determine that a person suffering damage shall, on conditions to be prescribed by the Government, retain his right to compensation, notwithstanding that he has not brought an action before a Swedish court within the period specified in this paragraph.

(c) Provisions regarding compensation out of public funds in certain cases where the operator has ceased to be liable are laid down in Section 32.

INSURANCE

Section 22

(a) The operator of a nuclear installation situated in Sweden is required to take out and maintain insurance to cover his liability for nuclear damage under this Act or the corresponding legislation of another Contracting State up to the amount specified in Section 17 (a). The insurance shall be approved by the Government or an authority appointed by the Government.

(b) Insurance may be taken out either

- (i) to cover the liability for each nuclear incident that may occur; or
- (ii) to cover at any time the nuclear installation by an agreed amount after deduction of any sum of compensation paid out or to be paid out by the insurer under the insurance policy.

(c) Liability for damage arising in the course of carriage of nuclear substances may be covered by a separate insurance.

Section 23

(a) In cases referred to in Section 22 (b) (i) the insurance amount shall be not less than the amount of liability established with respect to the operator pursuant to Section 17 (a). In cases referred to in Section 22 (b) (ii), the insurance amount shall be not less than one hundred and twenty per cent of the aforementioned maximum amount of liability. The amount covered by the insurance policy shall not include any interest or costs awarded by a court.

(b) Where insurance has been taken out in accordance with Section 22 (b) (ii) and an insurance contingency occurs which itself or together with one or more earlier contingencies is deemed likely to entail a reduction of the insurance amount below the amount of liability established with respect to the operator, the operator shall without delay take out such supplementary insurance as will bring the insurance amount up to an amount of not less than one hundred and twenty per cent of the said amount of liability.

Section 24

Any person entitled to compensation for nuclear damage shall have a right to bring an action for such compensation directly against the insurer. Except if otherwise provided in the insurance policy, the operator shall thereby be insured against any liability for nuclear damage under this Act or the corresponding legislation of another Contracting State.

Section 25

(a) If the insurance policy is cancelled or otherwise ceases to be valid, the insurer shall nevertheless, in relation to any person suffering damage, continue to be liable to pay compensation in respect of nuclear damage caused by a nuclear incident occurring within two months from the date at which the authority appointed for this purpose by the Government has been notified in writing of the time of expiry of the policy. Where the insurance policy covers liability for nuclear damage caused by a nuclear incident occurring in the course of carriage of nuclear substances and such carriage has started before the expiry of the said period, the insurer shall, however, in no case cease to be liable for such damage until the carriage has come to an end.

(b) The provisions of the preceding paragraph of this Section shall not apply with respect to nuclear incidents occurring after the day on which a new insurance contract has come into force.

(c) Except as provided in the preceding paragraphs of this Section, the insurer may in no case invoke as a defence against a claim for compensation any circumstances due to a person other than the person suffering the damage.

Section 26

The provisions of Sections 24 and 25 shall apply where an action for compensation for nuclear damage under this Act may be brought in Sweden and notwithstanding that the law of a foreign State may be applicable to the relationship between the insurer and the operator liable or that the nuclear installation involved is situated outside Sweden.

Section 27

(a) The State shall be exempted from the obligation under Section 22 to take out and maintain insurance.

(b) The Government or an authority appointed by the Government may relieve an operator from the obligation to take out insurance, provided that the operator furnishes adequate financial security to cover his obligations under this Act and under the corresponding legislation of any other Contracting State and shows that he has taken satisfactory measures to ensure the settlement of any claims for compensation.

(c) The provisions of this Act relating to insurance shall apply, mutatis mutandis, to such other financial security as referred to in the preceding paragraph of this Section or the corresponding provisions of the legislation of another Contracting State.

COMPENSATION OUT OF PUBLIC FUNDS

Section 28

(a) If a person who is entitled under this Act or the corresponding legislation of another Contracting State to obtain compensation for nuclear damage from the operator of a nuclear installation situated in Sweden shows that he has been unable to recover the compensation due from the operator's insurer, compensation shall be paid by the State.

(b) The total compensation payable under the preceding paragraph of this Section shall not exceed the maximum amount of liability established with respect to the operator pursuant to Section 17 (a).

Section 29

(a) Where liability for nuclear damage lies with the operator of a nuclear installation, used for peaceful purposes and situated in Sweden or in the territory of another State Party to the Supplementary Convention and appearing at the time of the nuclear incident on the list referred to in Article 13 of the Supplementary Convention, and jurisdiction over actions for compensation lies with Swedish courts in accordance with the provisions of Section 36 of this Act, and the amount of liability established pursuant to Section 17 (a) or Section 18 (a) is insufficient to satisfy the claims for compensation due, or the compensation payable has, by virtue of a decision taken under Section 19 (b), been reduced to a fixed percentage of the full amount due, compensation out of public funds shall be afforded for nuclear damage suffered

(i) in Sweden or in the territory of another State Party to the Supplementary Convention; or

(ii) on or over the high seas on board a ship or aircraft registered in Sweden or in the territory of another State Party to the Supplementary Convention; or

(iii) in any other case on or over the high seas by a State Party to the Supplementary Convention or by a national of such State; provided, however, that compensation shall be payable for damage to a ship or an aircraft only if such ship or aircraft was at the time of the nuclear incident registered in the territory of a State Party to the Supplementary Convention.

(b) By application of the provisions of the preceding paragraph of this Section the term "national of a State Party to the Supplementary Convention" shall include any company, association or other society, foundation or other similar body, whether corporate or not, established in the territory of such State. Any person who under the law of a State Party to the Supplementary Convention other than Sweden is considered to have his habitual residence in that State and in respect of his right to compensation under the Supplementary Convention is under that law assimilated to the nationals of that State shall under this Act be considered to be a national of a State Party to the Supplementary Convention.

Section 30

(a) Compensation out of public funds pursuant to Section 29 shall be fixed in accordance with the principles laid down in Section 11 (a), Sections 12 and 13 and Section 17 (b) and (c).

(b) The provisions of the first sentence of Section 15 (a) and of Section 15 (c) regarding rights of recourse against an operator shall apply, mutatis mutandis, to rights of recourse against the State in respect of any sum paid as compensation for nuclear damage and for which compensation is payable out of public funds under Section 29.

Section 31

(a) The total amount of compensation for nuclear damage caused by a nuclear incident payable pursuant to Sections 5 - 21, 29 and 30 by one or more operators and the State, and payable pursuant to any such agreement as referred to in Article 15 of the Supplementary Convention, shall not exceed an amount equivalent to one hundred and twenty million units of account referred to in the European Monetary Agreement of 5th August 1955 and as defined in Article 24 of that Agreement, on 29th July 1960. The amount shall not include any interest or costs awarded by a court.

(b) If the amount available for compensation out of public funds pursuant to Sections 29 and 30 is not sufficient to satisfy in full the claims for compensation due, the amounts of compensation and any interest accruing thereto shall be reduced proportionally. The provisions of Section 19 (b) shall apply, mutatis mutandis.

Section 32

(a) If a nuclear incident in respect of which liability lies with the operator of a nuclear installation situated in Sweden has caused nuclear damage in Sweden, which has not come to light until after the rights of compensation against the operator have been extinguished pursuant to Section 21 (b) or the corresponding provisions of the legislation of another Contracting State but within thirty years after the date of the incident, compensation for such damage shall be paid by the State. The State shall also be liable to pay compensation for nuclear damage which has come to light before the rights of compensation have been so extinguished if the person suffering the damage has failed to bring an action against the operator or to take other appropriate measures to preserve his rights within the periods applicable but has had reasonable excuses for not bringing such action or taking such measures.

(b) If compensation has been reduced pursuant to Section 19 (a) and, whenever applicable, Section 31 (b) or the corresponding provisions of the legislation of another Contracting State, the compensation payable out of public funds under the present Section shall be reduced accordingly. In other respects, the liability to pay compensation shall be determined as if the operator had been liable for the damage. The right to bring an action for compensation shall be extinguished if a claim for compensation has not been made against the State, with the authority appointed for this purpose by the Government, within the period specified in Section 21 (a).

(c) The Government may decide that compensation under the present Section shall be payable also in respect of nuclear damage suffered outside Sweden.

Section 33

If and to the extent that the amount of liability established with respect to the operator pursuant to Section 17 (a) or Section 18 (a) or the corresponding provisions of the legislation of another Contracting State is not sufficient to satisfy in full the claims for compensation due for nuclear damage sustained in Sweden, and if compensation for such damage is not payable out of public funds pursuant to Section 29 or otherwise under the Supplementary Convention, compensation out of public funds shall be payable under terms and conditions to be determined by the Government and Parliament. In such cases compensation shall also be granted to supplement compensation payable pursuant to Section 32 for nuclear damage sustained in Sweden, to the extent that such compensation has been reduced pursuant to the first sentence of Section 32 (b). Compensation under this Section shall also be granted for nuclear damage sustained in Sweden in cases where, pursuant to a decision under Section 19 (b), the compensation to be paid by the operator has been reduced to a fixed percentage of the full amount due and compensation out of public funds is not payable under the Supplementary Convention.

Section 34

Compensation pursuant to Section 28, 29 or 33 shall not be payable for nuclear damage caused by such nuclear incidents as referred to in Section 11 (b).

Section 35

(a) In respect of any sums paid out of public funds pursuant to Section 28 the State shall have a right of recourse only against the operator, his insurer and any person against whom the operator has a right of recourse under Section 20.

(b) In respect of any sums paid out of public funds pursuant to Section 29 or 33 on the grounds of the existence of a decision under Section 19 (b), the State shall acquire by subrogation the right to obtain compensation from the operator that the person suffering the damage may have. With regard to any other sums paid out by the State pursuant to Sections 29 - 31 or otherwise paid out in accordance with the provisions of the Supplementary Convention in respect of a nuclear incident giving rise under the law of another Contracting State to the liability of the operator of a nuclear installation situated in Sweden or paid out by the State pursuant to Section 33, the State shall have a right of recourse only against an individual who has caused the damage by an act or omission done with intent to cause damage. The provisions of the present paragraph shall apply, mutatis mutandis, in respect of compensation paid out by the State pursuant to Section 32.

COMPETENT COURTS, ETC.

Section 36

(a) Actions for compensation due under Sections 5, 6, 7, 8, 9 or 15 against the operator of a nuclear installation or against his insurer shall be brought before Swedish courts, if

- (i) the nuclear incident has occurred wholly or partly in Sweden; or
- (ii) the nuclear installation involved is situated in Sweden and either the nuclear incident has occurred wholly outside the territory of any Contracting State or the place of the nuclear incident cannot be determined with certainty.

(b) Whenever required in order to comply with the provisions of Article 13 (c) (ii) of the Paris Convention the Government shall restrict the jurisdictional competence conferred upon Swedish courts under the preceding paragraph of this Section.

Section 37

(a) Jurisdiction over actions for compensation in respect of nuclear damage brought before Swedish courts pursuant to Section 36 and over actions for compensation against the State pursuant to Sections 28, 29, 32 or 33 of this Act shall lie exclusively with the court within the jurisdictional area of which the nuclear incident occurred. Where competence would thus lie with two or more courts, the action may be brought before either of them.

(b) Should there be no competent court under the preceding paragraph of this Section, the action shall be brought before the City Court of Stockholm.

Section 38

(a) Where in accordance with the provisions of the Paris Convention jurisdiction over actions for compensation for nuclear damage lies with the courts of another Contracting State, any judgement entered by such court in such action shall, as soon as the judgement has become enforceable under the law of that State, on request be enforceable also in Sweden, without the merits of the claim being subject to any further proceedings. This provision shall, however, not entail any obligation to enforce a judgement to the extent that the applicable maximum amount of liability of the operator would thereby be exceeded.

(b) An application for enforcement shall be made before the Svea Court of Appeal. The application shall have attached to it

- (i) the original judgement or a copy thereof certified by the competent public authority; and
- (ii) a declaration issued by the competent public authority of the State where the judgement was entered that the judgement relates to compensation due under the Paris Convention and that it is enforceable in that State.

(c) The abovementioned documents shall contain a certificate concerning the due competence of the person having signed the documents. Such certificate shall be issued by a Swedish Embassy or Consul or by the Minister of Justice of the State concerned. If any of the relevant documents is in a foreign language other than Danish or Norwegian, a translation into Swedish shall be attached to the document. The correctness of

the translation shall be certified by a diplomatic or consular officer or by a Swedish notary public.

(d) No application for enforcement shall be granted unless the defendant has had an opportunity to submit his comments on the application.

(e) Where the application is granted, the judgement shall be enforceable in the same manner as a judgement entered by a Swedish court, unless the Supreme Court has decided otherwise upon an appeal against the decision of the Court of Appeal.

FINAL PROVISIONS

Section 39

(a) Where nuclear substances are sent from a nuclear installation situated in Sweden to a consignee outside Sweden or to such installation from a consignor outside Sweden and under such circumstances that the operator of the said installation is liable pursuant to Section 6 or 7 for nuclear damage arising in the course of the carriage, the operator shall provide the carrier with a certificate issued by the insurer and stating the name and address of the operator, the nuclear substances and the carriage in respect of which the insurance applies as well as the amount, type and duration of the insurance. The certificate shall include a statement by the authority appointed for this purpose by the Government that the operator named therein is an operator of a nuclear installation within the meaning of the Paris Convention. The person by whom the certificate is issued shall be responsible for the correctness of the certificate as regards the name and address of the operator and the amount, type and duration of the insurance.

(b) The form of certificate to be issued under the preceding paragraph of this Section shall be established by the Government or an authority appointed by the Government.

Section 40

Any person who fails to fulfil his obligations under this Act to take out and maintain insurance or to observe such conditions for furnishing financial security as may be laid down pursuant to Section 27 (b) shall be liable to fines or to imprisonment for a term not exceeding six months.

Section 41

The Government may enact provisions for the application of this Act.

This Act shall come into force, Sections 29 - 31 on a day to be determined by the Government, and the remainder of the Act on 1st April 1968.