

State Council of the People's Republic of China

Guo Han [2007] No. 64

Official Reply of the State Council to Questions on the Liabilities of Compensation for Damages Resulting from Nuclear Accidents

China Atomic Energy Authority:

We hereby give our official reply to your questions regarding the liabilities of compensation for damages resulting from nuclear accidents as follows:

1. Organizations within the territory of the People's Republic of China that have obtained legal personality according to the law, and that operate nuclear power stations, civil research reactors and/or civil engineering test reactors, or that are engaged in the production and transportation of civil nuclear fuel and the storage, transportation and reprocessing of spent fuel, and have nuclear installations, are considered operators of such nuclear power stations or nuclear installations.
2. The operators shall be liable to compensate for personal casualties, property losses or environmental damages arising out of nuclear accidents. Persons other than the operators shall not be liable for compensation.
3. Where a nuclear accident causes damages across the border of the People's Republic of China, such damages shall be handled in accordance with the treaty or protocol between the People's Republic of China and the relevant country. If there is no such treaty or protocol, such damages shall be handled according to the principle of reciprocity.
4. If one operator operates several nuclear installations at one site, these nuclear installations shall be deemed as one nuclear installation.
5. Where the damages caused by nuclear accident involve two or more operators and the liabilities that should be assumed by each of these operators cannot be clearly determined, the relevant operators shall be jointly and severally liable for the damages.
6. With regard to the damages caused by a nuclear accident directly resulting from armed conflict, hostile action, war or riots, the relevant operator shall not be liable to compensate for such damages.
7. For nuclear power station operators and the operators of spent fuel storage, transportation and reprocessing, the maximum amount of compensation for the damages caused by one nuclear accident is RMB 300 million; for other operators, the maximum amount of compensation for the damages caused by one nuclear accident is RMB 100 million. Where the total amount of compensation payable for the damages caused by a nuclear accident exceeds the relevant maximum amount of compensation specified above, the State shall provide a financial compensation up to RMB 800 million.

As to the compensation for damages resulting from an extraordinary nuclear accident where the amount of the financial compensation from the State needs to be increased, the amount to be increased shall be decided after appraisal by the State Council.

8. An operator shall make appropriate financial guarantees and arrangements to ensure, when nuclear accidents cause damages, the timely and effective performance of its liabilities of compensation for such damages.

Before operating a nuclear power station or carrying out spent fuel storage, transportation or reprocessing, an operator must purchase sufficient insurance to cover its liabilities.

9. If a written contract between an operator and another party provides for the right of recourse, the operator may, after compensating the victim, exercise its right of recourse against such party in accordance with the provisions of the contract.

If damages caused by nuclear accident are due to a natural person's willful act or omission, the relevant operator may, after compensating the victim, exercise its right of recourse against this natural person.

10. The natural persons, legal persons and other organizations that have suffered from damages caused by nuclear accidents are entitled to claim compensation for damages resulting from nuclear accidents.

The Atomic Energy Law of the People's Republic of China (Draft) shall be drafted to expressly provide for the foregoing matters, as well as the limitation of actions, jurisdiction, etc.

State Council of the People's Republic of China (Seal)

30 June 2007