

**VIENNA CONVENTION ON CIVIL LIABILITY FOR NUCLEAR  
DAMAGE AND THE OPTIONAL PROTOCOL CONCERNING THE  
COMPULSORY SETTLEMENT OF DISPUTES**

Note: The Agreement was concurred in by the Senate, SJR. No. 73, May 20, 1963. The Philippine instrument of ratification was signed by the President, October 11, 1965.

THE CONTRACTING PARTIES,

HAVING RECOGNIZED the desirability of establishing some minimum standards to provide financial protection against damage resulting from certain peaceful uses of nuclear energy,

BELIEVING that a convention on civil liability for nuclear damage would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

HAVE DECIDED to conclude a convention for such purposes, and thereto have agreed as follows —

**ARTICLE I**

1. For the purposes of this Convention —

(a) "Person" means any individual, partnership, any private or public body whether corporate or not, any international organization enjoying legal personality under the law of the Installation State, and any State or any of its constituent sub-divisions.

(b) "National of a Contracting Party" includes a Contracting Party or any of its constituent sub-divisions, a partnership, or any private or public body whether corporate or not established within the territory of a Contracting Party.

(c) "Operator", in relation to a nuclear installation, means the person designated or recognized by the Installation State as the operator of that installation.

(d) "Installation State", in relation to a nuclear installation, means the Contracting Party within whose territory that installation is situated or, if it is not situated within the territory of any State, the Contracting Party, by which or under the authority of which the nuclear installation is operated.

(e) "Law of the competent court" means the law of the court having jurisdiction under this Convention, including any rules of such law relating to conflict of laws.

(f) "Nuclear fuel" means any material which is capable of producing energy by a self-sustaining chain process of nuclear fission.

(g) "Radioactive products or waste" means any radioactive material produced in, or any material made radioactive by exposure to their radiation incidental to, the production or utilization of nuclear fuel, but does not include radioisotopes which have reached the final state of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

(h) "Nuclear material" means

(i) nuclear fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either alone or in combination with some other material; and

(ii) radioactive products or waste.

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

(j) "Nuclear installation" means —

(i) any nuclear reactor other than one with which a means of sea or air transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose;

(ii) any factory using nuclear fuel for the production of nuclear material, or any factory for the processing of nuclear material, including any factory for the re-processing of irradiated nuclear fuel, and

(iii) any facility where nuclear material is stored, other than storage incidental to the carriage of such material;

provided that the Installation State may determine that several nuclear installations of one operator which are located at the same site shall be considered as a single nuclear installation.

(k) "Nuclear damage" means —

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

(ii) any other loss or damage so arising or resulting if and to the extent that the law of the competent court so provides; and

(iii) if the law of the Installation State so provides, loss of life, any personal injury or any loss of, or damage to, property which arises out of or results from other ionizing radiation

emitted by any other source of radiation inside a nuclear installation.

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

2. An Installation State may, if the small extent of the risks involved so warrants, exclude any small quantities of nuclear material from the application of this Convention, provided that —

(a) maximum limits for the exclusion of such quantities have been established by the Board of Governors of the International Atomic Energy Agency; and

(b) any exclusion by an Installation State is within such established limits. The maximum limits shall be reviewed periodically by the Board of Governors.

## **ARTICLE II**

1. The operator of a nuclear installation shall be liable for nuclear damage upon proof that such damage has been caused by a nuclear incident—

(a) In his nuclear installation; or

(b) involving nuclear material coming from or originating in his nuclear installation, and occurring —

(i) before liability with regard to nuclear incidents involving the nuclear material has been assumed, pursuant to the express terms of a contract in writing, by the operator of another nuclear installation;

(ii) in the absence of such express terms, before the operator of another nuclear installation has taken charge of the nuclear material; or

(iii) where the nuclear material is intended to be used in a nuclear reactor with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose, before the person duly authorized to operate such reactor has taken charge of the nuclear material; but

(iv) where the nuclear material has been sent to a person within the territory of a non-Contracting State, before it has been unloaded from the means of transport by which it has arrived in the territory of that non-Contracting State;

(c) involving nuclear material sent to his nuclear installation, and occurring —

(i) after liability with regard to nuclear incidents involving the nuclear material has been assumed by him, pursuant to the express terms of a contract in writing, from the operator of another nuclear installation;

(ii) In the absence of such express terms, after he has taken charge of the nuclear material; or

(iii) after he has taken charge of the nuclear material from a person operating a nuclear reactor with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; but

(iv) where the nuclear material has, with the written consent of the operator, been sent from a person within the territory of a non-Contracting State, only after it has been loaded on the means of transport by which it is to be carried from the territory of that State;

provided that, if nuclear damage is caused by a nuclear incident occurring in a nuclear installation and involving nuclear material stored therein incidentally to the carriage of such material, the provisions of subparagraph (a) of this paragraph shall not apply where another operator or person is solely liable pursuant to the provisions of sub-paragraph (b) or (c) of this paragraph.

2. The Installation State may provide by legislation that, in accordance with such terms as may be specified therein, a carrier of nuclear material or a person handling radioactive waste may, at his request and with the consent of the operator concerned, be designated or recognized as operator in the place of that operator in respect of such nuclear material or radioactive waste respectively.

In this case such carrier or such person shall be considered, for all the purposes of this Convention, as an operator of a nuclear installation situated within the territory of that State.

3. (a) Where nuclear damage engages the liability of more than one operator, the operators involved shall, in so far as the damage attributable to each operator is not reasonably separable, be jointly and severally liable,

(b) Where a nuclear incident occurs in the course of carriage of nuclear material, either in one and the same means of transport, or, in the case of storage incidental to the carriage, in one and the same nuclear installation and causes nuclear damage which engages the liability, of more than one operator, the total liability shall not exceed the highest amount applicable with respect to any one of them pursuant to Article V.

(c) In neither of the cases referred to in sub-paragraphs (a) and (b) of this paragraph shall the liability of any one operator exceed the amount applicable with respect to him pursuant to Article V.

4. Subject to the provisions of paragraph 3 of this Article, where several nuclear installations of one and the same operator are involved in one nuclear incident, such operator shall be liable in respect of each nuclear installation involved up to the amount applicable with respect to him pursuant to Article V.

5. Except as otherwise provided in this Convention, no person other than the operator shall be liable for nuclear damage. This, however, shall not affect the application of any international convention in the field of transport in force or open for signature, ratification or accession at the date on which this Convention is opened for signature.

6. No person shall be liable for any loss or damage which is not nuclear damage pursuant to sub-paragraph (k) of paragraph 1 of Article I but which could, have been included as such pursuant to sub-paragraph (k) (H) of that paragraph.

7. Direct action shall lie against the person furnishing financial security pursuant to Article VII, if the law of the competent court so provides.

### **ARTICLE III**

The operator liable in accordance with this Convention shall provide the carrier with a certificate issued by or on behalf of the insurer or other financial guarantor furnishing the financial security required pursuant to Article VII. The certificate shall state the name and address of that operator and the amount, type and duration of the security, and these statements may not be disputed by the person by whom or on whose behalf the certificate was issued. The certificate shall also indicate the nuclear material in respect of which the security applies and shall include a statement by the competent public authority of the Installation State that the person named is an operator within the meaning of this Convention.

### **ARTICLE IV**

1. The liability of the operator for nuclear damage under this Convention shall be absolute.

2. If the operator proves that the nuclear damage resulted wholly or partly either from the gross negligence of the person suffering the damage or from act or omission of such person done with intent to cause damage, the competent court may, if its law so provides, relieve the operator wholly or partly from his obligation to pay compensation in respect of the damage suffered by such person.

3. (a) No liability under this Convention shall attach to an operator for nuclear damage caused by a nuclear incident directly due to an act of armed conflict, hostilities, civil war or insurrection.

(b) Except in so far as the law of the Installation State may provide to the contrary, the operator shall not be liable for nuclear damage caused by a nuclear incident directly due to a grave natural disaster of an exceptional character.

4. Whenever both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent that it is not reasonably separable from the nuclear damage, be deemed, for the purposes of this Convention, to be nuclear damage caused by that nuclear incident. Where, however, damage is caused jointly by a nuclear incident covered by this Convention and by an emission of ionizing radiation not covered by it, nothing in this Convention shall limit or otherwise affect the liability, either as regards any person suffering nuclear damage or by way of recourse or contribution, of any person who may be held liable in connection with that emission of ionizing radiation.

5. The operator shall not be liable under this Convention for nuclear damage

(a) to the nuclear installation itself or to any property on the site of that installation which is used or to be used in connection with that installation; or