

# NUCLEAR LIABILITY

## A. INFORMATION ABOUT THE RESPONDENTS

A.1. Please enter your name and, where relevant, the name of the organisation you represent. Please include also an e-mail address for contact purposes for use only if we need clarification about your responses.

-open reply-(compulsory)

Ministry of Finance, Netherlands

A.2. Are you responding to this questionnaire on behalf of/as:

-single choice reply-(compulsory)

Public Authority

A.3. Please indicate your country

-single choice reply-(compulsory)

Netherlands

A.4. From which main perspective are you interested in insurance and compensation of damages caused by accidents of nuclear power plants?

-single choice reply-(compulsory)

Public authority

A.5. How would you prefer your contribution to be published on the Commission website, if at all?

-single choice reply-(compulsory)

Under the name indicated (I consent to publication of all information in my contribution and I declare that none of it is under copyright restrictions that prevent publication)

## B. SPECIFIC QUESTIONS

B.1. The consequences of nuclear and radiological accidents do not stop at national or regional borders ("an accident anywhere is an accident everywhere"). The 2011 Fukushima nuclear accident has recalled the need for effective insurance and compensation of damages in case of a nuclear accident.

Taking into account the existence of different national liability regimes in the EU, as described in the introduction provided on the page of the public consultation on Europa, please present your opinion on whether you consider the situation satisfactory. If not, what would be the means for improvement?

Please explain your opinion (no web links or external references):

-open reply-(optional)

Among the contracting parties of the Brussels convention a minimum compensation for victims is (after the ratification of the 2004 protocols on the Paris en Brussels convention) guaranteed up to €1,5 billion. If an incident occurs in any other member state the amount of compensation is dependent on the generally much lower limits of guarantee which apply in those countries. Unlimited liability of the operator, as applied in some member states, does not offer much additional financial assurance because the financial resources of a liable operator would in many cases be too limited. A solution could be the application of a regime, similar of that offered by the Brussels convention, as a minimum standard in all the member states of the EU, if such a top-up on the existing treaty obligations is legally achievable.

B.2 Do you consider it necessary to set up common rules at EU level on insurance and compensation for nuclear accidents in the EU?

-single choice reply-(compulsory)

Yes

B.3. If common rules at EU level would be introduced, which means do you think would best fit the aims of such EU rules on nuclear insurance and compensation?

-single choice reply-(compulsory)

Binding legislation (Directive / Regulation)

B.4. If common rules at EU level would be introduced , which topics should such EU rules on nuclear insurance and compensation address? -multiple choices reply-(compulsory)	Amounts available for victim compensation (limited amounts or theoretically unlimited)
<b>C. DETAILED QUESTIONS RELATED TO SPECIFIC TOPICS ON NUCLEAR LIABILITY INSURANCE</b>	
<b>C.1. CLAIMS MANAGEMENT</b>	
C.1.1. In 'claims management' three aspects can be distinguished: (1) Claims registration (of victims of a nuclear accident), (2) Claims handling (= proceeding of compensation requests) and (3) Claims settlement (= actual payment of compensation to recognised victims). Which of these aspects ought to be regulated at EU level? -multiple choices reply-(compulsory)	None
<b>C.2. HEADS OF DAMAGE</b>	
C.2.1 Compensation can be sought for different heads of damages. Do you think priority should be given to a particular head of damage? -single choice reply-(compulsory)	No opinion
<b>C.3. ORGANISATION OF THE INSURANCE SYSTEM</b>	
a) Traditional insurance -single choice reply-(compulsory)	1
b) Insurance pools -single choice reply-(compulsory)	2
c) Operators' pools -single choice reply-(compulsory)	4
d) Other financial security instruments (such as guarantees, bonds, funds, etc.) -single choice reply-(compulsory)	3
Please explain your opinion (no web links or external references): -open reply-(optional)	
Traditional insurance is preferred because it is more suitable to establish an increase in the of number parties which offer this kind of insurances. This could enhance competition in this market. Although some individual insurers do offer nuclear insurances, a dominant role of insurance pools is still necessary to establish the required coverage. We prefer this second best solution above operators pools, because solvability of insurers is better assured and most member states do not have enough operators to form a pool. Other financial instruments can additionally be used for risks which insurance pools do not cover or to establish higher guarantees than the capacity of the insurance market.	
C.3.2. Currently, many insurance or operators' pools only operate within one Member State (national pools). Do you know of any legal or economic obstacles in any EU Member State which would hamper the development of cross-border	



nuclear liability insurance services by insurers, insurers' pools or operators' pools?

Please explain (no web links or external references):

-open reply-(optional)

Member states require different levels for financial security. Some do others do not use the possibility to cover incidents due to grave natural disasters. Insurers or insurers pools could be reluctant to contribute to the coverage of risks in other member states which are not covered in their home member state.

#### C.4. AMOUNTS AVAILABLE FOR VICTIMS COMPENSATION

C.4.1. Amounts for insurance coverage for victims compensation of an accident in a nuclear power plant differ significantly within the EU (please refer to the table provided on the page of the public consultation on Europa).

In your opinion, do these amounts provide for a satisfactory coverage of damages which might be caused by an accident in a nuclear power plant?

-single choice reply-(compulsory)

No

Please explain (no web links or external references):

-open reply-(optional)

For low risk nuclear installations the amounts of coverage are generally satisfactory. If a severe or catastrophic accident occurs at the site of a nuclear power plant, the amount of insurance coverage could be highly insufficient. Full coverage of this risk is impossible, but a considerable extension of the coverage to proximally €3 billion is possible, also in the form of state guarantees if the insurance market is unwilling or not able to provide the full coverage required by the limit of financial security. This would offer more financial assurance to the public and an opportunity for a more realistic pricing of this risk if the extra coverage, provided by the state guarantee, is charged to operators. The considerable differences in limits of financial security in the different member states indicate that the possibilities for extension of the coverage are currently not fully used within the EU.

C.4.2. If you answered NO to question C.4.1, which option do you consider being the most adequate to provide a higher level of coverage amongst the different harmonisation possibilities presented below?

-single choice reply-(compulsory)

By significantly increasing the amounts to be covered by financial securities for nuclear risks and, accordingly, the capped liability amount where applicable

Please explain (no web links or external references):

-open reply-(optional)

#### C.5. LIABILITY REGIME

C.5.1. Under the international Paris and Vienna conventions, liability is currently "channelled" to the operator of a nuclear installation. "Channelling" means, that only the operator can be held liable for damages in case of a nuclear accident, while other parties (such as providers of nuclear plant supplies, etc.) cannot be held responsible.

According to you, the "channelling" of liability should be:

-single choice reply-(compulsory)

Maintained

C51...Please explain (no web links or external references):

-open reply-(optional)

"Channelling" has important practical advantages: - No complicated legal discussions about who is liable; - More clarity for victims about where to submit their claim for compensation; - No need to decide if parties associated to the operator need to take out an insurance as well, and if they do, for which amounts of coverage and premiums.

C.5.2. If in question C.5.1 you replied that "channelling" towards the operator should be maintained, do you think that the liability of the nuclear operator should nevertheless be:

-single choice reply-(compulsory)

Kept strict and limited for the operator (status quo in most Member States)

C52... Please explain (no web links or external references):

-open reply-(optional)