Participation by Developing Countries in the Convention on Supplementary Compensation for Nuclear Damage: A Western Balkans Perspective

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Abstract

On 15 January 2015 Japan signed and delivered the instrument of acceptance of the Convention on Supplementary Compensation for Nuclear Damage. This Convention entered into force on 15 April 2015. Since this is an important instrument relating to liability and compensation for damages caused by a nuclear accident, we are interested in the Western Balkans perspective. The majority of the Western Balkans countries (Republic of Bosnia and Herzegovina, Republic of Bulgaria, Republic of Croatia, Montenegro, Republic of Serbia, and Republic of Macedonia) are part of the international regime of nuclear liability that was established with the Vienna Convention on Civil Liability for Nuclear Damage in 1963. As of yet none of them has deposited an instrument of ratification, acceptance or approval for the Convention on Supplementary Compensation for Nuclear Damage yet. This paper will attempt to argue that the Western Balkans should, in future, become part of this new international nuclear liability regime. The new nuclear liability regime is the path to a global regime for dealing with civil liability and compensation for nuclear damage and, more important, it is the way to accomplish that the citizens of both generating States and non-generating States can promptly receive meaningful compensation for nuclear damage with a minimum of litigation and other burdens.

Keywords: *nuclear damage, civil liability, compensation, principles.*

Introduction

The adoption of the Convention on Supplementary Compensation for Nuclear Damage (hereafter referred to as CSC) on 12 September 1997, in the scope of the 41th General Conference of the International Atomic Energy Agency, was an expression of the desire to establish a worldwide liability regime that would supplement and enhance the measures provided in the Vienna Convention on Civil Liability for Nuclear Damage of 1963 (hereafter referred to as Vienna Convention) and the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960 (hereafter referred to as Paris Convention). Pursuant to Article XX.1, the CSC entered into force on 15 April 2015. The date was the ninetieth day following the date on which Japan signed and delivered the instrument of acceptance of the CSC, meaning at least 5 States with a minimum of 400 000 units of installed nuclear capacity deposited an instrument referred to in Article XVII[1]. The instrument was entered into force, and became a freestanding instrument, which meant that a country could become part of the global nuclear liability regime without also having to become a member of the Paris Convention or the Vienna Convention.[2] CSC maintains the basic principles of nuclear liability law set forth in the Paris Convention and the Vienna Convention, while including provisions to ensure more meaningful compensation for nuclear damages. In this way the CSC addresses many of the issues that have discouraged some countries from joining the Paris Convention or Vienna Convention because they perceive these conventions as not focusing sufficiently on the concerns of those who might suffer nuclear damage in the event of a nuclear incident. (McRae, 1998)

2. The present international nuclear liability regime in Western Balkans

With regard to nuclear energy and its peaceful use it became clear that the rules of the existing tort law were not appropriate for the nuclear risk and

[1] Until the day that Japan signed and delivered the instrument of acceptance of the CSC, the four states previously ratified the CSC were: Argentina, Morocco, Romania and USA. The entry into force requires the ratification of at least five states with a combined minimum of 400 000 installed units (MWth) of nuclear capacity. This requirement was met the day Japan signed the CSC, 15 January 2015.

[2] See Explanatory Texts, *supra*, at Section 3.3.1

"...were seen to inhibit rather than facilitate victims from discerning which of the many potential parties involved in a nuclear accident (designers, builders, suppliers) was legally liable therefore, particularly given to overwhelming technical complexities of such task." (Schwartz, 2010). The majority of the Western Balkans countries (Republic of Bosnia and Herzegovina, Republic of Bulgaria, Republic of Croatia, Montenegro, Republic of Serbia, and Republic of Macedonia) is part of the international regime of nuclear liability that was established with the Vienna Convention. The Vienna Convention has embodied the same basic principles that form the foundation of the Paris Convention: the principle of absolute liability, i.e. liability without fault, exclusive liability of the operator of the nuclear installation, limitation of liability in amount and or limitation of liability cover by insurance or other financial security and limitation of liability in time. (IAEA, 2007) The Paris Convention the first instrument to be established at an international level, constitutes the precedent upon which later nuclear third party liability conventions and many countries' national laws are modelled. The Paris Convention sets up principles of third party liability in the case of nuclear damage that have become lege artis in the area of nuclear liability. These concepts of the 50's have not just survived the criticism of the countries that objected the use of nuclear energy, but in the end were even enhanced by new instrument based on them. (Schwartz, 2010, pp. 310-314) Five basic principles that underlie the special nuclear third party liability and compensation regimes at both national and international levels are:

1. Strict liability which means that the operator of the nuclear installation is strictly liable to third parties for damage resulting from a nuclear incident occurring at its installation or during the course of transport of nuclear substances to/from installation. Article IV.1 of the Vienna Convention expressly qualifies the operator's liability as "absolute" in order to make it clear that it is not subject to the classic exonerations such as force majeure, acts of God or intervening acts of third persons, irrespective of whether or not they were reasonably foreseeable and avoidable. (IAEA, 2007) On the other hand exoneration from liability is possible if the incident causing the damage is directly due to an armed conflict, hostilities, civil war or insurrection.[3] In any of these cases the nuclear operator is not liable unless the law of the

[3]Provided in Article IV.3 in the Vienna Convention.

Installation State provides to the contrary, if the incident is due to a grave natural disaster of an exceptional character.

2. Exclusive liability (legal channeling) which means that all liability for damage suffered by third parties is channeled directly to the operator of the nuclear installation and therefore the operator is the only entity legally liable for such damage regardless of which act or omission was the actual cause of the incident.

3. Compulsory financial security: The nuclear operator is required to secure finances to cover the nuclear liability. Traditionally this is provided by the private insurance market, although there are other known financial instrument that can be used to achieve this goal, such as bank guarantee, operator pooling system, self - insurance. In the Vienna Convention this principle is embodied in Article VII.1. "In cases where the yield of insurance is inadequate to satisfy the claims for compensation, Article VII.1 specifies that the Installation State must ensure the payment of such claims out of public funds up to the limit, if any, of the operator's liability amount. Therefore, in cases where, for example, he financial guarantor is bankrupt, or where insurance is per installation for a fixed period and, after a first incident, it is impossible to reinstate the financial security up to the specified limit, the Installation State must intervene. " (IAEA, 2007)

4. Liability limits in amount that means that the limit constitutes the operator's total liability for third party damage regardless of the amount of damage actually suffered or claimed and this limit usually corresponds to the amount of private insurance coverage available in the market for this purpose. Article V of the Vienna Convention allows the Installation State to limit such liability to no less than 5 million USA dollars for one nuclear incident. The amount resulting from the application of this rule is exclusive of any interest and costs awarded by a court in actions for compensation of nuclear damage therefore such interest and costs are payable by the operator in addition to any sum for which he is liable according to this Article. The Vienna Convention does not establish a maximum liability amount and the Installation State is free to impose a higher amount of liability and even unlimited liability.

5. Liability limits in time that means that there is a time limit for submission of claims. Under the Vienna Convention the right of compensation is extinguished if an action is not brought within ten years of the date of the

nuclear incident. [4] Article VI.3 allows the law of the competent court to establish a shorter period of not less than three years from the date on which the victim had knowledge, or should have had knowledge of the damage and of the liable operator. In only two cases may proceedings be brought after the period of ten years: a) if under the law of the Installation State the operator's liability is covered by financial security or State funds for a longer period the law of the competent court may provide that proceedings may be brought during such a longer period, b) In case of a person who suffers an aggravation of the damage for which he has already brought an action within the applicable period may amend his claim after the expiration of that period provided that no final judgement has yet been entered. The law of the competent court can, however, exclude this possibility.

Under the Vienna Convention compensation may be claimed not only where the occurrence and the damage are due to radioactivity, but also where an occurrence of conventional origin causes radiation due to radioactivity. Moreover compensation may also be claimed where an occurrence due to radioactivity causes conventional damage (INLEX, 2004). The Vienna Convention relates exclusively to land based nuclear installations. Any sea or air transport that is equipped for use with a reactor whether for propulsion thereof or for any other purpose is expressly excluded from the definition of nuclear installation in Article I.1 (j). Also, the special nuclear liability regime does not apply to radiation damage caused by radioactive sources in use in facilities such as hospitals and in industry.

Opinions in the legal doctrine claim that the Vienna Convention has many weaknesses from the victims' point of view. The main shortcoming is the low level of compensation, which makes it impossible to assure fairness and equity. Regarding the definition of nuclear damage, the shortcoming is that it provides compensation only for damage that consists in death or injury. The damage caused to the environment and the damage consisting in lost profits (lucrum cessans) are excluded from the definition of nuclear damage (Hamilton, 2000). In addition to the low amount of the operator's liability, the limitation of that liability in time as provided for in the Vienna Convention (which is 10 years) is also considered to be shortcoming, because for instance some latent personal injury, such as cancer, may become manifest many years

[4] Article VI.1 from the Vienna Convention.

after radiation exposure, especially as far as genetic damage was concerned (INLEX, 2004)

With the 1986 Chernobyl accident changes have been made in the international nuclear liability regime. The Vienna Convention was the subject of these changes, adopting the 1997 Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage (The Protocol in the text below). The Protocol was adopted in September 1997, at the same time as the CSC. The purpose of the Protocol, as is clearly stated in the Preamble, is to amend the 1963 Vienna Convention in order to provide for broader scope, of increased amount of liability for the operator of a nuclear installation and enhanced means for securing adequate and equitable compensation. "The 1963 Vienna Convention continues in force and will coexist with the "1997 Vienna Convention" until the 1963 Convention is terminated. More specifically, the 1963 Convention continues to apply as between the Parties thereto which have not (yet) ratified, or acceded to, the Protocol." (IAEA, 2007, p. 22) This refers to the most of the Western Balkans countries, because according to the latest status of the Protocol[5] only Montenegro and Bosnia and Herzegovina have accessed the Protocol. Provided with Article 19 of the 1997 Protocol a State Party to the 1963 Vienna Convention which decides to ratify the Protocol, or accede thereto, will still be bound by the unamended the Vienna Convention in its relations with the Parties thereto which have not (yet) ratified, or acceded to, the Protocol. Moreover, a State which is not a Party to the 1963 Vienna Convention but decides to ratify the 1997 Protocol, or accede thereto, will be bound by the provisions of the unamended 1963 Vienna Convention in its relations with the States which are only Parties thereto, unless it expressly declares a different intention upon ratification or accession. The Protocol inserts in the Vienna Convention a new provision, Article I A, whereby the Convention applies, in principle, to nuclear damage "wherever suffered". Another important feature of the Protocol is the introduction of a new and detailed definition of what is comprised in the concept of "nuclear damage" for purposes of compensation. Nuclear Damage in the Protocol is defined as "…loss of life or personal injury, loss of or damage to property" (INLEX, 2004, p. 115) But the term nuclear damage which is subject of compensation under this Protocol also includes economic loss arising from loss of life or personal injury or damage to property, the costs of measures of reinstatement of impaired environment, unless such

[5] Data available athttps://ola.iaea.org/ola/treaties/multi.html available on 21.04.2016.

impairment is insignificant, if such measures are actually taken or to be taken, and insofar as not included in sub-paragraph, loss of income deriving from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment, the costs of preventive measures, and further loss or damage caused by such measures; any other economic loss, other than any caused by the impairment of the environment, if permitted by the general law on civil liability of the competent court. (INLEX, 2004)

3. Basic principles of nuclear third party liability incorporated in CSC

The CSC is consistent with these basic principles of nuclear liability law set forth in the Paris Convention and incorporated in the Vienna Convention and no changes to the Paris Convention or the Vienna Convention are needed in order for a Paris State or a Vienna State to join the CSC. "*The drafters of the CSC felt that apart from the " grandfather clause" the basic principles of nuclear liability have to be the same for all States but harmonization of the legal details was considered to be more appropriate at the regional level and inconsistent with an international nuclear liability regime that aimed at achieving broad adherence on a global basis*" (INLEX, 2004, p. 74). These States would have to change the national law only to the extent necessary to reflect the provisions in the CSC that apply to all member countries. These provisions include ensuring availability of at least 150 million SDRs[6] to compensate for nuclear damage until 2007, and at least 300 million SDRs thereafter, implementing the enhanced definition of nuclear damage, and extending coverage to include all members' countries. None of

[6]SDR is short for Special drawing right and it was created by the International Monetary Fond in 1969 as a supplementary international reserve asset, in the context of the Bretton Woods fixed exchange rate system. After the collapse of the Bretton Woods system in 1973, the SDR was redefined as a basket of currencies. Currently, the SDR basket consists of the U.S. dollar, euro, Japanese yen, and pound sterling. Effective October 1, 2016, the basket will be expanded to include the Chinese renminbi. More on the meaning, the history and calculation of SDR available on http://www.imf.org/external/np/exr/facts/sdr.htm, on 08.06.2016.

these actions would be inconsistent with the Paris or the Vienna Convention. (McRae, 2000).

4. Features of the CSC that are advantages for the Western Balkans countries

4.1. Compensation of nuclear damage - the tiers

The CSC has been developed specifically to achieve a state of affairs in which the citizens of both generating States and non-generating States will receive meaningful compensation for nuclear damage promptly with a minimum of litigation and other burdens. "During the 1997 Vienna Protocol deliberations, negotiating states decided to establish mechanism for mobilizing supplementary funds to compensate for nuclear damage addition to the funds to be provided by the operator under the Paris and Vienna Convention. One of the favored approaches to this idea was to establish a system of supplementary state funding at both national and international levels in respect of which the Brussels Supplementary Convention proved to be a very useful model. " (Schwartz, 2010, p. 329)

The compensation for nuclear damage per nuclear incident in the CSC is ensured by the following means:"

(a) (i) The Installation State has the obligation to ensure availability of 300 million SDRs or a greater amount that it may have specified to the Depositary at any time prior to the nuclear incident, or a transitional amount pursuant to sub-paragraph (ii);

(ii)A Contracting Party may establish for the maximum of 10 years from the date of the opening for signature of this Convention, a transitional amount of at least 150 million SDRs in respect of a nuclear incident occurring within that period.

(b) Beyond the amount made available under sub-paragraph (a), the Contracting Parties shall make available public funds according to the formula specified in Article IV."[7]

A two trier compensation regime ensures the availability of a meaningful compensation for nuclear damage in the member countries. In the first tier an amount of 300 million SDRs is ensured. The first tier is a national fund consisting of an amount that a member country shall make available under national law to compensate for nuclear damage suffered by victims. The

[7] Article III.1 of the CSC

amount is increased compared to the initial minimum amounts required by the Paris Convention and the Vienna Convention (Марија, 2015). The CSC does not itself specify on what basis the Installation State has to ensure the availability of the national compensation amount. Also, for compensation under the national amount, the law of the Installation State may exclude nuclear damage suffered in a non – Contracting State (David, 2014).

The second tier is an international fund**.** After the Chernobyl incident the idea of supplementary funding at the world level attracted renewed interest. During the process of developing the text of the CSC difficulties involved in the establishment of an international fund at the world level became apparent. On the one hand, it was difficult to see whether or not nonnuclear States would contribute financially to the establishment of a fund, which would be used to compensate damage suffered in the Installation State. Moreover it was pointed out that even nuclear States might find it difficult to contribute to such a fund, inasmuch as mutual solidarity of nuclear States was largely regarded as presupposing comparable levels of nuclear safety. (IAEA, 2007, p. 70) The contributions to the international fund are based on a formula under which more than 90% of the contributions will come from nuclear generating member countries on the basis of their installed nuclear capacity while the remaining portion comes from all member countries of the CSC on the basis of their United Nations rate of assessment. "Thus, member countries with nuclear power plants will be required to contribute on the basis of both the formula and the United Nations rate of assessment…and since nuclear power generating countries generally have high United Nations rates of assessment (at least in the case of advanced countries), this formula should result in a high percentage of the contributions coming from nuclear power generating countries" (David, 2014, p. 33).

The provisions of the CSC relating to the international fund were developed to be especially attractive to non - generating States. On the one hand, the non-generating States will provide no more than 2 or 3% of the contributions to the international fund and on the other hand one-half of the international fund is reserved exclusively for trans - boundary damage (McRae, The Convention on Supplementary Compensation for Nuclear Damage: Catalyst for a Global Nuclear Liability Regime, 2007). "This 50-50 division is an important innovation in nuclear liability law; the only exception to it is where a contracting party makes available at least SDR 600 million under the first trier, in which case the entire fund is to be distributed on a non-

discriminatory basis" (Schwartz, 2010, p. 330) which is recognition of the importance of compensating trans boundary damage[8] in a meaningful and equitable manner. The goal is to encourage countries with no nuclear power plants, like the Western Balkans countries except Bulgaria to join CSC. The international community has chosen an equitable approach for allocating the public funds provided by CSC parties to the international fund that balances the interests of all countries. (McRae, 2011, p. 85)

Also, the CSC recognizes the right of a member country to establish a third tier of compensation. A member country cannot use lack of reciprocity as a basis to exclude damage from compensation under the third tier if such damage occurs in another member country having no nuclear installations on its territory.[9] "The advantage for the non –nuclear countries as well as others in joining the CSC is that they will become a part of a liability and compensation regime that provides a level of certainty and predictability. National law, on the other hand, does not necessarily provide similar comfort and could well be more onerous depending on the national law in question". (David, 2014, p. 37)

4.2. The definition of nuclear damage

The definition of nuclear damage in CSC is enhanced by explicitly identifying the types of damage that are considered nuclear damage. Article I (f) of the CSC provides a harmonized definition identical to the one adopted in the 1997 Protocol to Amend the Vienna Convention. Nuclear damage includes the two types of damage incorporated since the appearance of the nuclear liability and law: loss of life or personal injury and loss of or damage to property. The new heads of damage include: a) categories of economic loss and b) measures of reinstatement of impaired environment and preventive measures. The CSC provides three categories of so-called “economic loss”, otherwise known as lucrum cessans. The first category of economic loss, enumerated under Article I(iii) is constituted by consequential economic loss arising from loss of life, personal injury or loss of, or damage to, property which is incurred by a person entitled to claim in respect of such loss or

[8] Trans boundary damage is damage outside the Installation State, which is the country where the incident occurs. With respect to a nuclear incident during transportation outside the Installation State, transboundary damage would include damage in the country where the incident occurs.

[9] Provided in Article XII.2 of CSC.

damage. The second category of economic loss, enumerated under Article I (v), is constituted by loss of income deriving from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment "sometimes labelled as "pure economic loss" because it is an economic loss incurred by a person which is not related to any property damage suffered by that person. For example, fishermen, who do not own the fish in the sea, may suffer a loss because such fish is contaminated; similarly, a person managing a hotel at some holiday resort, who does not own the public beach close to his hotel, may suffer a loss because tourists stay away for fear that the beach may be contaminated." (IAEA, 2007, p. 39) The third category of economic loss, enumerated under Article I (vii) is constituted by "any other economic loss, other than that caused by the impairment of the environment". This category of economic loss may also be labelled as "pure economic loss", since it is not related to any property damage suffered by the person entitled to claim compensation.

Regarding the measures of reinstatement of impaired environment and preventive measures as a new head of nuclear damage the solution consisted in the CSC is based on similar solutions adopted by other international conventions. This solution consists in limiting compensation to the costs of measures of reinstatement of impaired environment which are actually taken or to be taken. In addition, the impairment of the environment must not be "insignificant"; but, as was pointed out in respect of economic loss caused by an impairment of the environment, the question of what is a significant impairment is left to the appreciation of the competent court. (INLEX, 2004)

4.3. Jurisdiction

From the standpoint of the Western Balkans, as nonnuclear States jurisdiction is one of the most important questions. The citizens of these countries are at risk of the transboundary damage, resulting of a nuclear incident that happened in a nuclear neighbor state. Reviewing the present international nuclear liability regime in the Western Balkan states we can say that Article XI.1 of the Vienna Convention provides that, as a rule, jurisdiction over actions against the operator liable for compensation of nuclear damage lies exclusively with the courts of the Contracting Party within whose territory the nuclear incident occurs. On the other hand, if the accident occurs in the course of transport of nuclear material to or from a nuclear installation, in the

territory of a Contracting Party other than the Installation State, the courts of that Party will have the jurisdiction (INLEX, 2004, p. 59). Where the nuclear incident occurs outside the territory of a Contracting Party, the Vienna Convention provides that jurisdiction lies with the courts of Installation State, i.e. the Contracting Party within whose territory the nuclear installation of the operator liable is situated. The same rule applies if the place of the incident cannot be determined with certainty (INLEX, 2004, p. 91).

Article XIII of the CSC is design to establish uniform rules on jurisdiction for all Contracting Parties, irrespective of whether the operator is liable under either the Paris Convention or the Vienna Convention. This Article provides that "except as otherwise provided in this article, jurisdiction over actions concerning nuclear damage from a nuclear incident shall lie only with the courts of the Contracting Party within which the nuclear incident occurs." It reaffirms the basic principle of nuclear liability law that exclusive jurisdiction over a nuclear incident lies with the courts of the member country where the incident occurs.

Article XIII also enhances the jurisdiction provisions in the Paris Convention and the Vienna Convention by recognizing recent developments in the Law of the Sea and the concerns of coastal States over maritime shipments of nuclear material. Specifically, it provides that the courts of a member country will have exclusive jurisdiction over claims for nuclear damage resulting from a nuclear incident in its exclusive economic zone. (McRae, 1998, p. 194). If the nuclear incident occurs within the area of the exclusive economic zone of a Contracting Party or in an area not exceeding the limits of an exclusive economic zone, jurisdiction over actions concerning nuclear damage from that nuclear incident shall lie only with the courts of that Party. Only if the exercise of such jurisdiction is inconsistent with the obligations of that Party under Article XI of the Vienna Convention or Article 13 of the Paris Convention in relation to a State not Party to this Convention jurisdiction shall be determined according to those provisions.[10] If the nuclear incident has occurred in territory other than the territory of any Contracting Party and the rule mentioned above including the exclusive economic zone cannot be applied, or in the case where the place of a nuclear incident cannot be determined with certainty the jurisdiction over actions concerning nuclear damage from those nuclear incidents shall lie with the courts of the Installation

[10] See Article XIII.2 and Article XIII.3 from the CSC.

State. In the case where the jurisdiction in one particular case lies with the courts of more than one Contracting Party, these Contracting Parties shall determine by agreement which Contracting Party's courts shall have jurisdiction. It is expected that bringing claims under the CSC to be considerably less difficult than under ordinary tort law.

Concluding remarks

CSC initiated a global nuclear liability regime that is acceptable for nuclear as well as nonnuclear states. Nonnuclear states can be affected by a nuclear disaster that has happened in a neighboring country and their population can suffer serious radiological, health and socio-economic consequences as a result of the contamination of radionuclides, which do not know any borders. The world still remembers the Chernobyl disaster where the nuclear damage was suffered not only in Ukraine but also in Belarus and Russia. In addition, the people also remember that in the absence of an adequate nuclear liability regime these victims did not have the right to claim nuclear damage and according to the existing nuclear law at the time the damage could not be compensated for. No other state should allow this in future. The advantage for the nonnuclear countries in joining the CSC is that they will become a part of a liability and compensation regime that provides a level of certainty and predictability. National law, on the other hand, does not necessarily provide similar comfort and could well be more onerous depending on the national law in question. The most important goal for non-generating States is to provide protection and to establish and guarantee the right of full and quickly provided compensation from nuclear damage for the citizens. The CSC is a path to achieve this goal, although it means that the non-generating States will provide 2 or 3% of the contributions to the international fund from which some of the compensation will be drawn. But if we have in mind that one-half of the international fund is reserved exclusively for transboundary damage suffered in non – generating States we could say that the benefit justifies the costs. The present nuclear regime for the non – generating State in the Western Balkans, contained in the Vienna Convention cannot meet even a fraction of the amount available for nuclear damage compensation provided with the CSC. Other disadvantages of the Vienna Convention are that it provides compensation only for damages that consists in death or injury and the damage caused to the environment and the

damage consisted in lost profits are excluded from the definition of nuclear damage. In addition to the low amount of the operator's liability, the time limit of that liability which is 10 years as provided in the Vienna Convention is also considered to be too short because some latent personal injury may only become manifest many years after radiation exposure, especially as far as genetic damage was concerned.

Having in mind the advantages, as well as the only disadvantage for the non-generating States in Western Balkans, the obligated contribution to the international fund, the conclusion is that the non–generating States should put the interests of their citizens first and seriously consider joining the newest nuclear liability regime. Finally I would like to point out that this conclusion is from a legal aspect only. The question of the economic analysis and whether or not non–generating State can afford being part of this global nuclear liability regime is a question that was not address in this paper and can be subject of future analysis.

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