OPENING SESSION

SUMMARY OF WELCOME ADDRESSES

Dr. Karol Janko, Vice-Chairman of the Nuclear Regulatory Authority of the Slovak Republic, welcomed all participants to Bratislava for this Second International Workshop on the Indemnification of Nuclear Damage. He expressed the high interest that the Slovak Republic holds for this type of exercise and noted that it was an honour for his authority to host the second workshop in this series. He referred to the tragic accident that took place in Chernobyl in April 1986 and expressed the conviction that in the future, international cooperation is necessary to ensure that damage ensuing from an accident such as this one is minimised. Although it may not be possible to entirely eliminate the consequences of a nuclear accident, they can be mitigated in the form of financial compensation. Central state authorities, local authorities, nuclear operators and scientific organisations should be associated with these efforts. Dr. Janko noted the high number of participants representing many different entities at this workshop and hoped that it would allow identification of reliable solutions for the future.

Dr. Gail Marcus, Deputy Director-General of the OECD Nuclear Energy Agency, expressed her thanks on behalf of the OECD/NEA to the Slovak Republic and in particular to the Nuclear Regulatory Authority for its central role in organising the workshop. She also thanked a number of organisations that had provided organisational or financial support, including Slovak state power firm *Slovenské Elektrárne* (SE), the Slovak and Czech nuclear insurance pools, Nuclear Risk Insurers Ltd and the International Atomic Energy Agency. She explained that this workshop represented the fruitful collaboration of two NEA Committees, the Nuclear Law Committee, whose mandate is to create sound national and international legal regimes for the use of nuclear energy, with a major focus on third party liability issues, and the Committee on Radiation Protection and Public Health, which works to assist member countries in developing and maintaining high standards of protection for workers and the public in the uses of ionising radiation.

Dr. Marcus noted that the Chernobyl accident resulted in the establishment of the NEA INEX Programme, which would be presented in greater detail by Brian Ahier at a later stage in the programme. She mentioned that in 2001, France hosted INEX 2000, a simulated nuclear emergency exercise at Gravelines Nuclear Power Plant, mobilising 55 countries and 5 international organisations. One objective of this exercise was to assess the measures that would be taken in terms of awarding compensation for damage suffered due to a nuclear accident. The first workshop organised to address this objective, which took place in November 2001, was considered to be very successful as it enabled countries to assess the effectiveness of their own mechanisms, and also revealed differences in mechanisms between countries, which could have political ramifications. The Nuclear Law Committee therefore decided to organise a second workshop, with a somewhat different focus, using two fictitious scenarios. She expressed the conviction that this workshop would assist in identifying further solutions for the improvement of the operation of the international third party liability regime, and wished participants success in their endeavours.

Dr. Milos Sujansky, General Director of Slovak state power firm *Slovenské Elektrárne* (SE), welcomed participants to this workshop. He mentioned that nuclear energy represents almost 80% of the Slovak Republic's total electricity production, and referred to the high importance which is

attached to the safety of nuclear installations in his country. He referred to the new policy on nuclear safety and radiation protection which is being implemented by SE's Board of Directors. *Slovenské Elektrárne* is the licensed operator of nuclear installations and in this regard is operator under the Vienna Convention and the Joint Protocol. The first insurance contract obtained with the Slovak Nuclear Insurance Pool in accordance with the 1998 Atomic Energy Act was for an amount of 2 billion Slovak crowns. New insurance contracts now cover 3 billion Slovak crowns which corresponds to approximately EUR 75 million. He noted that liability issues are intrinsically linked with emergency preparedness and require the active cooperation of the operator, the insurer and the public authorities. Given the presence of representatives of all such entities at this workshop, Dr. Sujansky was confident that progress would be made in the identification of solutions.

Ms. Elena Májeková, Chairperson of the Slovak Nuclear Insurance Pool, extended a warm welcome to participants on behalf of her organisation, and invited participants to attend a welcoming cocktail graciously offered by the pool later that evening.

Mr. Patrick Reyners, former Head of Legal Affairs at the OECD Nuclear Energy Agency, acted as Co-moderator at this workshop together with Mr. Martin Pospíšil, Director of the Legislative and Legal Affairs Department of the Slovak Nuclear Regulatory Authority. He encouraged participants to hold as lively and structured a discussion as possible, making full use of the documentation including the completed questionnaires submitted.

INEX – NEA'S PROGRAMME ON NUCLEAR EMERGENCY MATTERS

by Mr. Brian Ahier*

The OECD Nuclear Energy Agency has a long tradition of expertise in the area of nuclear emergency policy, planning, preparedness, and management. Through its standing technical programmes, the NEA offers its member countries unbiased assistance in the nuclear preparedness arena, with a view towards facilitating improvements in nuclear emergency preparedness strategies and nuclear emergency response at the international level.

The 1986 Chernobyl accident demonstrated that nuclear accidents may have consequences over wide geographical areas. It also highlighted the need for international cooperation, coordination and communication, revealing that shortcomings in these areas can impede the effectiveness of the response measures taken by authorities, and result in erosion of public confidence. From the beginning, the NEA's focus of work has therefore been on improving the efficiency and effectiveness of international nuclear emergency planning, preparedness and management.

Within the structure of the NEA strategic arenas of work, nuclear emergency preparedness falls under the general umbrella of radiation protection and public health. This work is largely carried out within the programme of the NEA Committee on Radiation Protection and Public Health (CRPPH), whose role is to assist member countries in applying and further developing the system of radiation protection. The CRPPH is composed of senior radiation protection experts drawn from both the regulatory and research environments. Its programme of work includes:

- evolution of the system of radiological protection;
- stakeholder involvement processes;
- occupational exposure management; and
- international nuclear emergency preparedness.

The international nuclear emergency preparedness programme is carried out by the CRPPH Working Party on Nuclear Emergency Matters. The Working Party provides a forum for national emergency response experts from NEA member countries and international organisations to exchange information and address issues of common interest. It serves as a think-tank for identifying emergency management areas which could be usefully improved, and for developing and testing strategies to address these areas. A major mechanism for the latter has been the development, preparation and organisation of the International Nuclear Emergency Exercise (INEX) series. These international

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* Mr. Brian Ahier is Administrator with the Radiation Protection and Radioactive Waste Management Division of the OECD Nuclear Energy Agency. The PowerPoint presentation which he used is reproduced herein.

exercises have provided a valuable and unique forum for testing and verifying existing as well as new arrangements and concepts for international nuclear emergency management, and have succeeded in establishing a recognised international nuclear emergency exercise culture.

The INEX series began in 1993 with the first international exercise, INEX 1, whose goal was to identify policy issues and areas where transboundary communications and coordination could be improved. The exercise was staged as a table-top simulation of a large release of radioactivity from a fictitious facility and country. It was specifically designed to explore processes for international alerting and communication, and decision-making for countermeasure implementation, particularly relating to foods and feeding-stuffs, and processes for identifying and requesting assistance.

Sixteen countries participated in INEX 1, conducting their exercises either individually or in coordination with another neighbouring country. Based on their collective evaluations, INEX 1 demonstrated the need for improved coordination and harmonisation in the areas of data exchange, intervention levels and short-term countermeasures between neighbouring countries, agricultural countermeasures, and criteria for import and export of foods and feedstuffs. The NEA staged three followup workshops to further investigate and facilitate improvements in short-term countermeasures, agricultural countermeasures, and emergency data management.

While INEX 1 provided the first opportunity for exercising in an international context, it also demonstrated the need for an international exercise that could provide an assessment of how actual national response systems worked under realistic conditions. The NEA Working Party responded by developing and staging a series of four command-post exercises, referred to as INEX 2. Conducted between 1996 and 1999 and involving the simultaneous play of some 30 countries and 4 international organisations, the four INEX 2 exercises were built upon pre-planned national level exercises at existing power plants in Switzerland (1996), Finland (1997), Hungary (1998) and Canada (1999). In addition to testing existing emergency management arrangements, procedures and communications in real-time, these exercises were intended to investigate processes for decision-making based on limited information, and the management of public and media information.

INEX 2 identified many important lessons for improving international and national emergency preparedness arrangements. Amongst these were the ongoing need to improve the coordination and harmonisation of local, national and international nuclear emergency management actions, particularly in the planning and implementation of countermeasures. A key finding identified early in the series was the need for a better definition of key data to support decision makers, and improved ways for its exchange between response authorities. There was also recognition of the need to streamline and improve bi-lateral and multi-lateral response arrangements and agreements, and to improve public and media information and interaction.

A significant outcome of INEX 2, and a major step forward in nuclear emergency management, was the development of a new communication and information exchange strategy. The objective of this strategy is to assist the decision-maker by improving the selection of the data transmitted (key emergency data), by encouraging the exchange of such data using modern communications and by better defining monitoring and modeling needs.

To test the validity of this approach, a fifth INEX 2-type exercise, referred to as INEX 2000, was developed based on a simulated accident in France. In addition to allowing an international test of the proposed data management strategies, the exercise was also the first exercise to be jointly organised by several international agencies through the Inter-Agency Committee on the Response to Nuclear Accidents (IACRNA), thereby demonstrating the increasing level of international coordination and cooperation. INEX 2000 was also the first international exercise designed to include

a post-accident objective, namely to investigate through a subsequent workshop the mechanisms for the implementation of the international third party liability regime following a nuclear emergency. In this way, INEX 2000 also served as a bridging exercise between INEX 2 and the next generation of international late-phase nuclear emergency exercises that would focus on longer-term issues.

Building on the momentum of the previous exercises, INEX 2000 involved about 55 participating countries and 5 international organisations. The exercise was successful in showing that significant improvements in response effectiveness could be achieved through improved data management, and resulted in increased efforts in this area within national emergency preparedness programs, recognising that work needs to be done to harmonise national and international efforts for secure internet-based information exchange. It also showed that there is still a need to improve efforts to coordinate information provided to the media and public, as conflicting information can cause public confusion and lead to a loss of confidence in decision makers. However, many countries confirmed that they had made significant progress in their emergency arrangements since INEX 2, and currently, the data management strategy is implemented in several NEA member countries as well as the international community in general.

In the area of compensation, INEX 2000 provided the first opportunity for the international community to look at implementation mechanisms for the third party liability regime based on actual outcomes and decisions from an emergency management exercise. These aspects were investigated in detail in the first workshop on Indemnification of Damage in the Event of a Nuclear Accident, organised by the NEA. A key observation from the workshop was the great value to both the emergency management and nuclear law communities in incorporating third party liability elements into the INEX programme, particularly for future exercises focused on later phases of a nuclear emergency.

INEX 1, INEX 2 and INEX 2000 were exercises that focused on emergency management arrangements and decision making in the early-phase of an emergency. The NEA has now developed its next generation of nuclear emergency exercises, INEX 3, to look at decision making in the later phases after an emergency event. This table-top exercise focuses on decision-making in the medium to late phase following the discovery of serious contamination within the participating countries that has resulted from one of two possible initiating scenarios. Exercise objectives include an investigation of decisions on agricultural countermeasures and food restrictions, soft countermeasures such as travel and trade, recovery management and public information. INEX 3 is being conducted by participating countries during 2005. Following the completion of the individual exercises, the NEA will host an international evaluation workshop in the spring of 2006 to examine the collective outcomes, lessons and implications of the exercise participants, and to consider areas for further investigation.

In conclusion, the NEA through its Working Party on Nuclear Emergency Matters has developed its exercise series over the last 15 years to facilitate a practical investigation of issues in nuclear emergency management within a unique international context. As the Working Party now looks forward in its ongoing programme of work, it is interested in moving towards a full-spectrum understanding of all relevant technical and social issues in emergency management, from response planning to rehabilitation. Collaborative work and joint undertakings between the NEA Committee on Radiation Protection and Public Health and the Nuclear Law Committee will play an important role in ongoing analysis of the link between emergency management decisions and long-term post-accident recovery, including issues of compensation. International exercises will continue to provide an important venue for investigating and testing such mechanisms in an interactive and international setting.

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INEX – NEA's Programme on Nuclear Emergency Matters

Brian Ahier
OECD Nuclear Energy Agency
Radiation Protection and Waste Management Division

Second International Workshop on the Indemnification of Nuclear Damage
18 - 20 May 2005, Bratislava (Slovak Republic)

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NEA Committee on Radiation Protection and Public Health (CRPPH)

- Role: Assist member countries in applying and further developing the system of radiation protection
- Composition: Senior Radiation Protection Experts (regulators and research)
- Liaison: Cooperation with the European Commission and the International Atomic Energy Agency
- CRPPH Programme includes:
  - Evolution of system of radiation protection
  - Stakeholder involvement processes
  - Occupational exposure management
  - International nuclear emergency preparedness and management

Why International Nuclear Emergency Preparedness and Management?

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Why International Nuclear Emergency Preparedness and Management?

- Nuclear accidents may have consequences over wide geographical areas (eg, Chernobyl 1986)
- Arrangements for international information exchange to support national decisions
- Arrangements for international assistance to support national response
- Coordination, harmonisation of international response (travel, trade, etc)
- High public and media interest
- International events call for international response

NEA's Working Party on Nuclear Emergency Matters

- Forum for emergency response experts from designated responding orgs in NEA member states
- Think-tank for nuclear emergency planning, preparedness and management:
  - Identify areas which could be usefully improved
  - Develop and voluntarily test in innovative ideas, approaches and concepts for better emergency management
  - Develop follow-up strategies
  - Liaise, coordinate with international agencies (IACRNA, etc)
- Initiate, develop, prepare and organise International Nuclear Emergency Exercises (INEX 1, 2, 2000, 3...)

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International Nuclear Emergency Exercises

Why do we exercise?

- Test, explore, and improve existing national and international aspects and arrangements for nuclear emergencies:
  - Response systems and mechanisms
  - Information exchange and communication
  - International assistance
  - International coordination and harmonisation
- Establish an international 'exercise culture'
- Test new concepts and arrangements

INEX 1 (1993)
Overview

- Table-top exercise to identify policy issues and areas where transboundary communications, coordination could be improved
- Objectives: Explore
  - Process for alerting and communicating with neighbouring countries and the international community
  - Decision-making process for countermeasure implementation
  - Countermeasures related to import, export of food/feeding stuffs
  - Process for identifying the need for, and requesting of assistance to cope with radiological emergency
- Involved 16 participating countries

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INEX 1 (1993)
Lessons Learned

- Improve coordination in area of:
  - data exchanges techniques and formats
  - monitoring techniques and food/goods certification procedures
  - intervention levels and short-term countermeasures between neighbouring countries
  - Agricultural countermeasures
  - Movement of monitoring resources across national borders
- Improve planning for long-term countermeasures
- Harmonise import/export criteria for food, feeding stuffs

INEX 1 (1993)
Follow-up

- Workshops:
  - Short-term Countermeasures (Stockholm 1994), updated 2003
  - Agricultural Aspects (Paris 1995)
  - Emergency Data Management (Zurich 1995)
- Need for a more realistic international emergency exercise

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INEX 2 Series (1996-1999)
Overview

- Series of 4 command-post exercises
- Exercise existing procedures and arrangements
- Built on national exercises at existing power plants in Switzerland (’96), Finland (’97), Hungary (’98) and Canada (’99)
- Objectives:
  - Decision making based on limited or uncertain information
  - Use of real-time communications using existing systems
  - Public and media information
- Participation of some 30 countries and 4 international organisations

INEX 2 Series (1996-1999) Lessons Learned

- Develop strategies for rapid, targeted information and key data for decision makers
- Coordinate and harmonise
  - Nuclear emergency preparedness and management actions: local, national, regional, international
  - Planning and implementation of countermeasures
- Streamline bi/multi-lateral and international agreements
- Improve public and media information

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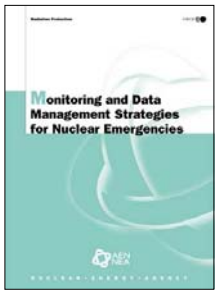
INEX 2 Series (1996-1999) Follow-up

- Development of "Monitoring and Data Management Strategies for Nuclear Emergencies"
  - Better selection of data for exchange:
    - Key data
  - Better exchange of data:
    - Modern communications
  - Better definition of monitoring and modelling needs:
    - Why, what, when, where
- Testing of strategies in next international nuclear exercise...



INEX 2000 (2001) Overview

- INEX 2 type exercise, based on a simulated accident in France (Gravelines NPP)
- Jointly organised through the IACRNA
- Exercise in 2 parts:
  - INEX 2 type command post exercise
  - Workshop on Indemnification of Damage in the Event of a Nuclear Accident based on exercise outcomes
- First exercise with a post-accident objective
  - Bridge between INEX 2 and the next generation of international nuclear emergency exercises

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INEX 2000 (2001) Lessons Learned

- Further development and implementation of monitoring and data management strategies
- Harmonise national and international efforts for web-based information exchange
- Improve efforts to coordinate information provide to public and media
- Outcomes of First Workshop on Indemnification of Damage in the Event of a Nuclear Accident (Workshop Proceedings, OECD 2003)
  - great value to incorporate third party liability elements into the INEX programme, especially if future INEX exercises focus on later phases of a nuclear accident

INEX 2000 (2001)
Follow-up

- The INEX 2 lessons are valuable for improving state of readiness and management capabilities
- Many INEX 2 lessons remain to be acted upon
- Move beyond urgent emergency management to later phase and recovery

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INEX 3 (2005)
Overview

- Table-top consequence management exercise focusing on medium to late decision-making after an incident causing serious contamination
- Exercise objectives:
  - Agricultural countermeasures and food restrictions
  - Decision making on soft/light countermeasures
  - Recovery management and public information
- Exercise evaluation:
  - National evaluation by participating countries (2005)
  - International evaluation workshop (Spring 2006)
- 19 Participating countries to date

INEX 3 (2005) Conduct

- Table-top exercise with two phases
  - Phase 1: shortly after serious contamination has occurred / been identified
  - Phase 2: Three to four weeks after the initial event
- Contamination footprint scenario
- Exercise conduct:
  - National choice within "official" window (July-Nov. 2005)
  - Countries play individually or in country groups
- International Evaluation Workshop at NEA (2006)

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INEX 3 (2005) Observations to Date

- Trend towards broader range of participants, stakeholders (government, industry, public)
- Role of formalised criteria, guidance
  - There will be compensation issues whether or not formalised intervention criteria are exceeded

Future Priorities of the Working Party

- Work towards a full-spectrum understanding of all relevant technical and social issues in emergency management, from response planning to the rehabilitation phase.
- Compensation issues and strengthening of links between NEA CRPPH and NLC.
  - Decisions in short-term will impact decision, actions, and outcomes in long-term. Compensation issues will likely be a big part of this.
  - Cooperation, coordination and joint undertakings strongly desired by CRPPH

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*'All I'm saying is **now** is the time to develop the technology to deflect an asteroid'*

GENERAL CONCLUSIONS ON WORKSHOP*

by Mr. Håkan Rustand**

I am most honoured today to have been asked to provide my conclusions on this very interesting second workshop on the indemnification of nuclear damage. The objective of the first workshop in this series was to integrate, for the first time, third party liability aspects into an international nuclear emergency exercise. Following the success of the first workshop, the Nuclear Law Committee proposed to organise the second workshop in this series. The focus this time was on the Vienna Convention on Civil Liability for Nuclear Damage, and on the Joint Protocol on the Application of the Vienna Convention and the Paris Convention, and the interaction that these two legal instruments present with the Paris Convention.

To fulfil this objective, we needed to invent two fictitious scenarios. The first one, the installation scenario, involved a fire taking place in a fuel storage facility at a fictitious nuclear installation in the Slovak Republic. A sizeable quantity of radioactive materials was released into the atmosphere and on-site and off-site emergency plans were activated. Extensive damage occurred, including personal injuries to site workers and emergency rescue staff, property damage, damage to the environment, damage to the tourism industry and ancillary service industries, and transport cancellations. The second scenario focused on a transport accident having taken place on board a ship transporting nuclear substances along the Danube River from Germany to Romania, when the ship is in Hungarian territorial waters and when a German operator has assumed liability for the consignment.

My general view is that we have been very successful in these three days of discussion, providing a very interesting exchange of views. One issue that attracted particular debate was the thorny question of claims handling. This was especially interesting for my delegation as we are in the process of implementing the revised Paris Convention at home and therefore this was of great use to us. The insurers have a clear picture of how they would operate, and the presentations by Mr. Reitsma and Mr. Záruba provided welcome clarity in this respect.

Another very interesting discussion followed our examination of the questionnaire and the issues raised in relation to the definition of damage, ranging from death and personal injury, agricultural and industrial products subject to actual and rumour damage, the tourism industry, the environment and transport services. The discussions revealed that there still exist differences in our legal systems, demonstrated by the different responses submitted to the questionnaire. This study may inspire people, upon their return to their capitals, to make changes to their own law if they feel that solutions currently available in other legal systems are desirable or preferable. Such harmonisation is desirable.

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* This text has been prepared by the NEA Secretariat based on the conclusions delivered by Mr. Rustand at this workshop.

** Mr. Håkan Rustand is former Chairman of the Paris Convention revision exercise.

Another important issue is the key role played by nuclear insurers for the operability of the whole liability system. Mr. Reitsma cautioned us yesterday when saying that it might be difficult to obtain compensation for certain coverage, in particular the extension of the prescription period to 30 years. I respectfully disagree with him in relation to his interpretation as regards environmental damage where I think the gap might not be so big, as followed from his presentation.

One of the most debated issues was on this morning's agenda: the proper functioning of the Joint Protocol. We listened yesterday to Mr. Boulanenkov's excellent presentation on the background to this instrument and the context in which it was adopted. We then listened to Dr. Pelzer's excellent presentation which suggests that we had underestimated the ramifications of the practical application of this instrument. One solution, of course, to minimise the negative aspects, would be if all states would adhere to the Joint Protocol.

Another possible solution as outlined by Mr. Omer Brown was the Convention on Supplementary Compensation as a bridging instrument. When revising the Paris Convention, we were indeed most anxious not to jeopardize in any way the proper functioning of the Convention on Supplementary Compensation.

The importance of the proper operation of the early notification system has been demonstrated on many occasions in the past. The Secretariat has already noted that there have been substantial improvements in this regards since the first of these international workshops.

The objective of a workshop such as this is to stimulate people to return home with new knowledge about the practices of other countries, and to reflect at home on whether there may be room for improvement in domestic practices. In this regard, it can be said that an international workshop like this moves towards harmonisation amongst like-minded countries. I would like to conclude by thanking my distinguished colleagues here today for the interesting discussions, and by extending warm thanks to our Slovak colleagues and to the NEA Secretariat for the excellent organisation of this workshop.

LIST OF PARTICIPANTS

AUSTRIA

Mr. Thomas AUGUSTIN
Deputy Director Nuclear Co-ordination
Federal Ministry of Agriculture,
Forestry, Environment and Water Management
5, Stubenbastei
A-1010 Vienna

Tel: + 43 1 515 22 40 08
Fax: + 43 1 515 22 72 10
E-mail: nuklearkoordination@bmlfuw.gv.at

BELARUS

Ms. Volha PIOTUKH
Chief State Nuclear and Radiation Safety Inspector
Department for Supervision of Industrial and Nuclear Safety of the Ministry for Emergency Situations of the Republic of Belarus (Promatomnadzor)
86/1 Kazintsa Street
220108 Minsk

Tel: + 375 17 207 09 41
Fax: + 375 17 278 60 83
E-mail: safeatom@infonet.by

BELGIUM

Mr. Marc BEYENS
Chief, Legal Officer – General Affairs and Generation
Electrabel SA/NV
Boulevard du Régent 8 Regentlaan
B-1000 Brussels

Tel: + 32 2 510 72 69
Fax: + 32 2 510 72 25
E-mail: marc.beyens@electrabel.com

Mr. Roland DUSSART-DESART
Chef de Division, Bureau du Président,
SPF Économie, PME, Classes Moyennes & Énergie
Service juridique − 8ème étage
50, Rue du Progrès
B-1210 Bruxelles

Tel: + 32 2 277 73 86
Fax: + 32 2 277 51 05
Email: roland.dussart-desart@mineco.fgov.be

Mr. Marc FOLENS
General Manager
Belgian Nuclear Insurance Syndicate (SYBAN)
29, Square de Meeûs
B-1000 Brussels

Tel: + 32 2 503 01 90
Fax: + 32 2 503 04 40
E-mail: marc.folens@syban.be

Ms. Maria LAGUNA BENITEZ
Underwriting Assistant
ELINI
166, avenue Jules Bordet, Bt 4
B-1140 Brussels

Tel: + 32 2 726 20 84
Fax: + 32 2 726 19 63
E-mail: Maria.Laguna@elini.net

Mr. Danny VAN WELKENHUYZEN
General Manager
EMANI
166, avenue Jules Bordet, Bt 4
B-1140 Brussels

Tel: + 32 2 702 90 11
Fax: + 32 2 705 72 92
E-mail: danny.vanwelkenhuyzen@emani.be

Mr. Marc WILMOTTE
Legal Advisor
Federal Agency for Nuclear Control
36, Ravenstein
B-1000 Brussels

Tel: + 32 2 289 21 38
Fax: + 32 2 289 21 12
Email: marc.wilmotte@fanc.fgov.be

CANADA

Ms. Colleen DEMERCHANT
Assistant Manager
Nuclear Insurance Association of Canada
90, Allstate Parkway
Markham
Ottawa, Ontario L3R 6H3

Tel: + 1 905 474 7356
Fax: + 1 905 474 1567
E-mail: colleen.demerchant@cgi.com

Mr. Jacques HENAULT
Analyst, Nuclear Liability and
Emergency Preparedness
Natural Resources Canada
580, Booth Street, 17th floor
Ottawa, Ontario K1A OE4

Tel: + 1 613 947 4748
Fax: + 1 613 947 4205
E-mail: jhenault@NRCan.gc.ca

Mr. Dave MCCAULEY
Senior Policy Advisor
Nuclear Liability
Natural Resources Canada
580, Booth Street, 17th floor
Ottawa, Ontario K1A OE4

Tel: + 1 613 996 4697
Fax: + 1 613 947 4205
E-mail: dmccaule@nrcan.gc.ca

CROATIA

Mr. Dejan SKANATA
Member of the Board
ENCONET International Company
Miramarska 20,
10 000 Zagreb

Tel: + 385 1 63 12 388
Fax: + 385 1 63 12 380
E-mail: dejan.skanata@enconet.hr

Mr. Bruno SLADONJA
Director
Croatian Nuclear Pool
Ulica Grada Vukovara 62
10 000 Zagreb

Tel: + 385 1 61 70 275
Fax: + 385 1 61 71 029
E-mail: hr-nuk-pool@zg.htnet.hr

Mr. Ivo VALCIC
Head, Nuclear Safety Department
Ministry of Economy, Labour and Entrepreunership
Ulica Grada Vukovara, 78
10 000 Zagreb

Tel: + 385 1 61 06 113
Fax: + 385 1 61 09 113
E-mail: ivo.valcic@mingorp.hr

CZECH REPUBLIC

Mr. Miroslav MATOCHA
Česká Pojišťovna a.s., Praha
Insurers

Tel: + 420 2 24 559 630
Fax: + 420 2 24 559 772
E-mail: mmatocha@cpoj.cz

Ms. Olga MELCHEROVÁ
Kancelář Českého Jaderného Poolu, Praha
Czech Nuclear Pool Office
Insurers

Tel: + 420 2 24 053 107
Fax: + 420 2 24 053 205
E-mail: omelcherova@cpoj.cz

Mr. Jiří NOVOTNÝ
Kooperativa, Pojišťovna, a.s.,
Praha Insurers

Tel: + 420 2 21 000 236
Fax: + 420 2 21 000 500
E-mail: jnovotny@koop.cz

Mr. Miloš POSÁD
Kancelář Českého Jaderného Poolu, Praha
Czech Nuclear Pool Office
Insurers

Tel: + 420 2 24 053 105
Fax: + 420 2 24 053 205
E-mail: mposad@cpoj.cz

Mr. Bohumil ŠVEC
Gerling-Konzern, Praha
Insurers

Tel: + 420 2 20 190 270
Fax: + 420 2 20 190 299
E-mail: bohumil.svec@gerling.cz

Mr. Petr ZÁRUBA
Kancelář Českého Jaderného Poolu, Praha
Czech Nuclear Pool Office
Insurers

Tel: + 420 2 24 053 104
Fax: + 420 2 24 053 304
E-mail: pzaruba@cpoj.cz

DENMARK

Ms. Tine PII
Head of Section
Ministry of Justice
10, Slotsholmsgade
DK-1216 Copenhagen

Tel: + 45 33 92 33 40
Fax: + 45 33 93 35 10
E-mail: tpi@jm.dk

FINLAND

Mr. Peter GRANQVIST
Managing Director
Nordic Nuclear Insurers
9, Ratakatu
FIN-00120 Helsinki

Tel: + 358 9 680 14 90
Fax: + 358 9 680 14 94
E-mail: peter.granqvist@atompool.com

Mr. Heikki RAUMOLIN
Senior Advisor, Generation Nuclear
Fortum Power and Heat Oy
POB 100
FIN-00048 Fortum

Tel: + 358 50 45 339 91
Fax: + 358 10 45 339 85
E-mail: heikki.raumolin@fortum.com

Mr. Yrjö Heikki SAHRAKORPI
Counselor, Deputy Director General
Ministry of Trade & Industry
Aleksanterinkatu 4,
PO Box 32
Helsinki
FIN-00023 Government

Tel: + 358 9 1606 47 02
Fax: + 358 9 1606 26 95
E-mail: yrjo.sahrakorpi@ktm.fi

Mr. Risto SIILOS
Senior Vice President
Legal Affairs
Teollisuuden Voima Oy (TVO)
FIN-27160 Olkiluoto

Tel: + 358 2 838 120 40
Fax: + 358 2 838 120 09
E-mail: risto.siilos@tvo.fi

FRANCE

Ms. Sonia GRAVIER
Chargée d'affaire gestion de crise nucléaire
Autorité de sûreté nucléaire
6, Place du Colonel Bourgoin
F-75572 Paris Cedex 12

Tel: + 33 1 40 19 87 61
Fax: + 33 1 40 19 87 90
E-mail: sonia.gravier@asn.minefi.gouv.fr

Ms. Marianne LAVERGNE
Chargée de mission juridique
Autorité de sûreté nucléaire
12, Place du Colonel Bourgoin
F-75572 Paris Cedex 12

Tel: + 33 1 40 19 88 75
Fax: + 33 1 40 19 87 49
E-mail: marianne.lavergne@asn.minefi.gouv.fr

Mr. Alain LE BIHAN
Insurance Manager
AREVA/COGEMA
1, Place de la Coupole
F-92400 Courbevoie

Tel: + 33 1 47 96 79 57
Fax: + 33 1 47 96 79 66
E-mail: alebihan@cogema.fr

Ms.Valérie NICOLAS
Juriste
Commissariat à l'énergie atomique
Gif-sur-Yvette
F-91191 Saclay

Tel: + 33 1 69 08 10 27
Fax: + 33 1 69 08 24 99
E-mail: valerie.nicolas@cea.fr

Ms. Véronique RÉMY-BLANC
Expert juridique en droit nucléaire
EDF Assurances
Groupe EDF − Immeuble Guynemer
18, rue du CDT Guynemer
F-92938 Paris la Défense Cedex

Tel: + 33 1 49 03 37 54
Fax: + 33 1 49 03 37 59
E-mail: veronique.remy-blanc@edfgdf.fr

Mr. Alain STANISLAS
Directeur
ASSURATOME
Tour Franklin – Défense 8
F-92042 Paris la Défense Cedex

Tel: + 33 1 47 76 53 10
Fax:+ 33 1 47 76 53 66
Email: alain.stanislas@assuratome.fr

GERMANY

Ms. Ursula ADENAUER
Head of Division
Federal Ministry for the Environment,
Nature Conservation and Nuclear Safety
3, Robert-Schuman-Platz
D-53175 Bonn

Tel.: + 0049 1888 305 2826
Fax: + 0049 1888 305 3225
Email: ursula.adenauer@bmu.bund.de

Mr. Dirk HARBRÜCKER
Managing Director
Deutsche Kernreaktor
Versicherungsgemeinschaft
Aachener, Str. 75
D-50931 Köln

Tel: + 0049 221 936 4000
Fax: + 0049 221 936 4005
E-mail: dirk.harbruecker@dkvg.biz

Dr. Walter LEDER
General Manager
Gesellschaft für Anlagen- und Reaktorsicherheit (GRS) mbH
Schwertnergasse 1
D-50667 Köln

Tel: + 0049 221 206 8700
Fax: + 0049 221 206 8702
E-mail: walter.leder@grs.de

Dr. Norbert PELZER
Retired Academic
University of Göttingen
Otto-Wallach-Weg 5
D-37075 Göttingen

Tel: + 0049 551 531 3742
Fax: + 0049 551 531 3743
E-mail: npelzer@gwdg.de

Dr. Malte SCHMANS
Head of Legal Affairs
E.ON Kernkraft GmbH
Kompetenz – Center Recht
Tresckow Strasse 5
D-30457 Hannover

Tel. : + 0049 511 439 2992
Fax : + 0049 511 439 4718
E-mail: malte.schmans@eon-energie.com

HUNGARY

Ms. Gyetvai GYÖRGYI
Reinsurance Underwriter
Allianz Hungaria Biztosító RT.
Bajcsy – Zsilinszky ut.52
H-1054 Budapest

Tel: + 36 1 301 62 79
Fax:+ 36 1 301 62 72
E-mail: gyorgyi.gyetvai@allianz.hu

Prof. Vanda LAMM
Director
Institute for Legal Studies
Hungarian Academy of Sciences
1, Orszaghaz Utca 30, POB 25
H-1250 Budapest

Tel: + 36 1 355 7384
Fax: + 36 1 375 7858
E-mail: lamm@jog.mta.hu

Mr. György SZÁVA
Atompool Manager
Allianz Hungária Biztosító Rt.
Bajcsy-Zsilinszky ut 52.
H-1054 Budapest

Tel: + 36 1 301 6549
Fax: + 36 1 301 6022
E-mail: gyorgy.szava@allianz.hu

Mr. Zoltán SZÖNYI
Senior Advisor
Hungarian Atomic Energy Authority
Fényes A, Utca 4
H-1036 Budapest

Tel: + 36 1 436 48 13
Fax: + 36 1 436 48 04
E-mail: szonyi@haea.gov.hu

ITALY

Mr. Fabrizio NOCERA
Legal Advisor
ENEA
C.R. Casaccia
Via Anguillarese 301 − S.P.101
I-00060 S. Maria di Galeria (Roma)

Tel: + 39 06 3048 4445
Fax: + 39 06 3048 6329
E-mail: fabrizio.nocera@casaccia.enea.it

KOREA (Rep. of)

Prof. Ki-Gab PARK
Professor
Faculty of Law, Korea University
5-1, Anam-Dong, Sungbuk-Ku
Seoul, 136-701

Tel: + 82 2 3290 1895
Fax: + 82 2 9280 3643
E-mail: kgpark@korea.ac.kr

LATVIA

Ms. Sandra OZOLINA
Head of Early Warning Sector
Radiation Safety Centre
Maskavas Street 165
LV-1019 Riga

Tel: + 371 70 32 677
Fax: + 371 70 32 659
E-mail: Sandra_Ozolina@rdc.gov.lv

NETHERLANDS

Mr. Rob VAN EMDEN
Legal Adviser
Ministry of Finance
Korte Voorhout 7
2511 CW The Hague

Tel: + 31 70 342 70 90
Fax: + 31 70 342 79 84
E-mail: r.emden@minfin.nl

PERU

Ms. Carmen AZURIN
Alternate to IAEA
Ministry of Foreign Affairs of Peru
Permanent mission in Vienna
Gottfried-Keller-Gasse 2/8/36
A-1030 Vienna

Tel: + 43 1 713 4377 18
Fax: + 43 1 712 7704
E-mail: cazurin@embaperuaustria.at

ROMANIA

Mr. Alexandru HAVRIS
Senior Economist
S.N. Nuclearelectrica S.A.
65, Polona Street, Sector 1,
010494 Bucharest

Tel: + 0040 21 203 8258
Fax: + 0040 21 316 9804
E-mail: AHavris@nuclearelectrica.ro

Mr. Ieremia RAZVAN
Claims Manager
OMNIASIG AGI SA (also Romanian Atomic Insurance Pool)
Mircea Vodá, Blvd No. 34, Sektor 3
77101 Bucharest

Tel: + 0040 21 322 7150
Fax: + 0040 21 322 7000
E-mail: razvan.ieremia@agiromania.ro

RUSSIAN FEDERATION

Mr. Michail V. DEGTYAR
Manager
Russian Nuclear Insurance Pool
Petrovka str. 23A
115 409 Moscow

Tel: + 7 095 737 00 46
Fax: + 7 095 737 06 38
E-mail: md@uralsibins.ru

Mr. Vladimir MALKOV
General Manager
Russian Nuclear Insurance Pool
Kashirskoe str. 78/1
115 409 Moscow

Tel: + 7 095 323 97 43
Fax: + 7 095 323 97 43
E-mail: vmalkov@makc.ru

SLOVAK REPUBLIC

Mr. Emil BÉDI
Public Health Authority of the Slovak Republic

Tel: + 421 2 4835 4261
E-mail: bedi@uvzsr.sk

Mr. Mikuláš BOCKANIČ
Division of Population Protection and Integrated Rescue System
Office of Civil Protection of the Ministry of Interior of the Slovak Republic

Tel: + 421 37 73 35 801
Fax: + 421 37 73 35 802

Mr. Vojtech BOLDIŠ
Risk Management Division
Ministry of Agriculture of the Slovak Republic

Tel: + 421 36 6317 197
Fax: + 421 36 6317 197

Mr. Pavol BUJŇÁK
Risk Management Division
Ministry of Agriculture of the Slovak Republic

Tel: + 421 2 5926 6305
Fax: + 421 2 5926 6157
E-mail: pavol.bujnak@land.gov.sk

Mr. Daniel DEMANKO
Labour Inspector
National Labour Supervisor of the Slovak Republic

Mr. Ľubomír DEMČÁK
Allianz-Slovenská Poisťovňa, a.s.
Insurers

Ms. Helena FAZEKAŠOVÁ
Division of Population Protection and Integrated Rescue System
Office of Civil Protection of the Ministry of Interior of the Slovak Republic
Tel: + 421 2 48 59 33 13
Fax: + 421 2 43 41 10 95
E-mail: fazekasova@uco.sk

Mr. Štefan HARING
Executive Director of the Internal Economics Department
Slovenské Elektrárne, a. s.
E-mail:haring.stefan@hq.seas.sk

Ms. Zuzana HOVADÍKOVÁ
Division of Legislation and Legal Affairs
Slovak Nuclear Regulatory Authority
Bajkalská 27, PO Box 24
820 07 Bratislava
Tel: + 421 2 58 221 165
Fax: + 421 2 58 221 166
E-mail: zuzana.hovadikova@ujd.gov.sk

Mr. Karol JANKO
Vice-Chairman
Slovak Nuclear Regulatory Authority
Bajkalská 27, PO Box 24
820 07 Bratislava
Tel: + 421 2 58 221 140
Fax: + 421 2 58 221 166
E-mail: karol.janko@ujd.gov.sk

Ms. Marianna KOSNÁČOVÁ
Civil and Commercial Law Department of the Law Faculty
Law Faculty of the Trnava University
Tel: + 421 33 55 13 908
Fax: + 421 33 59 39 293
E-mail: mkosnac@truni.sk

Mr. Ľubomír KUCHTA
Counsellor
Permanent mission of the Slovak Republic to the European Union

Ms. Elena MÁJEKOVÁ
Union Poisťovňa, a.s
Insurers
Chairwoman of the Slovak Nuclear Insurance Pool
Tel: + 421 2 58 319 104
Fax: + 421 2 53 631 111
E-mail: elena.majekova@union.sk

Ms. Terezia MELICHEROVÁ
Head of the Partial Monitoring System for the Environmental Radioactivity
Slovak Hydrometerological Institute
Tel: + 421 2 59 41 54 45
Fax: + 421 2 59 41 54 45
E-mail: terezia.melicherova@shmu.sk

Mr. Eduard METKE
Director of the Division of Emergency Preparedness, Informatic and Personnel Training
Slovak Nuclear Regulatory Authority
Bajkalská 27, PO Box 24
820 07 Bratislava
Tel: + 421 2 58 221 126
Fax: + 421 2 58 221 166
E-mail: eduard.metke@ujd.gov.sk

Mr. Martin POSPÍŠIL
Director of the Division of Legislation and Legal Affairs
Slovak Nuclear Regulatory Authority
Bajkalská 27, PO Box 24
820 07 Bratislava
Tel: + 421 2 58 221 117
Fax: + 421 2 58 221 166
E-mail: martin.pospisil@ujd.gov.sk

Mr. Milan RAJEC
Allianz-Slovenská Poisťovňa, a.s.
Insurers

Ms. Zuzana REPOVÁ
Kancelária Slovenského Jadrového Poisťovacieho Poolu
Office of the Slovak Nuclear Insurance Pool
Insurers
Tel: + 421 2 5963 2656
Fax: + 421 2 5963 2667
E-mail: zuzana.repova@allianzsp.sk

Mr. Ronald ROTH
Head of the Division of Population Protection and Integrated Rescue System Office of Civil Protection of the Ministry of Interior of the Slovak Republic
Tel: + 421 2 48 59 31 11
Fax: + 421 2 43 41 10 95
E-mail: roth@uco.sk

Ms. Silvia RYBÁROVÁ
MARSH, S.R.O.
Insurers
Tel: + 421 2 5920 54 24
Fax: + 421 2 5920 54 44
E-mail: silvia.rybarova@marsh.com

Ms. Andrea SIKOROVÁ
Allianz-Slovenská Poisťovňa, a.s.
Insurers
Tel: + 421 2 5963 3218
Fax: + 421 2 5663 2667
E-mail: andrea.sikorova@allianzsp.sk

Mr. Milan SIVECKÝ
Nitriansky Samosprávny Kraj

Mr. Vladimír SLÁDEK
Division of Emergency Preparedness, Informatic and Personnel Training
Slovak Nuclear Regulatory Authority
Bajkalská 27, PO Box 24
820 07 Bratislava
Tel: + 421 2 58 221 121
Fax: + 421 2 58 221 166
E-mail: vladimir.sladek@ujd.gov.sk

Mr. Dušan SMOLEŇÁK
Poisťovňa Gerling − Slovensko, a.s.
Insurers
Tel: + 421 2 5290 7992
Fax: + 421 2 5292 7991
E-mail: smolenak@gerling.sk

Mr. Imrich SZITÁS
Deputy
State Fund for the Decommissioning of Nuclear Installation and Spent Fuel and Radwaste Management
Tel: + 421 2 58 2804
Fax: + 421 2 58 2804
E-mail: szitas.sfljez@stonline.sk

Mr. Jozef TOMEK
Director of the Nuclear Safety and Radiation Protection Department
Slovenské Elektrárne, a. s.
Tel: + 421 2 58 66 3214
Fax: + 421 2 58 66 3032
E-mail: tomek.jozef@hq.seas.sk

Mr. Ľuboš TOMÍK
CENS
Deputy director

Mr. Tomáš TRCKA
Environmental Risk Management Department
Ministry of Environment of the Slovak Republic

Mr. Michal UHRÍN
Poisťovňa Gerling – Slovensko, a.s.
Insurers

Ms. Zlatica VIŠŇOVSKÁ
Director of the Legal Affairs Division
Slovenské Elektrárne, a. s.
Tel: + 421 2 58 66 31 59
Fax: + 421 2 58 66 34 51
E-mail: visnovska.zlatica@hq.seas.sk

Ms. Dagmar ZEMANOVÁ
Head of the Chancellery
Slovak Nuclear Regulatory Authority
Bajkalská 27, PO Box 24
820 07 Bratislava
Tel: + 421 2 58 221 138
Fax: + 421 2 58 221 166
E-mail: dagmar.zemanova@ujd.gov.sk

SLOVENIA

Mr. Renato FRELIH
Director
Nuclear Pool Slovenia
Miklosiceva 19
1000 Ljubljana

Tel: + 386 1 4747 506
Fax: + 386 1 4331 419
E-mail: rfrelih@zav-triglav.si

Dr. Rajko KNEZ
Senior Lecturer
Law Faculty, University of Maribor
Mladinska 9,
2000 Maribor

Tel: + 386 2 250 42 29
Fax: + 386 2 250 23 245
E-mail: rajko.knez@uni-mb.si

Mr. Igor SIRC
Advisor in the Office of General Affairs
Slovenian Nuclear Safety Administration
Zelena cesta 16
PO Box No. 5759
1001 Ljubljana

Tel: + 386 1 472 11 00
Fax: + 386 1 472 11 99
E-mail: igor.sirc@gov.si

Mr. Ivan SPILER
Administrative Director
Krsko Nuclear Power Plant
Vrbina 12
8270 Krsko

Tel: + 386 7 4802 420
Fax: + 386 7 4921 528
E-mail: ivan.spiler@nek.si

SOUTH AFFRICA

Mr. Rodney Stephan ELK
Senior Legal Advisor
National Nuclear Regulator
Old Mutual Building Block A, 2nd floor
CNR Embankment & Hendrick Verwoed Drive
0046 Pretoria Centurion

Tel: + 27 12 674 7181
Fax: + 27 12 663 5513
E-mail: relk@nnr.co.za

Mr. Nathan Giftz NHLAPHO
Legal Advisor
National Nuclear Regulator
Old Mutual Building Block A, 2nd floor
CNR Embankment & Hendrick Verwoerd Drive
0046 Pretoria Centurion

Tel: + 27 12 674 7100
Fax: + 27 12 663 5513
E-mail: gnnhlapho@nnr.co.za

SPAIN

Mr. Julian GOMEZ DEL CAMPO
Manager
Aseguradores de Riesgos Nucleares
Sagasta, 18
28004 Madrid

Tel: + 34 91 446 74 11
Fax: + 34 91 359 05 47
E-mail: jgomezcampo@teleline.es

SWEDEN

Mr. Håkan RUSTAND
Head of Division
Chancellor of Justice
Box 2308
SE-10317 Stockholm

Tel: + 46 08 405 29 08
Fax: + 46 08 723 03 57
E-mail: hakan.rustand@justitiekanslern.se

Mr. Hans THOFELT
Deputy Managing Director
Nordic Nuclear Insurers
Birger Jarlsgatan 57B
SE-11396 Stockholm

Tel: + 46 08 458 54 57
Fax: + 46 08 458 54 58
E-mail: hans.thofelt@atompool.com

Ms. Li WALLÉN
Associate Judge of Appeal
Ministry of Substainable Development
Tegelbacken 2
SE-10333 Stockholm

Tel: + 46 40 661 67 32
Fax: + 46 40 611 85 39
E-mail: li.wallen@sustainable.ministry.se

SWITZERLAND

Mr. Martin A. BAGGENSTOS
Head Emergency Preparedness
Swiss Federal Nuclear Safety Inspectorate
CH-5232 Villigen − HSK

Tel: + 41 56 310 39 39
Fax: + 41 56 310 39 07
E-mail: martin.baggenstos@hsk.ch

Mr. Sebastiaan REITSMA
Manager
Swiss Nuclear Insurance Pool
Mythenquai 50/60
PO Box
CH-8022 Zürich

Tel: + 41 43 285 51 55
Fax: + 41 43 285 41 73
E-mail: sebastiaan_reitsma@swissre.com

Mr. Renato TAMI
Head of Section for Legal Affairs
Swiss Federal Office of Energy
Worblentalstrasse 32
CH-3003 Berne

Tel: + 41 31 322 56 03
Fax: + 41 31 323 25 00
E-mail: renato.tami@bfe.admin.ch

UKRAINE

Mr. Pavlo FURSEVYCH
Chairman of the Board
PROSTO − Insurance
O. Gonchar, Str. 65
01601 Kiev

Tel: + 380 44 206 28 85
Fax: + 380 44 206 28 84
E-mail: pavel@pro100.com.ua

Ms. Oksana KYSHKO
Director of Corporate Law Department
JurEnergoConsulting
Prorizna, Str. 18/1G, of. 46
01034 Kiev

Tel: + 380 44 279 51 76
Fax: + 380 44 279 51 76
E-mail: ksana2005@ukr.net

Mr. Oleksandr MATSAK
Deputy to the Chairman of the Board
INGO Ukraine JSIC
Vorovskoho, str. 33
01054 Kiev

Tel: + 380 44 490 27 45
Fax: + 380 44 490 27 48
E-mail: amatsak@ingo.com.ua

Mr. Oleksandr MISCHENKO
Deputy Chairman of the Board

Mr. Volodymyr SHVYTAI
Head of Presidential Office
National Nuclear Energy
Generating Company ENERGOATOM
3, Vetrova str.
01032 Kiev

Tel: + 380 44 201 09 01
Fax: + 380 44 294 48 83
E-mail: shvitay@atom.gov.ua

Mr. Volodymyr ZAKHAROV
General Director
Ukrainian Nuclear Insurance Pool
M. Raskovoi, Str. 11
02660 Kiev

Tel: + 380 44 466 42 12
Fax: + 380 44 517 49 22
E-mail: unip@nbi.com.ua

UNITED KINGDOM

Mr. Stephen GRIFFITHS
Manager, International Nuclear
Liability and Co-operation Agreements
Department of Trade and Industry
Room 135, 1 Victoria Street
SW1H OET London

Tel: + 44 20 72 15 27 38
Fax: + 44 20 72 15 28 41
E-mail: stephen.griffiths@dti.gsi.gov.uk

Mr. Mark G. TETLEY
Managing Director
Nuclear Risk Insurers Limited (NRI)
4th Floor Minster House
42, Mincing Lane
EC3R 7AE London

Tel: + 44 20 7621 1100
Fax: + 44 20 7621 1199
E-mail: mark.tetley@nuclear-risk.com

Ms. Éva THÉLISSON
Specialist Advisor
World Nuclear Transport Institute
7, Old Park Lane
W1K 1QR London

Tel: + 44 20 7408 1944
Fax: + 44 20 7495 1964
E-mail: evathelisson@hotmail.com

UNITED STATES

Mr. Omer F. BROWN
Partner
Harmon,Wilmot and Brown, L.L.P.
1010 Vermont Avenue, N.W. Suite 810
Washington DC 20005

Tel: + 1 202 842 4711
Fax: + 1 202 783 9103
E-mail: omerb@aol.com

Mr. Gary URICCHIO
Vice President, Underwriting
American Nuclear Insurers
95, Glastonbury Boulevard
Glastonbury, Connecticut 06033

Tel: + 1 860 682 1324
Fax: + 1 860 659 0002
E-mail: guricchio@amnucins.com

OECD/NEA

Dr. Gail H. MARCUS
Deputy Director-General

Tel: + 33 1 45 24 10 02
Fax: + 33 1 45 24 11 10
E-mail: gail.marcus@oecd.org

Mrs. Julia SCHWARTZ
Head of Legal Affairs

Tel: + 33 1 45 24 10 30
Fax: + 33 1 45 24 11 10
E-mail: julia.schwartz@oecd.org

Mrs. Fiona GEOFFROY
Legal Adviser

Tel: + 33 1 45 24 10 28
Fax: + 33 1 45 24 11 17
E-mail: fiona.geoffroy@oecd.org

Mr. Brian AHIER
Radiation Protection and Radioactive
Waste Management

Tel: + 33 1 45 24 10 45
Fax: + 33 1 45 24 11 45
E-mail: brian.ahier@oecd.org

OECD Nuclear Energy Agency
12 bd des Îles
F-92130 Issy-les-Moulineaux

IAEA

Mr. Anthony WETHERALL
Legal Officer
Office of Legal Affairs
International Atomic Energy Agency
PO Box 100
A-1400 Vienna

Tel: + 43 1 2600 212 66
Fax: + 43 1 2600 297 84
E-mail: A.C.Wetherall@iaea.org

INVITED EXPERTS

Mr. Vladimir BOULANENKOV
Consultant, IAEA Office of Legal Affairs

Mr. Patrick REYNERS
Consultant, NEA Office of Legal Affairs

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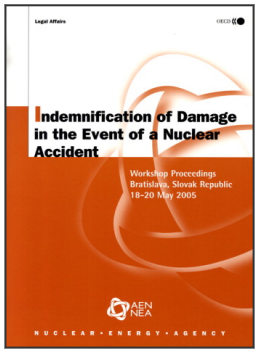

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