

**Ministry of the Environment  
S-103 33 Stockholm  
SWEDEN**

**Your ref. M2021/00558**

**Re. SOU 2021:10 – Radiological damages – indemnity, securities, claims handling**

Dear Sirs,

European Liability Insurance for the Nuclear Industry – ELINI has been given the opportunity to evaluate the result of the Inquiry on “Radiological damages – indemnity, securities, claims handling”, SOU 2021:10.

We are pleased to provide you with our comments as follows.

**Chapter 5 Securities**

**Insurance cover**

According to the wording on page 123 one could get the impression that the Nuclear Third Party Liability (NTPL) insurance from ELINI only covers what the NTPL insurance of NNI does not cover. However, this is not the case. The NTPL insurance from ELINI has the same covers as the one from NNI, but this is within the limit of the capacity that ELINI can provide. ELINI coverages (heads of damages) in relation to the Revised Paris Convention are complete.

To complete the figures stated in page 124, the capacity of ELINI for 2022, should be of a minimum of 200 MEUR (189.3 MEUR for 2021). ELINI’s insurance capacity is built up from the accumulated amounts paid by its members as Capital and Insurance premium over the years.

**Solvency**

The existing capacity of ELINI is constituted to be able to face a first total nuclear accident, for ELINI’s share. In case this first nuclear accident would exhaust the capacity of ELINI, which would need to reinstate the capacity (as the nuclear operator do have to have at all time the coverages available to be able to face a potential other nuclear accident, even if there is no other accident), the members of ELINI are committed towards ELINI to pay an additional contribution (that could represent up to 20 times its annual contribution per reinstatement). The total number of nuclear accidents ELINI can face in one single year is 3.

### Heads of damages

ELINI is providing its capacity to cover the entire new heads of damages from the Revised Paris Convention. It is not the strategy of ELINI to limit its cover only to the 30 years prescription. So ELINI will cover all the new heads of damages, including the 30 years. For this cover of the 30 years prescription, ELINI could arrange for it to be available in case the Pool would not provide the coverage, but this would be in the limit of the capacity ELINI could provide. But we would not provide the 30 years prescription as a “stand alone” cover.

### Members

On page 123 it is also mentioned that ELINI has members in Africa. We just want to point out that ELINI only have one member located in South Africa.

### Chapter 7 Claims handling system

The principle states, page 197, that the nuclear operator is liable to arrange for the claims handling. It is important to precise that the Claims Handling organization is composed of the different parts:

- An IT Tool : For instance a Web Based Platform (such as the Claims Handling System ELINI has developed), to register the claims, register the documents needed to manage the claims (such as the expertise reports, the proves of losses,...), prepare the amounts agreed to be paid to the victims, for the insurers to be able to make the payments, and prepare the reports on dashboard that would be available to any stakeholders - nuclear operator, insurers, but also governments, to be able to monitor the exhaustion of the limits born by the nuclear operators.
- Human resources (call centres, Third Party Administrators, Loss Adjusters, claims departments, experts,...) : to use the IT tool, to answer the victims (call centers), gather the registered claims and address /allocate them to the experts assigned, experts that will assess the claims made by the victims, in order to define the amount that can be proposed as an indemnification,...
- A coordination amongst the different stakeholders (nuclear operator, insurers, Third Party Administrator and experts appointed, but also the government representatives / Debt – Treasury Department). The aim would be to be able to discuss the conditions of indemnification - threshold of flat amounts to be paid to victims when possible, claims that would be agreed for compensation, and those to be rejected, and to agree on the indemnification. The representatives of the Government may be involved in a second step, but maybe not immediately, unless they would provide their guarantee as a first resort. They would then have the possibility to monitor the overall organization by having a connection to the Dashboards of the Claims Handling System, and be an observer and then an actor in the Claims Handling Committee, when the indemnity comes to their level of intervention. This coordination needs to be in place, including for practical reasons: to be integrated in the overall Crisis Management Organization, maybe with a “one stop shop” structure (which exists in other countries), where the victims could go to register their claims towards the insurers or their representatives, but also towards other Government departments for other purposes. Since a nuclear accident would be considered as a catastrophe, even if a small one would have mediatic effects, the government will be likely involved from the beginning. This is the work can be done through a “Claims Handling Committee”. Is that the role of Kammarkollegiet? If not, then we would suggest for you to consider the establishment of a “Claims Handling Committee”.

In this regard, ELINI can grant access to its IT tool (Claims Handling System) and keep it open for the layers in which ELINI is not involved anymore beyond its insurance policy limits and can leave the access open for the nuclear operator and the government as well (ELINI is liable for the indemnification of the victims only up to the limits of the insurance policy signed between ELINI and the insured Nuclear Operator). ELINI can also give the contacts, amongst others, of the resources ELINI is using (the Third Party Administrators) for the Nuclear Operators and the Government to be in a position to negotiate specific agreements for themselves (either for the government limits – 3<sup>rd</sup> layer of the Brussels Convention, or beyond the 1 500 MEUR for the nuclear operators). But ELINI cannot use the public funds to pay the victims when its insurance policy limits are exhausted. ELINI is an insurer, not a service provider. A solution could be the following : when appointed also by the Nuclear Operator and by the Government (if this is the same as the one appointed by ELINI), The Third Party Administrator may then open a bank account, where the funds could be transferred (insurance indemnities, government public funds), and the Third Party Administrator could be instructed, after agreement and under the control of the Claims Handling Committee members, to use those funds to indemnify the victims.

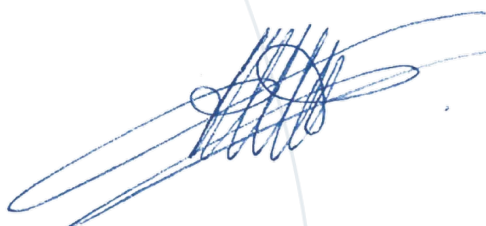
In this regard, as being part of the decision making at the level of the Claims Handling Committee, the Government would keep the control of the use of its funds. The document is developing a whole part on the control the Government has to be able to operate.

#### Costs of IT-tools

The IT Tool access mentioned is not expensive. It is opened to the nuclear operators when they are Insured Members of ELINI, and NNI could use the IT system by becoming a member of the GEIE (Groupement Européen d'Intérêt Economique – European Economic Interest Grouping) that ELINI has been creating with another national Pool, with the intention to expend the membership of this GEIE to other pools. By becoming a member of the GEIE, NNI would have then access to the same system as the one used by ELINI and the nuclear operators insured members of ELINI, for very limited costs, which are those only related to share the maintenance costs and the development costs of the IT Platform. The GEIE is a non-profitable entity. The benefit would be that the system would then be common to all the stakeholders (nuclear operators, insurers, Third Party Administrators, experts, government representatives), with no risk of losing data between different individual systems that are not communicating with each other, and have those data safe, stored and available for a very long period of time (over 30 years).

Should you have any questions or remarks on the above, please feel free to contact us.

Best regards,

A handwritten signature in blue ink, appearing to read "Jean-Denis TREILLARD". The signature is stylized with many overlapping loops and lines.

Jean-Denis TREILLARD  
Managing Director