

No. 27004

**FEDERAL REPUBLIC OF GERMANY
and
SWITZERLAND**

**Agreement on third party liability in the field of nuclear
energy. Signed at Berne on 22 October 1986**

Authentic text: German.

Registered by the Federal Republic of Germany on 5 January 1990.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
SUISSE**

**Accord relatif à la responsabilité envers les tiers dans le do-
maine de l'énergie nucléaire. Signé à Berne le 22 octobre
1986**

Texte authentique : allemand.

Enregistré par la République fédérale d'Allemagne le 5 janvier 1990.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE SWISS CONFEDERATION ON THIRD PARTY LIABILITY IN THE FIELD OF NUCLEAR ENERGY

The Federal Republic of Germany and the Swiss Confederation,

Considering that the protection of the population of the two Contracting Parties from damage arising out of the peaceful use of nuclear energy is a primary goal of neighbourly co-operation, and that such protection must also include appropriate liability provisions,

Bearing in mind that the two Contracting Parties have each promulgated comparable national regulations on liability and that the arrangements are in each case based on the principle of equal treatment of victims from either Contracting Party of damage which is confined to the territory of the State in question,

Desirous of establishing as uniform as possible a treatment of damage on either side of the frontiers between the Contracting Parties, in the event of damage extending across those frontiers,

Have agreed as follows:

Article 1. SCOPE

(1) This Agreement governs the legal liability consequences of any incident arising out of the peaceful use of nuclear energy which occurs on the territory of one Contracting Party, hereinafter referred to as the State, where the incident occurred and causes damage on the territory of the other Contracting Party, hereinafter referred to as the neighbouring State.

(2) It is applicable to incidents whose harmful effects arise out of the radioactive, toxic, explosive or other hazardous properties of radioactive materials.

Article 2. BASIC PRINCIPLE OF EQUAL TREATMENT

Except as otherwise provided for by this Agreement, nationals of the neighbouring State and persons who have their place of business, domicile or normal residence in it shall be treated substantively and procedurally in a manner identical to nationals of the State where the incident occurred.

Article 3. JURISDICTION

(1) If damage has been caused by the peaceful use of nuclear energy, the courts of the State where the incident occurred shall have exclusive jurisdiction.

(2) If damage is caused during transportation of nuclear material, and it is not possible to ascertain where the incident occurred, then the courts of the Contracting Party which first approved the transportation shall have exclusive jurisdiction.

¹ Came into force on 21 September 1988, i.e., one day after the exchange of the instruments of ratification, which took place at Bonn on 20 September 1988, in accordance with article 11 (2).

Article 4. APPLICATION LAW

Except as otherwise provided for by this Agreement, compensation claims arising out of an incident shall be dealt with under the national law of the courts which have jurisdiction as provided for in article 3.

Article 5. PREVENTIVE MEASURES

If the law of the State where the incident occurred provides for liability for damage which occurred as a result of measures officially ordered or authorized to prevent an imminent incident, persons from the neighbouring State who have suffered damage may claim for such damage only to the extent that they could be able to do so under the law of the neighbouring State.

Article 6. MAJOR DAMAGE

If the sum at disposal of the State where the incident occurred to cover claims is not sufficient to meet all of them, the Contracting Parties shall consult one another without delay to find as appropriate solution.

Article 7. TRANSFERABILITY

Compensation payable under this Agreement, and interest and costs, shall be freely transferable between the monetary areas of the Contracting Parties.

Article 8. LIABILITY UNDER INTERNATIONAL LAW

This Agreement may not be interpreted in such a way as to affect rights which either Contracting Party enjoys under the general rules of international law with reference to nuclear damage.

Article 9. BERLIN

This Agreement shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Swiss Confederation within three months of the date of entry into force of this Agreement.

Article 10. TERMINATION

Either Contracting Party may terminate this Agreement in writing with 12 months' notice. The Agreement shall continue to apply to incidents occurring while it is in force and causing damage after its termination.

Article 11. RATIFICATION AND ENTRY INTO FORCE

(1) This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Bonn.

(2) This Agreement shall enter into force one day after exchange of the instruments of ratification.

IN WITNESS WHEREOF the undersigned duly authorized representatives have signed this Agreement.

DONE at Berne on 22 October 1986, in two originals, in the German language.

For the Federal Republic of Germany:

J. PETERSEN

For the Swiss Confederation:

M. KRAFFT
