



**MINISTRY
OF ECONOMIC DEVELOPMENT
OF RUSSIAN FEDERATION
(MINECONOM OF RUSSIA)**

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11.02.2010 №1824-AP/D06

About the bankruptcy of Atommash OJSC
RE Letter from the Governmental Staff of RF
dated December 29, 2009 №P7-44461

To the Deputy of the Russian State Duma
of the Federal Assembly
of Russian Federation

A.I. Lisitsyn

Dear Anatoly Ivanovich!

In accordance with the letter from the Governmental Staff of Russian Federation, the Ministry of Economic Development of Russia has reviewed your appeal regarding the bankruptcy of Atommash OJSC and hereby informs you.

Your appeal suggests that, after Atommash OJSC received a loan at 216% interest per annum, the financial condition of Atommash OJSC has worsened, as a result of which the territorial agency of the Russian Federal Service for financial recovery and insolvencies in Rostov region initiated bankruptcy proceedings for Atommash OJSC.

You also indicate that the inspection of legality, effectiveness and expediency of disposal and use of federal property in power engineering companies, conducted by the Audit Chamber of Russian Federation, found that, with the complicity of officials, the State and Atommash OJSC have been dealt material damage, which led to the bankruptcy of Atommash OJSC. Main production facilities and all liquid assets of Atommash OJSC have been transferred to “EMK-Atommash” JSC created on the premises of the former, after which Atommash OJSC has been deliberately liquidated on November 25th, 2009.

Mineconom of Russia notes that today, in accordance with article 61.2 of the Federal Law №127-FZ of October 26th, 2002 “About insolvency (bankruptcy)” (hereinafter – the Bankruptcy Law), in the edition of Federal Law №73-FZ of April 28th, 2009, a transaction concluded by the debtor within one year before the bankruptcy notice has been accepted, can be recognized void by an arbitration court in case of an unequal

execution of obligations under the deal by the other party, and in particular, in case if the transaction price and (or) other conditions for the debtor are different (for the worse) from price and (or) other conditions for similar transactions in comparable circumstances (i.e. a suspect transaction). At the same time, the transactions of the debtor can be challenged by a bankruptcy referee or a bankruptcy trustee, under article 61.2 of the Bankruptcy Law, for bankruptcy cases where bankruptcy proceedings have been instituted prior to the date when Federal Law №73-FZ of April 28th, 2009 came into force – for transactions committed after the said Law came into force. Since Atommash OJSC has been recognized bankrupt and liquidated, Mineconom of Russia believes that the aforesaid deals currently cannot be challenged on the basis of the Bankruptcy Law.

Having said that, we would like to draw your attention to the fact that, in accordance with part 2 of article 181 of the Civil Code of Russian Federation (hereinafter – CC RF), the period of limitation for recognition of the challenged transaction null and void, and for implementation of the consequences of its cancellation, is one year; at the same time, the limitation period starts on the day when the plaintiff learns, or was supposed to learn about other circumstances comprising the basis for recognition of the transaction null and void.

We would also like to point out that, under article 166 of CC RF, demands to recognize the challenged transaction void can be filed by persons specified in the CC RF, whilst the demand to implement the consequences of the cancellation of a void deal can be filed by any concerned party.

Since, as per your data, 30% and a “golden share” of Atommash OJSC used to belong to the Russian Federation, the Mineconom of Russia informs you that, under article 52 of the Arbitration procedure code of Russian Federation (hereinafter – APC RF), the prosecutor is entitled to file a claim for recognition of transactions void – for transactions executed by federal and municipal unitary companies, state institutions and legal entities, a share in the charter capital of which is owned by Russian Federation, its Subjects or municipalities; the prosecutor is also entitled to request the implementation of the consequences of the cancellation of a void deal from an arbitration court.

If the arbitration court recognizes the deals associated with the receipt of loans and the sale of Atommash OJSC’s property void, in accordance with article 311 of APC RF the decision of the arbitration court of Rostov region to recognize Atommash OJSC bankrupt can be reviewed on new circumstances.

We also send to you Rosatom’s position on the topics you set forth in your appeal received by Mineconom of Russia.

Attachment: copy of the letter from Rosatom – on 1 page, 1 copy.



A.V. Popova

(Original text is in Russian.)

**STATE CORPORATION
FOR NUCLEAR ENERGY
“ROSATOM”
(State corporation “Rosatom”)**

To the Minister
of Economic Development
of Russian Federation

E.S. Nabiullina

**DEPUTY
GENERAL DIRECTOR**

119017, Moscow, B.Ordynka, 24/26

20 January 2010 №08-228

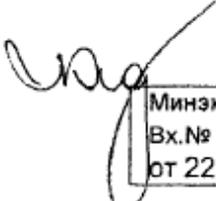
About the bankruptcy of Atommash OJSC

Dear Elena Sakhipzadovna!

In order to prepare a combined reply to the letter from the Government Staff of Russian Federation of 29 December 2009 №P7-44461, I inform you that State Corporation “Rosatom” shares the concern of the Deputy of the State Duma of the Federal Assembly of Russian Federation A.I. Lisitsyn about the fate of the Atommash plant – one of the key companies of Russia’s nuclear engineering. For years, SC “Rosatom” and its constituent organizations have been undertaking active steps to establish partnership with the Atommash plant in the field of nuclear energy equipment production. Unfortunately, these efforts, to a large extent, were in vain due to a non-constructive attitude of the owners of Atommash’s production facilities – Energomash group of companies.

At the same time, analysis of the information contained in A.I. Lisitsyn’s letter to Prime Minister of Russian Federation Putin V.V. enables us to conclude that there is no possibility to initiate a revision of the decision of the Arbitration Court of Rostov region to recognize Atommash OJSC bankrupt – in particular, due to expiration of the limitation period for revision of judicial acts that have entered into force, set by the Arbitration procedure code of Russian Federation. Besides, State Corporation “Rosatom” is not an organization that has a right to appeal for the revision of this judicial act under current arbitration procedure legislation.

We believe that a revision of the said situation within the criminal procedure code, with a sentencing which would confirm certain people’s criminal offenses committed during the bankruptcy procedure of Atommash OJSC, and which would provide a basis to revise the decision of the Arbitration Court of Rostov region on newly discovered circumstances is limited by an expiration of the limitation period.


A.M. Lokshin
Минэкономразвития России
Вх.№ 3284
от 22.01.2010 1л.

(Original of this text is in Russian.)