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NUCLEAR ENERGY AGENCY

**NEA PRESS RELEASE: New Treaties To Strengthen Rights of People Affected
by Nuclear Accidents**

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New treaties to strengthen rights of people affected by nuclear accidents

The protocols to amend two international instruments that bolster the compensation rights of those affected by nuclear energy accidents were formally ratified in Paris on 17 December 2021 at the OECD headquarters by all the Contracting Parties, except for Turkey who has approved the ratification and will be depositing its instrument of ratification soon. The Protocols to amend the [Paris Convention on Third Party Liability in the Field of Nuclear Energy](#) and the [Brussels Convention Supplementary to the Paris Convention](#) will enter force on 1 January 2022.

These revised conventions combined ensure that those suffering damage resulting from an accident in the nuclear energy sector will be able to seek more compensation – the operator liability will be of at least EUR 700 million under the Paris Convention and the public funds provided under the Brussels Supplementary Convention will complement up to EUR 1.5 billion, a sharp increase from the previous 5 million Special Drawing Rights (SDR) (approximately EUR 6 million as of 13 December 2021) and SDR 125 million (approximately EUR 155 million as of 13 December 2021) respectively. The revised Paris Convention also provides now for a minimum of EUR 70 million and EUR 80 million in case of accidents at low-risk installations and during transport of nuclear substances, respectively.

It will become the international nuclear liability regime that provides the highest guaranteed amount of compensation available in case of nuclear accident. It is important to note, however, that a number of parties to the Paris Convention have already amended their national laws to increase the nuclear liability amounts to the required minimum or beyond, in accordance with the specificity of each country as shown [here](#).

Claims may be filed over a longer period of time (30 years following a nuclear accident, instead of 10 years) for personal injury or loss of life, and for a wider range of damage suffered, such as economic loss, the cost of preventive measures and of measures of reinstatement of impaired environment.

The revised Paris Convention will also broaden its geographic scope allowing affected persons situated in certain countries that are not parties to the Paris Convention to make claims in case they suffer damage or loss as a result of ionising radiation emitted from an accident in a nuclear installation or a transport of nuclear substances, that are under the responsibility of a nuclear operator situated in a Paris Convention State. This will be the case, for example, of countries with no nuclear installations and countries with national nuclear liability regimes similar to the one set up by the Paris Convention that afford equivalent reciprocal benefits to the Paris Convention State where the accident occurred.

A total of 16 countries will be parties to the amended Paris Convention, covering 105 operating reactors and 7 under construction, out of a total of 442 operating reactors worldwide and 51 under construction. Of those countries, 13 are also parties to the amended Brussels Supplementary Convention.

Background information Q&A

What is the origin of these treaties?

The international laws surrounding liability for nuclear damage are as old as the industry itself and have been improved over the years to reinforce the rights to compensation.

The first major international treaty was adopted in 1960 when a group of OECD member countries signed the Convention on Third Party Liability in the Field of Nuclear Energy, known as the “Paris Convention”. The treaty has since then aimed to ensure that wherever a nuclear accident occurs on the territory of one of its contracting parties, the people affected on the territory of any of the other contracting parties can seek adequate compensation in the same manner as a national of the country where the accident occurred. The contracting parties to the Paris Convention would need to reflect in their national legislation the principles set forth in the convention, leading to the harmonisation of national laws, and the establishment of clear rules on which country’s laws apply and what courts will be competent to hear claims in case of transboundary damage.

The Paris Convention entered into force on 1 April 1968 and now counts 16 contracting parties. It is based on five key principles:

- the exclusive liability of the operator of the nuclear installation where the accident occurred;
- the absolute liability of such operator (i.e. the person claiming compensation will not need to prove fault or negligence);
- the need for national laws to provide for a minimum amount of liability for the operator of the nuclear installation and for a minimum period to allow the affected persons to seek compensation;
- the operator's obligation to secure insurance or other financial security, whether it has a capped or unlimited liability, up to the amount required under its national law;
- the jurisdiction that will be competent to hear claims related to compensation for nuclear damage will generally be the court where the accident occurred, and such court will apply its national laws.

In 1963, many of the countries that agreed to the Paris Convention adopted the “Brussels Supplementary Convention”, which functions in tandem with the Paris Convention by ensuring that a country’s public funds will be used to pay compensation in addition to the funds to be provided by the operator. The Brussels Supplementary Convention entered into force on 4 December 1974 and now has 13 contracting parties.

The conventions on nuclear liability ensure a minimum amount of compensation, but a state can decide to offer compensation above and beyond the minimum levels required by such conventions.

How did they change over time?

The two conventions were amended twice before the most recent and significant improvements, which were agreed in 2004 in order to reflect the lessons learned from the effects of the Three Mile Island accident in 1979 and the Chernobyl accident in 1986. These latest changes will come into force on 1 January 2022 after the ratification ceremony in Paris on 17 December 2021.

These changes increase the minimum amount of compensation available in case of an accident involving nuclear substances, whether at an installation or during transport. In the

revised Paris Convention, it is set at a minimum of EUR 700 million, up from the previous minimum of 5 million Special Drawing Rights (SDR) and maximum of SDR 15 million, which is currently worth approximately EUR 6 million and EUR 19 million respectively. The revised Paris Convention also provides now for a minimum of EUR 70 million and EUR 80 million in case of accidents at low-risk installations and during transport of nuclear substances, respectively.

The amended Paris Convention also includes a more detailed definition of “nuclear damage”. The Three Mile Island and the Chernobyl accidents made it clear that preventive measures for the former and economic losses, the cost of preventive measures, and the cost of restoring the environment for the latter were major parts of the damage resulting from a nuclear incident. The Paris Convention was changed to clearly specify these and other categories of damage to the existing ones of personal injury and damage to property.

Equally important is the expansion of the geographical scope of coverage of the Paris Convention, allowing for affected persons in more countries to be compensated. Previously, the convention applied only to damage suffered in countries party to the Paris Convention. The revised convention will now also benefit affected persons situated in a country that is not party to the Paris Convention as long as it is a party to the Vienna Convention on Civil Liability for Nuclear Damage and the Joint Protocol relating to the Application of the Vienna Convention and the Paris Convention (both adopted under the auspices of the International Nuclear Energy Agency - IAEA), or it has no nuclear installations in its territory or maritime zones, or it has adopted legislation that is based on the principles of the Paris Convention and offers reciprocal benefits.

The key improvement to the Brussels Supplementary Convention is the increase of public funds that will be made available in case of a nuclear accident to persons situated in countries that are parties to this convention, i.e.:

- a 1st tier, corresponding to the operator's liability amount under the Paris Convention, will rise from its current minimum of SDR 5 million to a revised minimum of EUR 700 million;
- a 2nd tier, the amount to be paid by the state in which the liable operator's installation is located, will increase from a maximum of SDR 170 million to a maximum of EUR 500 million, unless the 1st tier is equal or above EUR 1.2 billion;
- a 3rd tier, to be provided by contributions from all the states party to the Brussels Supplementary Convention, will increase from a maximum of SDR 125 million to a maximum of EUR 300 million.

The revised convention also includes provisions to facilitate the choice made by some Parties for the unlimited liability of the operator.

The amended Paris/Brussels regime will provide for a minimum of EUR 1.5 billion of compensation, up from an equivalent of SDR 300 million (approximately EUR 372 million) previously.

Why has it taken so long to ratify the amendments?

The entry into force of the 2004 Protocols was delayed due to several reasons. Among these was a decision of the Council of the European Union (EU) of 8 March 2004¹ that required

¹ Council Decision 2004/294/EC of 8 March 2004 authorising the member states to ratify, in the interest of the European Community, the Protocol of 12 February 2004 amending the Paris Convention, Official Journal of the European Union (OJ) L 97/53 (1 April 2004). It should be noted that the Council of the EU adopted a separate Decision allowing Slovenia to ratify the 2004 Protocol to amend the Paris

that the contracting parties to the Paris Convention that are also member states of the EU take the necessary steps to deposit simultaneously their instruments of ratification of, or accession to, the 2004 Protocol to amend the Paris Convention. This decision was taken due to provisions of the Paris Convention regarding the judicial resolution of disputes, a subject that falls within the exclusive competence of the EU.

Another reason for the delay was the lengthy discussions held between the contracting parties to the Paris Convention, the insurance industry and nuclear operators to ensure the availability of the required financial security up to the new established amounts of liability and to cover all the different types of nuclear damage provided under the revised Paris Convention. Under such convention, it is compulsory for a nuclear operator to cover its nuclear liability with insurance or other financial securities up to the amount required by its national legislation; this obligation is also generally a requirement to obtain the licence to operate a nuclear installation. In addition, the Paris Convention as amended by the 2004 Protocol requires the contracting party within whose territory the nuclear installation of the liable operator is situated to ensure the payment of claims for compensation when the insurance or other financial security is not available or sufficient to satisfy such claims. Some heads of damage introduced by the Protocol to amend the Paris Convention raised concerns within the insurance industry; this was the case for the cost of measures to reinstate impaired environment and of preventive measures, as well as the extension of the prescription period from ten to thirty years after the nuclear incident for loss of life or personal injury. This issue has been resolved and the new heads of damage are now all covered by the insurance industry, except, in most parties, for the extended prescription period for loss of life or personal injury, which will be covered by alternative financial securities. And finally, as for any other international instrument that requires ratification or accession, there were also delays due to national legislative processes.

What countries are party to these conventions?

The parties to the Paris Convention are: Belgium, Denmark, Finland, France, Germany, Greece, Italy, the Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

The same countries signed up for the Brussels Supplementary Convention with the exception of Greece, Portugal and Turkey.

Other international treaties on nuclear liability include notably the Vienna Convention on Civil Liability for Nuclear Damage, the Protocol to amend the Vienna Convention on Civil Liability for Nuclear Damage and the Convention on Supplementary Compensation for Nuclear Damage. They were adopted under the auspices of the IAEA and have 43, 15 and 11 parties, respectively. The Joint Protocol relating to the application of the Vienna Convention and the Paris Convention allows in addition to establish treaty relations between the 31 contracting parties to these two conventions in order to eliminate conflicts that may arise from their simultaneous application. Canada, Japan and the United States are parties to the Convention on Supplementary Compensation for Nuclear Damage, which is the only IAEA convention that also provides for additional public funds, as in the Brussels Supplementary Convention.

Convention in 2007 [Council Decision 2007/727/EC of 8 November 2007 authorising the Republic of Slovenia to ratify, in the interest of the European Community, the Protocol of 12 February 2004 amending the Paris Convention, Official Journal of the European Union (OJ) L 294/23 (13 November 2007)].