Protocols to Amend the Paris, Vienna and Brussels Supplementary Conventions and the Convention on Supplementary Compensation for Nuclear Damage: Status of their Implementation into National Legislation

Julia Schwartz
OECD/Nuclear Energy Agency
12, Bd. Des iles, 92130 Issy les Moulineaux, France
julia.schwartz@oecd.org

Over the last decade, a number of very significant developments have taken place in modernising the existing international nuclear liability regimes. The first major advancement was the adoption, in September 1997, of the Protocol to amend the 1963 Vienna Convention on Civil Liability for Nuclear Damage (VC Protocol) and of a new Convention on Supplementary Compensation for Nuclear Damage (CSC). This was followed, in February 2004, by the adoption of Protocols to amend both the 1960 Paris Convention on Third Party Liability in the Field of Nuclear Energy (PC Protocol) and the 1963 Brussels Convention Supplementary to the Paris Convention (BSC Protocol).

The principle goal of all these new instruments is to provide a greater amount of compensation to a larger number of victims in respect of a broader scope of nuclear damage suffered as a result of a nuclear accident. The second, but still very important objective is the maintenance of compatibility between the revised Paris and Vienna Conventions to ensure the smooth functioning of the 1988 Joint Protocol Relating to the Application of the Vienna Convention (VC) and the Paris Convention (PC). In addition, the PC States wish to ensure that their newly revised Convention will not prevent a Contracting Party from joining the more global regime established by the CSC.

However, it remains to be seen to what extent these new instruments will attract a sufficient number of adherents to make them truly effective. While the VC Protocol is already in force, it has not drawn wide support from the 1963 VC States or from countries with important nuclear generating capacity which have not yet joined that latter any Convention. In addition, notwithstanding its adoption almost 10 years ago, the CSC has not yet entered into force and it remains questionable whether it will ever attract the necessary number of adherents for that purpose, especially in light of its strict requirements in this regard.

As for the PC and BSC Protocols to amend the Paris and Brussels Supplementary Compensation Conventions, it is too early to make predictions regarding their entry into force, but one can say, based upon the latest available information that their Contracting Parties are progressing rapidly towards ratification, acceptance or approval of those instruments and their implementation into national law. Nevertheless, there is little encouraging information with respect to the adherence to these Protocols of the many important nuclear power generating countries which have not yet joined the Paris/Brussels any international nuclear liability regime.

The need for international co-operation to attract a larger number of adherents to these various instruments, to facilitate their ratification, acceptance or approval and to assist in the adoption of appropriate implementing legislation therefore remains a high priority amongst the international nuclear community.

Keywords: ratification, implementation, protocols and nuclear liability