

50th Anniversary of the Nuclear Law Committee

Colloquium of 6 February 2007

The Nuclear Law Committee – A Historical Perspective

By Julia Schwartz, Head of OECD/NEA Legal Affairs

Introduction

I would also like to warmly welcome everyone to this Special Session on the Past, Present and Future of the Nuclear Law Committee. Our Chairperson has already extended a special greeting to all of our special guests, and I would like to echo his words.

As you have already heard, the NLC traces its history back to 1957. On January 24th of that year, a Working Group on Harmonisation of Legislation on third party liability for damage caused by the peaceful use of nuclear energy was created by a Decision of the NEA Steering Committee. This Working Group, which later evolved into the “Group of Governmental Experts on Third Party Liability in the Field of Nuclear Energy”, eventually changed both its name and its mandate to become the Nuclear Law Committee (NLC), an NEA Standing Technical Committee that remains vibrant and active some 50 years following its initial creation.

The life of the Committee during these past 50 years has been largely influenced by major international events which have marked this period of history. Its composition has evolved and expanded and the course of its work has often been determined by important milestones in the peaceful utilisation of nuclear energy. The accomplishments of the Nuclear Law Committee have been varied and diverse; the drafting of international conventions in the field of civil liability for nuclear damage, followed by their revision on a regular basis, has been an important Committee success, although many other worthy activities have also been carried out during its existence.

The Working Group on the Harmonisation of Legislation (1957-1958)

The establishment of the Working Group on the Harmonisation of Legislation actually preceded the creation of the European Nuclear Energy Agency (ENEA) by several months. The ENEA was only founded in February 1958 by a Decision of the Council of the European Organisation for Economic Co-operation (OECE)¹. The OECE was itself a very young organisation, having just been created 10 years earlier, on April 16, 1948 and comprising at the time 18 member countries.² It was mandated, amongst other things, to ensure the promotion of co-operation between member countries and national production

¹ In 1961 the OECD succeeded the OECE with the objective of strengthening the economies of its member countries, improving their efficiency, promoting the market economy, developing free trade and contributing to the growth of both industrialized and developing countries. The OECD was originally composed, therefore, of the original member countries of the OECD together with Canada and the United States.

² Austria, Belgium, Denmark, France, West Germany, Greece, Ireland, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Sweden, Switzerland, Turkey and the United Kingdom. West Germany was originally represented by the combined English and American occupied zones, the Bizone, and the French occupied zone. The Anglo-American zone of the Free Territory of Trieste also participated in the OECE until it passed once again under Italian sovereignty.

programmes to hasten the reconstruction of Europe, to supervise the distribution of funds allocated under the Marshall Plan as well as to intensify intra-European trade by lowering customs tariffs and other obstacles to the development of trade.

The OECE's structure included a Special Committee on Nuclear Energy. In 1956, this Committee was instructed, in co-operation with the Insurance sub-Committee of the OECE Committee on Intra-European Costs and Payments, to undertake work on the issues of legislation and insurance in the field of nuclear energy. The Insurance sub-Committee, in response, established a Working Group whose mandate was to undertake a study of the general framework within which necessary legislative provisions could be adopted which would allow insurers to fulfil their role in the nuclear energy field. The Study Centre of the Atomic Risks Permanent Commission of the European Insurance Committee³ was closely associated with this study right from the very beginning. In its Report of June 23, 1956 the Working Group emphasised, amongst other things, the importance of examining the problem of civil nuclear liability and its possible limitations as well as suggesting the creation of an ad hoc Committee to actually carry out that examination.

Following this Report, the Special Committee on Nuclear Energy, which itself later became the Steering Committee for Nuclear Energy ("Steering Committee") took note of the fact that the problem of civil liability for damage resulting from the peaceful uses of nuclear energy, and the insurance difficulties linked to it, were likely to be key issues in the years to come. It decided, therefore, at its session held on January 24, 1957, to establish a Working Group on Harmonisation of Legislation [NE/M(57)1]. That Decision and the mandate of the Working Group are reproduced in *Annex 2*.

The Working Group was basically instructed to examine and to develop proposals on the issue of harmonising legislation regarding civil liability for damage caused by the peaceful uses of nuclear energy. In June 1957, it submitted to the Steering Committee a series of proposals for the establishment of a uniform civil liability regime covering nuclear damage and at the same time recommended to the Committee that it create a Group of Experts, comprised of members of the Working Group as well as lawyers, insurers and technical specialists, who would be responsible for drafting an international convention in the field of nuclear third party liability. This recommendation was adopted by the Steering Committee at its session held from July 2-3, 1957 [NE/M(57)4] and the newly created Group of Experts held its first meeting on January 22, 1958.

In parallel with these activities, the OECE Council was pursuing the idea of establishing within the Organisation, an Agency that would take charge of all nuclear energy issues. This idea was largely motivated by the fact that the Council recognised the rapid increase in its member countries' energy needs and the possibilities which nuclear energy presented in that regard. In fact, the United States was the first country to produce electricity using nuclear energy in 1951, and during the years that followed, the United Kingdom, Russia and France each accomplished the same feat. The Steering Committee set up a Drafting Group responsible for drafting the statutes of the future agency whose principal function would be to promote the development of nuclear energy production and use for peaceful purposes in its member countries by co-operation between them and in return for the necessary safeguards.

The European Agency for Nuclear Energy (ENEA) was created by a Decision of the OECE Council taken on December 20, 1957 and which came into force on February 1, 1958. The Steering Committee for Nuclear Energy, designated as the Management Board for this brand new Agency, was given the task of promoting the harmonisation and development of legislation in the nuclear energy field,

³ The European Insurance Committee comprises the national associations established by private insurance companies of 18 countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

primarily in the areas of public health protection and the prevention of accidents in the nuclear industry and a regime of civil liability and insurance against nuclear risks. The Working Groups which had earlier been established by the Steering Committee found their proper place within the new structure.

The Group of Governmental Experts (1958-2000)

The very first undertaking of the Group of Experts probably constitutes one of its most significant accomplishments - the drafting of the Paris Convention on Third Party Liability in the Field of Nuclear Energy (the “Paris Convention”) together with its explanatory memorandum, the Exposé des Motifs. First the Working Group and later the Group of Experts each prepared a draft of this Convention which was finalised during several meetings which took place in 1959 and in which the European Insurance Committee, UNIPEDE, the International Atomic Energy Agency and international transport organisations participated. The Paris Convention was adopted by the OECD Council on July 29, 1960.

During the course of its early years, the work of the Group of Experts was essentially dedicated to resolving problems arising from the co-existence of the Paris Convention and its sister convention, the Vienna Convention on Civil Liability for Nuclear Damage, adopted within the International Atomic Energy Agency on May 21, 1963. The Group was eventually responsible for the adoption of an Additional Protocol to amend the Paris Convention, in 1964, in order to better harmonise the two Conventions and resolve certain potential conflicts between the two instruments. At about the same time, in fact starting in 1961, the Group began drafting another convention aimed at supplementing the measures put in place by the Paris Convention. The Group’s work on this project reached its natural completion with the adoption, on January 31, 1963, of the Brussels Convention Supplementary to the Paris Convention on Nuclear Third Party Liability (the “Brussels Supplementary Convention”). On the basis of the modifications made to the Paris Convention by the Additional Protocol in 1964, a further Additional Protocol was drafted for the Brussels Supplementary Convention and it, too, was adopted in 1964.

Towards the end of the 1960’s, the Paris Convention and its Additional Protocol entered into force⁴. Thereafter, the Group of Experts devoted its time and energy to studying issues relating to the interpretation and implementation of the Conventions. A model Certificate of Financial Guarantee was drafted and became the subject of a Recommendation of the NEA Steering Committee in 1968, the Committee using that same occasion to address other questions of interpretation of the Convention. In fact, questions such as the definition of “nuclear installation”, damage to the means of transport, the territorial scope of application of the Conventions or the exclusion of small quantities of nuclear substances from the scope of the Paris Convention, to mention only a few examples, are typical of the issues included on the Agendas of meetings of the Group of Experts during this period. The work of the Experts during this decade concluded with the drafting of a Recommendation, which the NEA Steering Committee endorsed on October 9, 1969, dealing with damage to the means of transport of nuclear substances⁵.

At the beginning of the 1970’s, a variety of topics would become the focus of attention of the Group of Experts the frequency of whose meetings varied between one and two per year. In particular,

- ✚ The Group examined the issue of excluding small quantities of nuclear substances as well as certain nuclear substances of a particular composition from the application of the Paris Convention, in co-operation with the International Atomic Energy Agency. These issues remained on the Group’s meeting Agendas for more than 7 years and were finally resolved in 1977 with the

⁴ On April 1, 1968.

⁵ All Decisions, Recommendations and Interpretations adopted by the NEA Steering Committee in relation to the Paris Convention are contained in *Paris Convention, Decisions, Recommendations, Interpretations*, OECD 1990 or may be found on the OECD/NEA website at: <http://www.nea.fr/html/law/paris-convention-dec-rec-int.pdf>.

adoption, by the NEA Steering Committee, of a Decision on the exclusion of certain categories or certain quantities of nuclear substances from the scope of the Paris Convention.

- ✚ The Group carried out considerable research on issues relating to the maritime transport of nuclear substances, this time in co-operation with the International Maritime Consultative Organisation. An international conference on the maritime transport of nuclear substances was organised in December 1971 during the course of which the international Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material was adopted⁶.
- ✚ During the years 1972 and 1973 in particular, the Group of Experts was confronted with two key questions. The first issue revolved around the Paris Convention requirement that 5 years following the date of its entry into force, a revision of the Convention is to be carried out. The Group seriously deliberated the idea revising the Convention but concluded, in 1973, that it was not desirable at that time. Nevertheless, the issue has been regularly re-examined by the Group since then. The second issue focused upon the relationship between the Paris and Vienna Conventions and in particular, the possibility of a State Party to one Convention being able to ratify the other Convention. After having carefully studied the problem, the idea of the Joint Protocol was born...a legal instrument which could create a link between the two Conventions. A draft Protocol establishing such a link was prepared during 1974-1975 with the co-operation of the IAEA.

By the mid-1970's the international context was changing, with industrialised countries being hit hard by the first shock of oil price increases and the repercussions of this shock were clearly reflected in the work carried out by the NEA. In fact, a significant redirection of the NEA's priorities took place with increased emphasis being given to uranium resource management, nuclear waste management and nuclear safety. During this period, a Working Group was established within the Group of Experts to study the possibility of changing the unit of account under the Paris Convention from the European Monetary Agreement unit of account to the Special Drawing Right of the International Monetary Fund, as well as to consider a number of other issues designed to modernise the Convention. In 1977 the Group of Experts concluded that both the Paris and Brussels Supplementary Conventions should be revised and a restricted Working Group was subsequently created to propose appropriate amendments to the Conventions. The revision work continued until 1980 at which point amending Protocols for both Conventions were finalised. Two years later, on November 16, 1982 the Protocols were adopted.

The year 1979 was marked by the accident which took place in the United States at Three Mile Island. The Group of Experts immediately began to study the problems of insurance and the indemnification of claims relating to this accident. At the beginning of the 1980's, the revision of the Paris and Brussels Supplementary Conventions concluded by the Group of Experts led to a whole new cycle of activities which included:

- ✚ The revision of the Exposé des Motifs of the Paris Convention;
- ✚ The undertaking of a study, starting in 1977, of the application of a nuclear civil liability regime to the long term management of radioactive waste. This study was intended to examine in greater depth a project that had already been carried out by an ad hoc Group looking at the legal, administrative and financial aspects of the long term management of radioactive waste (Polvani Report). It would eventually lead the Group to study the means of applying the Paris Convention to installations for the management of nuclear waste and would terminate with the adoption, by the NEA Steering Committee on April 10 1984, of a Decision relative to the inclusion of installations intended for the disposal of nuclear substances within the scope of the Paris Convention.

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Adopted on 17 December 1971, this Convention entered into force on 15 July 1975.

- ✚ The drafting of a new recommendation on liability for damage to nuclear substances in the course of transport which would be adopted by the NEA Steering Committee at its session in April 1981.
- ✚ An examination of the question of excluding nuclear risks from insurance policies from 1980 to 1987. The work of the Group of Experts aimed at removing progressively this type of exclusion clause from certain insurance policies.

There were two other issues on which the Group of Experts spent considerable time during the mid-1980's. The issue of decommissioning nuclear installations was becoming, with the progressive aging of nuclear installations, an increasingly relevant and real problem. The Experts established a technical working Group instructed to determine if such installations were covered by the regime established by the Paris Convention. In 1987 the Steering committee endorsed the interpretation adopted by the Group of Experts according to which the Paris Convention does cover installations in the course of being decommissioned.

The second issue arose from the fact that during this same period, the Federal Republic of Germany introduced national legislation which established a regime of unlimited civil liability of operators for third party nuclear damage. The Group of Experts was faced with the rather delicate task, both legally and politically, of assessing whether such a regime was compatible with that instituted by Paris Convention.

On April 26, 1986, the tragic accident which took place at the Chernobyl Nuclear Power Plant in Ukraine bitterly brought to light the limitations and deficiencies of the legal regimes in place, both in terms of preventing nuclear accidents and in terms of compensating victims thereof in the event of their occurrence. The NEA Steering Committee met in September 1986 in order to examine the information to be derived from the accident. It decided to reinforce the NEA's work in the area of civil liability for nuclear damage. The Group of Experts was thus instructed to reorient its work to address the gaps in the nuclear liability regime made evident by the Chernobyl accident.

That direction would be transformed into, amongst other things, a reactivation of work in co-operation with the IAEA aimed at establishing a link between the Paris and Vienna Conventions through means of a Joint Protocol. Work on the development of this instrument concluded with the adoption of the Joint Protocol relating to the Application of the Vienna and Paris Convention on September 21, 1988. Following its adoption, a new problem was to occupy the Group of Experts and it continues to do so even today – what is the impact of the Joint Protocol on the Brussels Supplementary Convention? The Group's efforts in this area resulted in the adoption of a series of OECD Council Recommendations in relation to the actual operation of the latter Convention. Yet another study undertaken by the Group of Experts in the context of the Chernobyl accident addressed the issue of including the cost of preventive measures in the concept of nuclear damage and the question of whether the Paris Convention does, or should, apply to preventive measures.

In 1988, the Protocol to amend the Paris Convention entered into force. Within the Group of Experts, a technical working group on decommissioning began to study whether, at what stage, and in what manner the Paris Convention could logically cease to apply to nuclear installations that were in the process of being decommissioned. In parallel with this study, the Experts began to consider the need to increase the amount of the operator's liability together with the corresponding amount of required financial security and they continued to examine the expansion of the concept of nuclear damage with particular emphasis on the inclusion of preventive measures.

Within the IAEA, a revision of the Vienna convention was undertaken starting in the late 1980's/early 1990's. During this exercise, the negotiating States determined that any revision of the Convention would need to be accompanied by the imposition of a supplementary compensation system for

nuclear damage. The Group of Experts closely followed the Vienna Convention revision work that took place, including the drafting of a new Convention on Supplementary Compensation, both of which were adopted in Vienna in September 1997⁷.

The Nuclear Law Committee (2000 to the present)

The revision of the Vienna Convention and the adoption of a new Convention on Supplementary Compensation would lead the Group of Experts to examine the need to revise the Paris Convention and its accompanying Brussels Supplementary Convention. The revision work on those two latter instruments began in 1998 and was carried out by a small group comprising the Conventions' Contracting Parties themselves, together with invited observers from Slovenia and Switzerland who had indicated their intention to join the revised Conventions (the "CPPC Group"). Throughout the revision negotiations, the CPPC Group kept the Group of Experts regularly informed of its progress and invited comments thereon. The work of the CPPC Group finally came to an end with the adoption, on February 12, 2004 of Protocols to amend both the Paris and Brussels Supplementary Conventions.

In 1997 NEA Legal Affairs received a rather unusual request from the Chinese authorities. Following the handover of Hong Kong to the Peoples' Republic of China on July 1, 1997, the Chinese authorities requested that the Paris Convention continue to apply to the Hong Kong Special Administrative Region. The efforts of the Nuclear Law Committee eventually resulted in the adoption, in 2000, of an International Declaration providing that the Paris Convention continue to apply to Hong Kong, notwithstanding that China is not a party to that Convention.

The events which took place in the USA on 11 September 2001 represented a new challenge for the Committee with international circles focusing on questions related to terrorism. To address these new concerns, the NLC carried out a study devoted to the insurance cover of damage resulting from a nuclear accident caused by a terrorist act.

However, other new subjects also emerged, reflecting national concerns of member countries or developments in technology. Thus a study on liability and financial security issues applicable to nuclear fusion installations was carried out at the request of the French delegation, whose country is to host the future ITER reactor. The exclusion of small quantities of nuclear materials is a regular visitor on the agenda of the NLC. Following the revision of the Paris and Brussels Conventions, it became necessary to revise the Exposé des Motifs of the Paris Convention. Committee members also decided to establish an Exposé des Motifs for its sister Convention, the Brussels Supplementary Convention. More recently the Committee has been studying the Aarhus Convention and its influence on nuclear projects.

This panorama of activities would not be complete without mentioning the NLC's important role as a forum for the exchange of information between States, international organisations and non-governmental organisations, not just in the field of international third party nuclear liability but also in relation to nuclear law in general. The NLC regularly shares information on the drafting of new international nuclear law instruments or regulations which may have consequences on nuclear energy activities, (in particular European Community legislation and IAEA Conventions and Codes) The Committee also looks regularly at developments in national legislation and regulations in member and observer countries.

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Adoption of the Protocol to Amend the 1963 Vienna Convention on Civil Liability for Nuclear Damage and of the Convention on Supplementary Compensation for Nuclear Damage.

The Mandates of the Nuclear Law Committee

The expansion of the fields of activity and research of the Nuclear Law Committee over the years was accompanied by a corresponding evolution in its successive mandates. The Working Group on Harmonisation of Legislation was tasked to study the harmonisation of legislation in the field of nuclear third party liability. The first years of work of the Group of Governmental Experts continued to focus on this primary activity, which culminated in the adoption of the Paris Convention. The mandate of the Group of Experts was enlarged somewhat when it was first revised in 1974 (the successive mandates of the Group of Experts and the NLC are reproduced in Annex 2) to incorporate an explicit reference to the Paris Convention and to work related to its interpretation and application.

The 1974 mandate proved remarkably long-lived as it was not revisited again for a further 25 years. In October 1999, it appeared appropriate to reflect upon the diversification of the activities of the Group and the changes in its membership which had come about. The mandate was revised and, indeed, enlarged. The objective of the new mandate was to widen the field of activity of the Group, thereby allowing it to focus on questions of a more general nature than nuclear third party liability. It retained, nevertheless, the reference to harmonisation of legislation on nuclear third party liability and the application of the Paris and Brussels Conventions, but the mandate now also refers to other international instruments on nuclear third party liability adopted under the auspices of the IAEA. The mandate further specifies that the Committee will serve as a forum for the exchange of information and experience between member countries, and for the first time, provides a structure for the establishment of working groups or expert groups entrusted with certain specific tasks by the Committee. The name of the Group was changed to the "Nuclear Law Committee" and the new name and mandate were adopted by the Steering Committee for Nuclear Energy at its session of 12 October 2000.

The last amendment to the NLC mandate took place in 2005. The members of the Committee chose to introduce a minor amendment to reflect the educational dimension of its work, particularly the NEA's co-organisation of the International School of Nuclear Law with the University of Montpellier 1. Furthermore, in keeping with the structure for all NEA Standing Technical Committees, the mandate was established for a fixed 5 year period, with the mandates of, working groups being set at 3 years and those for expert groups being set at 2 years.

The Membership of the Nuclear Law Committee

At its inception, the Nuclear Law Committee was comprised of representatives from Belgium, Denmark, France, Germany, Italy, the Netherlands, Norway, Portugal, Sweden, Switzerland and the United Kingdom. Countries such as Turkey, Greece, Ireland and Luxembourg would only join in later years. However, since 1958 the Committee has welcomed observers from the European Insurance Committee as well as UNIPED⁸, their ongoing participation being the result of their having been so closely associated with the drafting of the Paris Convention. Representatives from EURATOM also contributed to the drafting of the Paris Convention and have continued ever since to take part in the work of the Committee.

At the beginning of the 1960's, Spain and Austria joined the Committee and the International Atomic Energy Agency was granted observer status in 1963. As for Canada and the United States, neither had signed the Statutes of the new Agency at the time of its creation and consequently neither was a member of it. Nevertheless, the Statutes themselves provide that these two countries would be associated

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The International Union of Producers and Distributors of Electrical Energy that is now known as EURELECTRIC.

with the work of the Steering Committee and of its working groups⁹. Thus, the United States began taking part in the work of the NLC as early as 1958.

At the beginning of the 1970's, the Nuclear Law Committee comprised 18 member states (founding states of the OECD Nuclear Energy Agency). Japan, which had already been associated with the work of the European Nuclear Energy Agency since 1965, joined the Committee at the beginning of the 1970's¹⁰ as did Australia in 1972.

From 1992 onwards, the Group also welcomed observer countries which, following the fall of the Soviet Union, expressed interest in the work carried out by NEA, notably in the field of nuclear third party liability. The Steering Committee for Nuclear Energy gave its agreement in principle in October 1991 to the invitation of observers from European "economies in transition" to attend NLC meetings and since 1992, Hungary, Poland, Romania, the Czech Republic and the Slovak Republic have been invited to do so. This invitation was extended in 1993 to Bulgaria, the Russian Federation and Ukraine. The Czech Republic and Hungary became members of the NEA in 1996 and thus full members of the Nuclear Law Committee. The Slovak Republic became a member of the NEA in 2002. The Republic of Korea joined the NLC in 1994 when it became a member of the NEA. Between 1995 and 1999, the NLC also invited an observer from Kazakhstan to attend its meetings.. Mexico joined the NEA in 1994 and has just begun to participate in NLC meetings. Finally, Lithuania joined the Committee as an observer in 1996.

That same year, Slovenia expressed an interest in the work of the NEA and requested accession to the Paris Convention. The Committee, in response, decided to invite Slovenia to become an observer in 1998. It should also be pointed out that an observer from the Hong Kong Special Administrative Region (HKSAR) has been associated with the work of the Committee since 1998. The participation of Hong Kong originates with the adoption, on 13 October 2000, of an International Declaration of the Contracting Parties to the Paris Convention expressing their agreement to the application of the Convention to the HKSAR territory, subject to certain conditions. One of these conditions involves the amendment of Hong Kong legislation to reflect changes made to the Paris Convention regime. Committee members and the Chinese authorities recognised the utility of inviting observers from Hong Kong to discussions within the Committee relating to the application of the Paris Convention. Today the Nuclear Law Committee includes 6 ad hoc non-member country observers.¹¹

Conclusion

The Nuclear Law Committee now holds a half-century of experience to its credit. Its aim has been to respond in an efficient and timely manner to the great challenges which international events have posed in the past fifty years. Its membership, methods of work and mandate have all evolved in order to adapt to changing demands of member countries. A number of important tasks remain to be accomplished by the Committee, and its member countries will face new challenges in coming years. I look forward to working with the Committee on those outstanding tasks and to sharing the challenges that lie ahead.

⁹ The founding members of the European Nuclear Energy Agency are: Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and the United Kingdom. Canada became a member in 1975 and the United States in 1976.

¹⁰ That same year, in order to reflect enlargement of its membership to other regions of the world, the European Nuclear Energy Agency was transformed into the OECD Nuclear Energy Agency.

¹¹ Bulgaria, Lithuania, Romania, the Russian Federation, Ukraine and the Hong Kong Special Administrative Region hold the status of ad hoc observers to the Committee while Slovenia is a regular observer.

ANNEX 1*List of Chairpersons and Vice-Chairpersons of the Committee*

| Years | Chairperson | Vice-Chairperson(s) |
|--------------|--------------------------------------|---|
| 2004 - | Mr. Roland Dussart-Desart (Belgium) | Mr. Sahrakorpi, Mr. McRae, Prof Lamm |
| 2002 - 2003 | Mr. Håkan Rustand (Sweden) | Mr. Dussart-Desart, Prof Lamm, Mr. McRae |
| 1998 - 2001 | Mr. Håkan Rustand (Sweden) | Mme Conruyt-Angent, Prof Lamm, Mr. McRae |
| 1992 - 1998 | Mr. Håkan Rustand (Sweden) | Mme Conruyt-Angent, Dr. N. Pelzer |
| 1985 - 1992 | Mr. Wouter Sturms (Netherlands) | Mr. Rocamora |
| 1983 - 1984 | Mr. Mans Jacobson (Sweden) | Mrs. Corretjer |
| 1973 – 1982 | Mr. Maurice Lagorce (France) | Mr. Jacobsson |
| 1971 - 1973 | Mr. Maurice Lagorce (France) | Mr. Nordenson |
| 1966 - 1970 | Mr. J. P. H. Trevor (United Kingdom) | Mr Lagorce |
| 1963 – 1965 | Mr. Thompson (United Kingdom) | |
| 1957 - 1962 | Mr. A.D. Bellinfante (Netherlands) | Prof. O. K. Kaufmann |

ANNEX 2

Successive mandates of the NLC

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* *

Decision of the Steering Committee for Nuclear Energy of 24 January 1957

NEA/NE/M(57)1

7 HARMONISATION OF LEGISLATION /NE(57)7

The Chairman stated that the Netherlands Delegation had submitted a Note proposing the establishment of a Working Party (the terms of reference of which were set out on page 2 of NE(57)7) out for
NE(57)

The Delegate for Switzerland stressed the connection between the Netherlands proposal and the work done by the Insurance Sub-Committee

The Steering Committee decided to set up a Working Party on Harmonisation of Legislation to which the following tasks would be assigned

(a) the examination of and the formulation of proposals on the question of harmonisation of legislation concerning third-party liability in case of damage caused by the peaceful use of nuclear energy

(b) any further studies of a legislative nature that might be referred to it by the Steering Committee for Nuclear Energy

Decision of the Steering Committee of 3 July 1957

NEA/NE/M(57)4

(c) Proposals concerning third party liability

The Steering Committee discussed the Report of the Working Party on Third Party Liability NE(57)277 and in particular the proposal (in paragraph 13) to establish a group of experts consisting of lawyers, insurers and technicians to elaborate a draft international convention on third party liability in the field on nuclear energy. The Delegate for the Netherlands supported the proposal as did the Delegate for Germany who pointed out that, as had been said by their expert in the Working Party, they were in favour of including the problem of State liability in the convention itself (paragraph 11). The Delegate for the United Kingdom was in general agreement with the thinking behind the Report, but felt that six months was too short a period to submit even a preliminary draft of the Convention. He suggested that the group of experts proposed follows up the work with general terms of reference towards an International Convention. The Delegate for the Netherlands supported this view. The Delegate for Denmark also supported the proposal in the Report but pointed out that he was very hesitant about having a rule on the responsibility of the State in this field. The Delegate for Norway also supported the proposal but felt that the group should be clear that it was not trying to be too ambitious and that perhaps it was not entirely possible to make legislation completely uniform for all countries.

It was felt that the choice between a completely uniform legislation or a more general international convention could be more easily made when the group had continued its work a little further. It was AGREED that the group should be instructed to carry on the work and to submit a report within six months as to its progress.

Decision of the Steering Committee of 24 April 1974

NEA/SEN(74)2

V. Review of the mandate of the Group of Experts

The Chairman informed the members of the Group that the Steering Committee had decided to review the mandates of the Agency's Committees and Working Groups on the occasion of the revision of the programme and priorities of NEA and that he had been asked to express his advice concerning the Group of Governmental Experts. The Experts proposed to add to the Group's mandate a new paragraph referring explicitly to the Paris Convention and to other nuclear conventions. The revised text of this mandate would, therefore, be as follows:

- (i) to examine and formulate proposals on the questions raised by the interpretation and application of the Paris Convention on Third Party Liability in the Field of Nuclear Energy as well as other nuclear third party liability conventions.
- (ii) to examine and formulate proposals on the question of harmonisation of legislation concerning third party liability in case of damage caused by the peaceful uses of nuclear energy;
- (iii) to undertake further studies of a legislative nature that might be referred to it by the Steering Committee.

Decision of the Steering Committee of October 2000

NEA/NE(2000)11

GROUP OF GOVERNMENTAL EXPERTS ON THIRD PARTY LIABILITY IN THE FIELD OF NUCLEAR ENERGY

1. Review process

At its October 1999 meeting, the Group of Experts considered the continued suitability of its mandate and methods of work in light of the Agency's new *Strategic Plan*, the newly expanded

Programme of Work for Legal Affairs, and changes in the composition of the Group's membership[1] In addition, the Group was conscious of the fact that, during the NEA Steering Committee's own meeting earlier that month, several members had spoken in favour of enlarging the mandate of the Group and all had agreed that it should remain a separate NEA standing technical committee.

2. Mandate of the Group

As a result, the members of the Group of Experts proposed a new mandate for the Group with a view (i) to encouraging the development of national legislation governing the peaceful uses of nuclear energy based upon internationally accepted principles, and in particular to promote world-wide harmonisation of nuclear liability legislation and policies, (ii) to fostering a more global regime of civil liability and compensation for nuclear damage including examining issues related to the interpretation and application of the international nuclear liability instruments; and (iii) to addressing issues falling within the field of nuclear law generally as and when appropriate, and to undertake all other work involving legal matters entrusted to it by the NEA Steering Committee. The Group would also be renamed as the "Nuclear Law Committee".

Revised mandate

Date of creation: 24 January 1957

Duration: Unspecified

Last revision: 1974

The Nuclear Law Committee will work to encourage provisions for equitable compensation of damage in the event of a nuclear incident. In particular, the Committee is mandated to deal with issues relating to civil liability for damage caused by a nuclear incident and to financial security mechanisms designed to ensure that funds will be available to compensate such damage. It addresses these issues in the context of Member countries' nuclear legislation and of international nuclear liability instruments, including 1) the 1960 Paris Convention on Third Party Liability in the Field of Nuclear Energy and the 1963 Brussels Convention Supplementary to the Paris Convention, 2) the 1963 Vienna Convention on Civil Liability for Nuclear Damage and the 1997 Protocol to Amend the Vienna Convention, 3) the 1988 Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention, and 4) the 1997 Convention on Supplementary Compensation for Nuclear Damage. The Nuclear Law Committee will also strive to eliminate or minimise any legal impediments to the safe use of nuclear energy.

More specifically, the Committee has a mandate to:

- i) examine issues relating to the interpretation and application of international nuclear liability instruments, especially with respect to their harmonious application under Member countries' national laws, and encourage broader adherence to those instruments with a view to fostering further progress towards a global regime of liability and compensation for nuclear damage;
- ii) encourage the development of national legislation governing the peaceful uses of nuclear energy based upon internationally accepted principles, particularly in the area of liability and compensation;
- iii) promote the harmonisation of national policies and legislation in the nuclear liability and compensation field amongst its Member Countries;

iv) develop recommendations concerning the Paris Convention and the Brussels Supplementary Convention for submission, if appropriate, to the Steering Committee for Nuclear Energy.

The Nuclear Law Committee serves as a forum for the exchange of information and the sharing of experience between Member countries on these issues.

The Nuclear Law Committee is also mandated to undertake all other work involving legal issues that may be entrusted to it by the NEA Steering Committee.

The Nuclear Law Committee will co-operate with other NEA Standing Committees. It may set up subsidiary bodies to better facilitate the achievement of its goals, invite experts in other fields to attend its meetings, and sponsor meetings of specialists. It may also establish contacts with its counterparts in the European Community, the International Atomic Energy Agency, and other international organisations on matters of common interest.

3. Modification of working group structure and methods of work

It is conceivable that in the future the Nuclear Law Committee may wish to establish one or more working parties or expert groups to carry out certain tasks that would be better addressed by a smaller subsidiary body than by the Committee as a whole. Such an initiative is likely to occur in connection with activities to be undertaken by the Committee pursuant to its expanded mandate, particularly in the field of general nuclear law matters. In that event, the Nuclear Law Committee will, of course, comply with NEA Steering Committee requirements concerning the terms of reference, specified objectives, expected products and schedule, and fixed duration of all such subsidiary bodies.

4. Handling of cross-cutting activities

The Group will continue contributing to the activities of other committees, as required.

Reference

[1] Approximately one-half of the Members of the Group of Experts are neither Parties to the Paris Convention nor to the Brussels Supplementary Convention.

Decision of the Steering Committee of April 2005

Nuclear Law Committee (NLC)

NEA/NE(2005)2

Date of creation: 24 January 1957

Duration: 31 December 2009

Mandate:

“The Nuclear Law Committee will work to encourage provisions for equitable compensation of damage in the event of a nuclear incident. In particular, the Committee is mandated to deal with issues relating to civil liability for damage caused by a nuclear incident and to financial security mechanisms designed to ensure that funds will be available to compensate such damage. It addresses these issues in the context of Member countries’ nuclear legislation and of international nuclear liability instruments, including 1) the 1960 Paris Convention on Third Party Liability in the Field of Nuclear Energy and the 1963 Brussels Convention Supplementary to the Paris Convention, as amended, 2) the 1963 Vienna Convention on Civil Liability for Nuclear Damage and the 1997 Protocol to Amend the Vienna Convention, 3) the 1988 Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention, and 4) the 1997 Convention on Supplementary Compensation for Nuclear Damage. The Nuclear Law Committee will also strive to eliminate or minimise any legal impediments to the safe use of nuclear energy.

More specifically, the Committee has a mandate to:

- i) examine issues relating to the interpretation and application of international nuclear liability instruments, especially with respect to their harmonious application under Member countries’ national laws, and encourage broader adherence to those instruments with a view to fostering further progress towards a global regime of liability and compensation for nuclear damage;
- ii) promote the harmonisation of national policies and legislation in the nuclear liability and compensation field amongst its Member countries;
- iii) encourage the development of national legislation governing the peaceful uses of nuclear energy based upon internationally accepted principles, particularly in the area of liability and compensation;
- iv) develop recommendations concerning the Paris Convention and the Brussels Supplementary Convention, as amended, for submission, if appropriate, to the Steering Committee for Nuclear Energy;
- v) promote the exchange of information and the sharing of experience between Member countries on these issues;
- vi) advise the Secretariat on collecting, analysing and disseminating information on major developments in the nuclear law field at both national and international levels.

The Nuclear Law Committee is also mandated to undertake all other work involving legal issues that may be entrusted to it by the NEA Steering Committee.

The Nuclear Law Committee will co-operate with other NEA standing technical committees. It may set up subsidiary bodies to better facilitate the achievement of its goals, invite experts in other fields to attend its meetings, and sponsor meetings of specialists. It may also establish contacts with its counterparts in the European Community, the International Atomic Energy Agency, and other international organisations on matters of common interest."
