The IAEA Conventions on Nuclear Liability

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Nuclear Liability Instruments

- OECD/NEA
  - 1960 Paris Convention + 1963 Brussels Supplementary Conv. (BSC)
  - 2004 Protocols revising Paris and Brussels Conventions
- IAEA
  - 1963 Vienna Convention
  - 1997 Protocol to Amend the Vienna Convention
  - 1988 NEA/IAEA Joint Protocol
  - 1997 IAEA Convention on Supplementary Compensation (CSC)
  - States not party to Paris or Vienna Conventions
Common Nuclear Liability Principles

1. Exclusive Liability of the Operator
2. Liability Without Fault
3. Minimum Amount of Liability
4. Mandatory Financial Coverage
5. Limitation of Liability in Time
6. Non Discrimination
7. Exclusive Jurisdictional Competence

IAEA
Definition of nuclear damage

1963 Vienna Convention “open” definition:
- loss of life and personal injury
- loss of or damage to property (other than on site damage)
- any other loss of damage if provided by national law

1997 Vienna Convention and CSC “closed” definition:
- loss of life and personal injury
- loss of or damage to property (other than on site damage)
- 5 additional heads of damage, each to the extent determined by national law
The additional heads of damage

- costs of measures of reinstatement of impaired environment
- costs of preventive measures
- 3 categories of economic loss:
  1. economic loss arising from personal injury, or property damage, if not included therein
  2. loss of income deriving from an economic interest in the use or enjoyment of the environment
  3. any other economic loss, but only if national law covers it for damage other than nuclear damage
“Geographical” scope: 1963 Vienna Convention

• No express provision in the Convention
• 1964 (non-binding) interpretation by the IAEA Standing Committee on Nuclear Liability:
  • The Convention only applies to damage suffered within the territory of the Parties or on/over the high seas
“Geographical” scope: 1997 Vienna Convention

- **General rule**: damage is covered “wherever suffered”
- **Exception**: Installation State can exclude damage suffered in territory, or maritime zones, of non-Contracting States, which:
  - Have nuclear installations in their territory or maritime zones, and
  - Do not afford equivalent reciprocal benefits
“Geographical” scope: 1997 CSC

• National compensation amount: Installation State may exclude damage in non-Contracting States (subject to obligations under other conventions)

• International fund: Covers only damage in the territory of Contracting Parties and damage suffered beyond their territory or territorial sea by their nationals or on board ships or aircrafts or by installations & structures under their jurisdiction
Minimum liability/compensation amounts

• 1963 Vienna Convention: Liability up to at least 5 million US $

• 1997 Vienna Convention & CSC Annex: Liability up to at least 300 million SDRs (or 150 million SDRs, or even 5 million SDRs for low-risk installations/materials, with public funds to cover the difference)

• 1997 CSC: two tiers of compensation
CSC compensation amounts

- **First tier (national compensation amount)**
  - Installation State to guarantee the availability of at least 300 million SDRs
  - Flexibility on how Installation State makes funds available, subject to applicable liability convention
  - Annex States: operator’s liability as in 1997 Vienna Convention

- **Second tier (international fund)**
  - To be constituted only (a) after a nuclear accident and (b) where the damage caused exceeds the national compensation amount
  - Amount not fixed, depends on fixed contributions by Contracting Parties
CSC international fund

• All Contracting Parties must contribute (except those on the minimum UN rate of assessment)
• The formula for contributions for each Party is based on:
  • installed nuclear capacity of nuclear reactors
  • UN rate of assessment
• 90% of the fund based on installed nuclear capacity
CSC special treatment for trans-boundary damage

- **National compensation amount:**
  - no special treatment

- **International fund:**
  - 50% to compensate only damage suffered in CPs other than Installation State, unless the national compensation amount is increased to at least 600 million SDRs
Mandatory financial security

- Amount, type and terms to be specified by Installation State
- Installation State to cover the difference, if any, between the amount covered by the financial security and the liability limit
- 1997 Vienna Convention & CSC Annex: Where liability is unlimited, financial security must amount to at least 300 million SDRs or, for low-risk installations/materials, 5 million SDRs, and public funds must only cover up to 300 million SDRs
Extinction of rights of compensation

• 1963 Vienna Convention & CSC Annex:
  • 10 years from the accident
• 1997 Vienna Convention:
  • 30 years for loss of life or personal injury claims
  • 10 years for other claims
• National law can provide for longer periods only if financial security or State funds are available for such longer periods
THANK YOU FOR YOUR ATTENTION!