

OECD/NEA Workshop on Nuclear Damages, Liability Issues and Compensation Schemes

Paris, 10-11 December 2013

The IAEA Conventions on Nuclear Liability

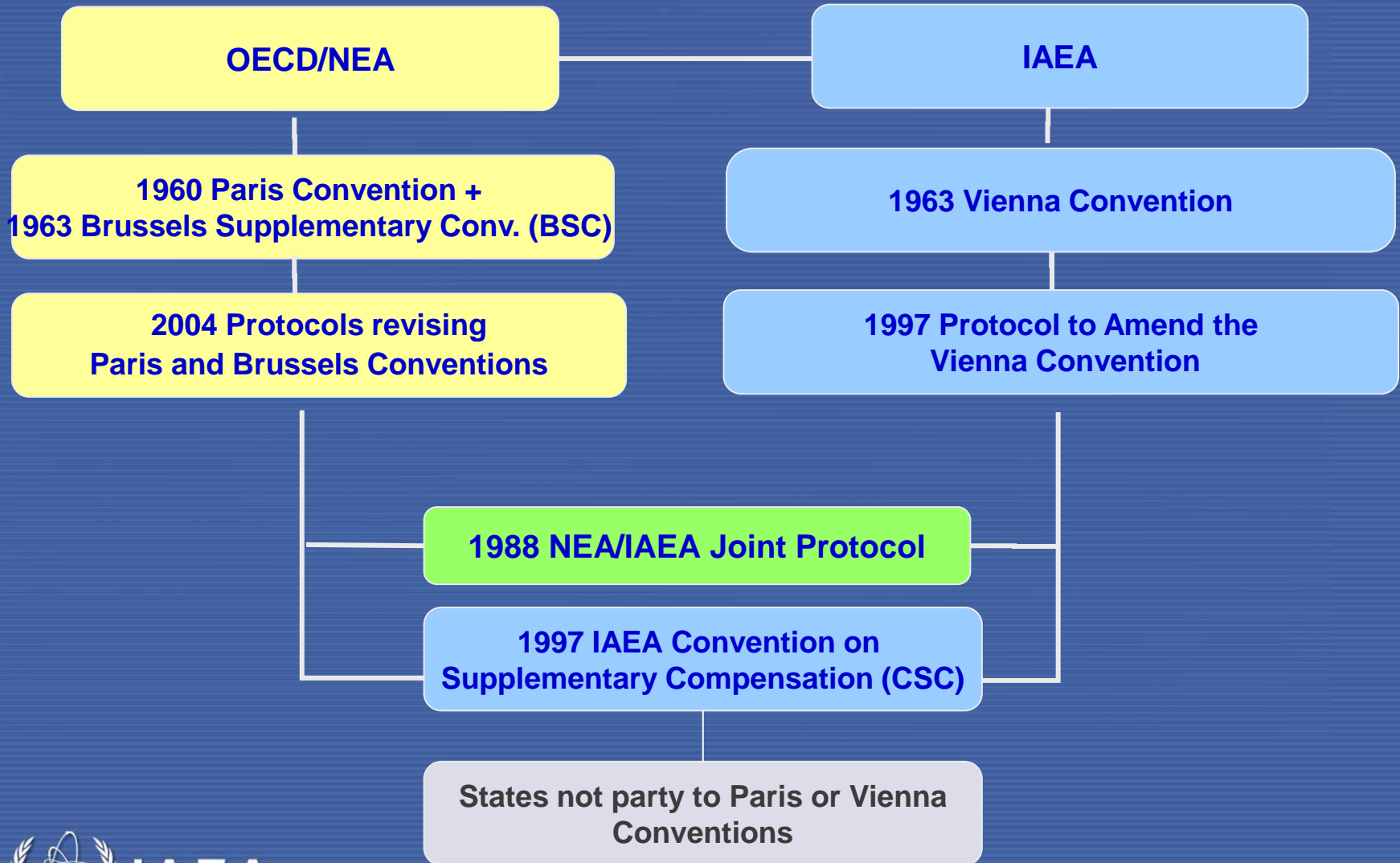
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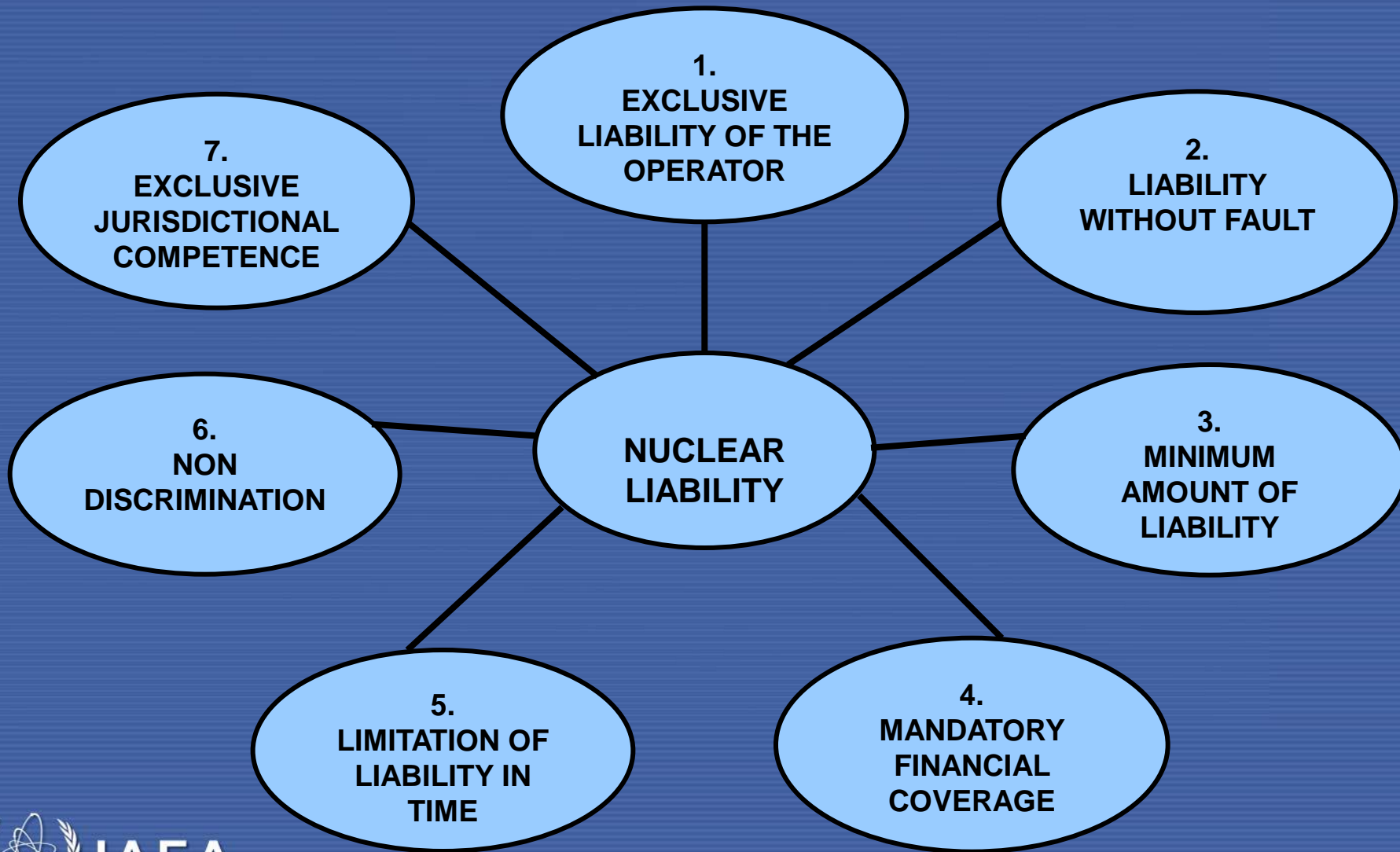
IAEA

International Atomic Energy Agency

Nuclear Liability Instruments



Common Nuclear Liability Principles



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!