

NUCLEAR LIABILITY

The nuclear accident at the Chernobyl nuclear power plant on April 26, 1986 resulted in considerable costs and consequential economic losses for governments and individuals in Western Europe where a number of governments took extensive preventive measures to protect their populations from the adverse affects of radioactive fallout. The Government of the USSR took the position that in the absence of a specific treaty obligation, it was not liable for damage from the Chernobyl accident, and it maintained that the expensive preventive measures taken by other states were unnecessary because radioactivity levels did not pose a danger to human health. This course of events highlighted weaknesses of contemporary international law in its provision for compensation for the victims of a nuclear incident with transboundary consequences. It stimulated renewed interest in liability for damage caused by nuclear accidents.

Since the early 1960s there have been two principal international agreements and one supplementary agreement covering damage caused by nuclear incidents in land-based nuclear installations and during transport of nuclear materials to and from them. The Paris Convention on Third Party Liability in the Field of Nuclear Energy was concluded under the auspices of the OEEC on July 1960 and entered into force on April 1, 1968. It is supplemented by the Brussels Convention Supplementary to the Paris Convention of 29th July 1960 on Third Party Liability in the Field of Nuclear Energy signed on January 31, 1963 and in force on December 4, 1974. The Vienna Convention on Civil Liability for Nuclear Damage was concluded under the auspices of the IAEA on May 21, 1963 and entered into force on November 12, 1977. The Paris and Vienna Conventions are very similar and are based on the following identical principles:

- Absolute and exclusive liability of the operator of the nuclear installation concerned;
- Limitation of the operator's liability in the amount of compensation payable and in time;
- Obligation for the operator to cover his liability by insurance or other financial security;
- Unity of jurisdiction and enforcement of judgements;
- Non-discrimination among the victims of a nuclear accident.

The Brussels Convention provides for compensation additional to that called for under the Paris Convention by requiring contributions from the state where the installation of the liable operator is located and from the parties to the Brussels Convention.

The Paris and Brussels Conventions are regional in character and have been adhered to by some European members of the OECD. The Vienna Convention is worldwide in character; its