

geographically dispersed parties are few and in the most part are developing countries. No state is party to the two conventions, and until this year no Eastern European state was party to either convention.

After Chernobyl, the IAEA and the Nuclear Energy Agency of the OECD devoted considerable time and effort to studying possible improvements to the international liability regime for nuclear accidents. One result was the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention signed on September 21, 1988, but not yet in force. The Joint Protocol bridges the two conventions by allowing the contracting parties of one to be treated as contracting parties to the other. It also establishes a conflict rule to ensure that only one of the two Conventions is applicable to any given nuclear incident.

Canada has not adhered to the Vienna, Paris or Brussels Conventions because of their numerous substantive shortcomings. These include, for instance, unrealistically low minimum levels of operator liability. Important types of possible damage, in particular damage to the environment, are not covered. In the event of a serious nuclear accident, large numbers of individuals who have suffered damage would face an onerous burden of time-consuming private court actions under the Conventions' claims settlement procedures. Moreover, a number of problems related to liability for nuclear damage are not addressed by the Paris and Vienna Conventions. By way of illustration, some states have shown reluctance to adhere to the Vienna Convention because they prefer to settle claims on a state-to-state basis.

In their participation in the examination of nuclear liability at the IAEA, Canadian officials have taken the position that the existing liability regime can and must be improved and that thought must be given to the establishment of a liability regime that would provide practicable solutions to all problems of liability resulting from nuclear accidents that cause transboundary damage. In considering such a regime, attention must be given to concepts applicable to state liability and civil liability. At present Canadian officials are advocating this position in the deliberations of an open-ended working group that the IAEA has established to study all aspects of liability for nuclear damage.