

An Overview of the Nuclear Liability Regime under the Paris Convention and the Brussels Supplementary Convention

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Paris Convention on Third Party Liability in the Field of Nuclear Energy (PC)

- The PC is the oldest of the nuclear third party liability conventions, adopted in 1960 under OECD auspices and came into force in 1968.
- The 2004 Protocol to amend PC is not yet in force.
- The PC is open to all OECD members and to non-members with the unanimous assent of the contracting parties.
- Contracting parties:
 - **EU members:** Belgium, Denmark, Finland, France, Germany, Greece, Italy, Netherlands, Portugal, Slovenia, Spain, Sweden, United Kingdom;
 - Norway and Turkey;
 - Switzerland has ratified the PC and its subsequent Protocols, but entry into force for Switzerland will only occur upon entry into force of the 2004 Protocol.

Brussels Convention Supplementary to the PC (BSC)

- The BSC was concluded in 1963 and entered into force in 1974.
- The Belgian Government is the depositary for the BSC.
- The 2004 Protocol to amend BSC is not yet in force.
- The BSC provides *supplementary* compensation if PC amounts are insufficient to cover damages.
- Contracting parties (BSC is only open to PC States):
 - **EU members:** Belgium, Denmark, Finland, France, Germany, Italy, Netherlands, Slovenia, Spain, Sweden, United Kingdom;
 - Norway;
 - Switzerland has ratified the BSC and its subsequent Protocols, but entry into force for Switzerland will only occur upon entry into force of the 2004 Protocol.

BSC Supplementary Compensation Mechanism

- The BSC provides additional funds to compensate damage if PC amounts are insufficient.
- Three tiers of compensation:
 - 1st tier: operator's liability as prescribed per the PC;
 - 2nd tier: funds provided by the BSC Party in which the liable operator is located;
 - 3rd tier: contributions by all BSC Parties according to a formula based on nuclear capacity and GNP (GDP under 2004 Protocol)
- Supplementary compensation is allocated only to victims in States which are parties to the BSC.

Available amounts under the PC/BSC regime

Existing PC (1960)	15 million SDRs* (In 1990 the NEA Steering Committee for Nuclear Energy recommended an increase to 150 million SDRs)
Existing PC (1960) and BSC (1963) regime	300 million SDRs 1 st tier: 15 million SDRs per PC 2 nd tier: up to 175 million SDRs (i.e. 160 million SDRs) 3 rd tier: up to 300 million SDRs (i.e. 125 million SDRs)
Revised PC (2004) [not yet in force]	Minimum 700 million EUR
Revised PC and BSC regime (2004) [not yet in force]	Minimum 1.5 billion EUR 1 st tier: min. 700 million EUR per PC 2 nd tier: up to 1.2 billion EUR (i.e. 500 million EUR max.) 3 rd tier: up to 1.5 billion EUR (i.e. 300 million EUR)

* 1 SDR = 1.125 EUR = 1.537 USD on 14 January 2014

Improvements under the 2004 Protocols

- Operators are required to financially secure their liability at a higher level: 700 million EUR
- For States imposing unlimited liability, security must be at least equal to 700 million EUR.
- There is the possibility that the third tier under the revised BSC could increase with new accessions.
- A longer prescription period (30 vs. 10 years) is provided for personal injury; the 10 year period remains for all other nuclear damage.
- No exoneration is allowed for “grave natural disasters”.
- Only one court of the State in which the nuclear incident occurred shall be competent.

Damages covered under the 2004 Protocols

A broader class of damages is covered in addition to *loss of life or personal injury* and *loss of or damage to property*, e.g.:

- economic loss arising from loss or damage mentioned above;
- costs of measures of reinstatement of impaired environment;
- loss of income deriving from a direct economic interest in use or enjoyment of environment;
- costs of preventive measures and loss/damage caused thereby.







Victims compensated under 2004 PC Protocol

- More victims will be entitled to compensation.
- Under the original PC, the incident and damage must occur in the territory of a PC State (including the territorial sea).
- Under the 2004 Protocol, the PC applies to PC States and non-PC States (including their territories and maritime zones) if the non-PC State
 - is party to the Vienna Convention and the Joint Protocol, or
 - has no nuclear installations, or
 - has nuclear liability legislation that affords equivalent reciprocal benefits and is based on principles identical to those provided in PC.

Entry into force of the 2004 Protocol to amend the Paris Convention

- Under PC, ratification by 2/3 of the Contracting Parties is required for entry into force.
- EU Council Decision (2004/294/EC) requires that EU member states *simultaneously* deposit their instruments of ratification for the 2004 Protocol to amend PC.
- Among EU member states, Belgium, Italy and the United Kingdom have not completed national processes for ratification.
- Among non-EU states, Norway and Switzerland have deposited their ratifications, but Turkey has not.








EU COUNTRIES PARTY TO THE PARIS CONVENTION: LIABILITY AMOUNTS APPLICABLE TO NUCLEAR POWER PLANTS – Jan. 2014

Country	Nuclear liability conventions ratified (signed)	Operator's liability amount	Financial security limit
 Belgium	PC, BSC, (RPC), (RBSC), (JP)	EUR 1.2 billion	EUR 1.2 billion
 Denmark	PC, BSC, (RPC), (RBSC), JP	SDR 60 million (approx. EUR 67.5 million)	SDR 60 million (approx. EUR 67.5 million)
 Finland	PC, BSC, (RPC), (RBSC), JP	Unlimited for damage suffered in Finland SDR 600 million for damage suffered outside Finland	SDR 600 million (approx. EUR 675 million)
 France	PC, BSC, (RPC), (RBSC), (JP)	EUR 91.5 million	EUR 91.5 million
 Germany	PC, BSC, (RPC), (RBSC), JP	Unlimited	EUR 2.5 billion
 Greece	PC, (RPC), JP	SDR 15 million (approx. EUR 16.9 million)	SDR 15 million (approx. EUR 16.9 million)

PC-Paris Convention / **RPC**-2004 Paris Protocol / **BSC**-Brussels Supplementary Convention / **RBSC**-2004 BSC Protocol / **(RPC)**-signed but not ratified / **(RBSC)**-signed but not ratified / **JP**-1988 Joint Protocol / **(JP)**- Joint Protocol signed but not ratified /

Note: 1 SDR = 1.125 EUR = 1.537 USD on 14 January 2014

EU COUNTRIES PARTY TO THE PARIS CONVENTION: LIABILITY AMOUNTS APPLICABLE TO NUCLEAR POWER PLANTS (cont.) – Jan. 2014

Country	Nuclear liability conventions ratified (signed)	Operator's liability amount	Financial security limit
 Italy	PC, BSC, (RPC), (RBSC), JP	SDR 5 million (approx. EUR 5.63 million)	SDR 5 million (approx. EUR 5.63 million)
 Netherlands	PC, BSC, (RPC), (RBSC), JP	EUR 1.2 billion	EUR 1.2 billion
 Portugal	PC, (RPC), (JP)	SDR 15 million (approx. EUR 16.9 million)	SDR 15 million (approx. EUR 16.9 million)
 Slovenia	PC, BSC, (RPC), (RBSC), JP	SDR 150 million (approx. EUR 168.8 million)	SDR 150 million (approx. EUR 168.8 million)
 Spain	PC, BSC, (RPC), (RBSC), (JP)	EUR 700 million	EUR 700 million
 Sweden	PC, BSC, (RPC), (RBSC), JP	SDR 300 million (approx. EUR 337.5 million)	SDR 300 million (approx. EUR 337.5 million)
 United Kingdom	PC, BSC, (RPC), (RBSC), (JP)	GBP 140 million (approx. EUR 168.8 million)	GBP 140 million (approx. EUR 168.8 million)