

Legal Affairs

Nuclear Law Committee (NLC)

The NLC promotes the harmonisation of nuclear legislation governing the peaceful uses of nuclear energy in member countries and in selected non-member countries. It supports the modernisation and strengthening of national and international nuclear liability regimes. Under the supervision of the NLC, the NEA also compiles, analyses and disseminates information on nuclear law through a regular publications programme and organises the International School of Nuclear Law educational programme.

Nuclear legislation and nuclear liability regimes

The Nuclear Law Committee studied detailed information collected via a questionnaire on the ability of nuclear operators to obtain insurance coverage or other financial security for third party liability and material damage resulting from nuclear incidents caused by terrorist acts. It is expected that this information will lead to a better appreciation of the nuclear insurance market as it currently exists in member countries and will, in particular, assist Paris Convention States to meet the new financial security requirements under the revised Convention. While in most countries nuclear operators are able to obtain the required amount of financial security, there are a few countries in which insurance coverage is limited or even unavailable. The Committee will thus continue to seek information, notably on excluded risks and other forms of financial security, in the hope of finding ways to overcome difficulties in this area.

The Nuclear Law Committee continued to closely follow developments in the evolution of a European Community Directive on Environmental Liability, particularly since nuclear operators in member countries that are both EU Members and Paris Convention States could be liable for damage caused by activities falling within the scope of both the Directive and the Convention. Since such a result would conflict with Article 6(c)(ii) of the Convention, those member countries concerned strongly supported the retention of a nuclear damage exclusion clause in the Directive, thereby preventing its application to activities falling within the scope of the Paris Convention.

The Committee also closely monitored the evolution of a European Commission Proposal for a Regulation on Non-contractual Obligations (Rome II), which is designed to extend the harmonisation of private international law in relation to civil and commercial obligations. In particular, member countries are concerned with the potential conflict between the Regulation and those provisions of the Paris Convention which determine the

law to be applied by the court having jurisdiction in respect of nuclear damage claims. Once again, those member countries concerned strongly supported the retention of a proposed nuclear damage exclusion clause in the Regulation itself as the most effective means of avoiding such a conflict.

All outstanding issues relating to the signing of the Protocols to Amend the Paris and Brussels Supplementary Conventions were resolved, including finalisation of the texts in six official languages, definitive adoption of the instruments by their Contracting Parties at the NEA Steering Committee level, conclusion of actions necessary to enable European Community Member States to sign the Protocol to Amend the Paris Convention and preparation of required documentation for the OECD Council.

In addition, the NEA provided significant legal and administrative support to the negotiations between a considerable number of its member countries and the Russian Federation in connection with the adoption of a Framework Agreement and accompanying liability and indemnification Protocol on the Multilateral Nuclear Environmental Programme in the Russian Federation. The signing of both instruments in May will enable nuclear assistance projects in the areas of radioactive waste and spent fuel management and reactor safety improvement to be implemented in Russia. The OECD Secretary-General is co-depository of both instruments.

Information on nuclear law

Issues No. 71 and 72 of the *Nuclear Law Bulletin* were published in June and December 2003, along with their respective Supplements reproducing new nuclear legislation adopted in Bulgaria and Switzerland. This periodical, issued twice per year, provides up-to-date information on recent developments in legislation, regulations, case law and institutional structures in the field of nuclear law at the national and international levels. The Bulletin has proved to be an invaluable tool over the past thirty

- The Nuclear Law Committee studied detailed information on nuclear operators' ability to obtain insurance or other financial security for third party liability and material damage resulting from nuclear incidents caused by terrorist acts.
- The extent and implications of potential conflicts between European Community legislation and member

country obligations under the existing international nuclear liability conventions was examined in detail.

- All remaining issues relative to the signing of the Protocols to Amend the Paris and Brussels Supplementary Conventions were finally resolved.
- The NEA supported the conclusion of negotiations and the signing of the

Multilateral Nuclear Environmental Programme in the Russian Federation (MNEPR) Framework Agreement and Protocol.

- The third session of the International School of Nuclear Law was organised at the University of Montpellier 1 and a University Diploma in International Nuclear Law was established.

years for those in government, regulatory, academic, industry and international circles that work closely with nuclear law. Back issues of the Bulletin and other nuclear law information resources are available on the NEA website at www.nea.fr/html/law/.

A new edition of the overview of Nuclear Legislation in Central and Eastern European Countries (CEEC) and the New Independent States (NIS) was finalised in 2003 and will be published in early 2004. This study was first published in 1997 and was updated in 2000 in light of the proliferation of legislative and regulatory texts governing nuclear energy in this geographical region and the interest generated by this phenomenon. Over the past three years, numerous other texts have been promulgated and new international conventions have entered into force in the CEEC and the NIS. It thus appeared timely to produce a fully revised edition of this overview, while also enlarging its scope to now cover eleven CEEC and twelve NIS.

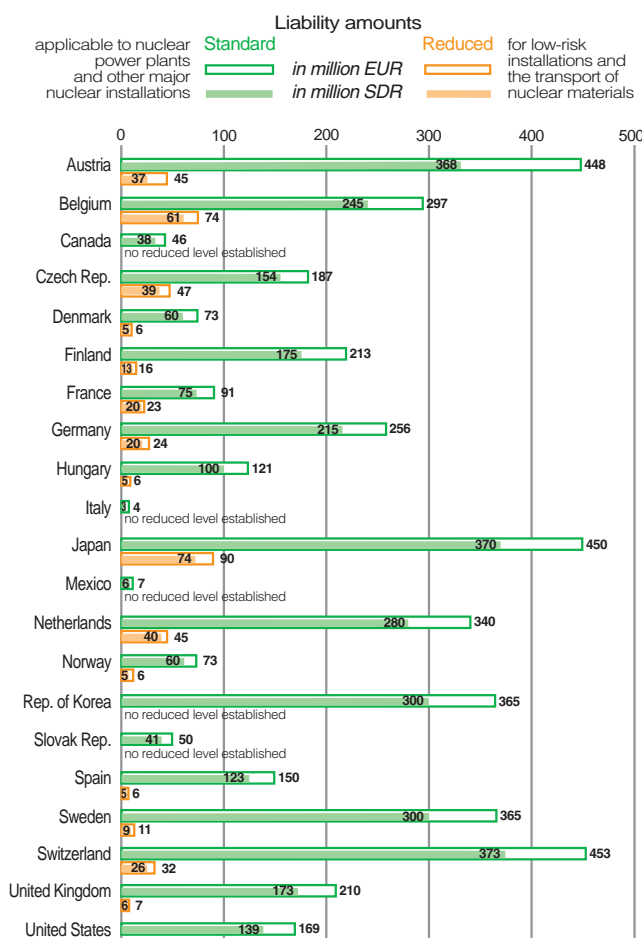
International School of Nuclear Law

The third session of the International School of Nuclear Law (ISNL) was held at the University of Montpellier 1, France, in August-September 2003. The ISNL is jointly managed by the NEA and the University of Montpellier 1 on the basis of close co-operation between these institutions.

The objective of the ISNL is to provide a high-quality course of education on the various aspects of this discipline both to law students and legal professionals. A total of 53 participants from more than 30 countries attended the 2003 programme. The programme consisted of ten days of classes, held in English over a two-week period, and explored the principal topics of international nuclear law.

Shortly before the 2003 session, the governing board of the University of Montpellier 1 authorised the establishment of a University Diploma (*Diplôme d'Université - D.U.*) in International Nuclear Law. Participants in the ISNL programme are entitled to apply for this diploma which is delivered upon

Operator liability amounts under national legislation



This bar graph reflects national legislative requirements with respect to operator liability amounts for third party nuclear damage in all NEA countries, with the exception of Australia, Greece, Iceland, Ireland, Luxembourg, Portugal and Turkey, which have not enacted specific legislation for this purpose. For Austria, Germany, Japan and Switzerland, where the liability amount is unlimited, the bars indicate the amounts of compulsory financial security for the operator. For the United States, this figure represents individual insurance coverage of each operator only.

successful completion of written examinations and satisfactory performance during the course. Over half of all participants applied for the University Diploma after the 2003 session. Plans are currently under way to explore the possibility of arranging the validation of university credits by other universities for participation in this course.

Further information on the 2004 session, scheduled to take place from 23 August to 3 September 2004, and application forms are available on the NEA website at www.nea.fr/html/law/isnl/index.html.



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