

# 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 selected non-member countries. It supports the modernisation and strengthening of national and international nuclear liability regimes. In addition, under its supervision the NEA compiles, analyses and disseminates information on nuclear law through a regular publications programme and organises the International School of Nuclear Law educational programme.*

### Highlights

- Member countries which are party to the Paris and Brussels Supplementary Conventions worked actively to implement into their national legislation the provisions of the Protocols to amend those conventions which were adopted in 2004, and to finalise the two *Exposés des Motifs* for those conventions.
- The NLC continued its detailed studies of member countries' legislative regimes covering liability, financial security and compensation in respect of damage caused by (i) a terrorist act on a nuclear installation or during the transport of nuclear substances; (ii) radioactive sources, including compensation policies and practices of insurers and other financial guarantors; and (iii) an incident at a nuclear fusion installation or during the transport of nuclear substances.
- The fifth session of the International School of Nuclear Law was organised at the University of Montpellier 1.
- A Second International Workshop on the Indemnification of Nuclear Damage, organised by the NEA and the Slovak Nuclear Regulatory Authority was held in May, in Bratislava, Slovak Republic.

Member countries which adopted the Protocols to amend the Paris and Brussels Supplementary Conventions in 2004 worked actively during 2005 to implement the provisions of those protocols into their national legislation. The provisions require nuclear operators to make more money available to compensate more victims for more types of damage than ever before. They also ensure that where compensation amounts under the revised Paris Convention are insufficient, a significant amount of additional funding will be provided by the Contracting Parties themselves. In total, €1.5 billion of compensation will be available to compensate victims of a nuclear incident under the revised liability regime.

The Nuclear Law Committee continued its detailed study of existing national regimes covering civil liability, financial security and compensation for damage caused by radioactive sources, including equipment containing radioactive sources, and of current insurance policies and practices in providing financial security in respect of civil liability. The issue is relevant since neither the IAEA Code of Conduct on the Safety and Security of Radioactive Sources nor the Council Directive (Euratom) on the Control of High Activity Sealed Sources and Orphan Sources addresses these matters; nor do the Paris or Vienna Conventions apply to radioisotopes outside a nuclear installation that have been prepared for use in industrial, commercial, agricultural, medical, scientific or educational applications. The Committee concluded that, due to the wide

variety of national regimes in place and the low level of risk involved, it was not necessary to attempt to harmonise legislative requirements and practices amongst member countries at this time.

The NLC also continued its study 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. This information is expected to lead to a better appreciation of the nuclear insurance market as it currently exists in member countries. As regards material damage and related types of protection, operators can now buy limited amounts of terrorism coverage, subject to additional premiums, but availability of legally required third party liability coverage depends on: (i) the insurers' perception of the terrorism risk; (ii) the capacity of the national insurance market and its willingness to assume terrorist risks; and (iii) the legally imposed amount of operator liability. Where terrorism risks are fully covered, it is usually because the operator's liability amount is relatively modest. Increases in those amounts, due to amendments to the nuclear liability conventions for example, are likely to result in a shortage of terrorism insurance capacity. The Committee will continue to seek information, particularly on excluded risks and other forms of financial security, in the hope of finding ways to overcome difficulties in this area.

The Committee also undertook an initial examination of whether nuclear fusion installations should be included within the scope of application of the Paris Convention, particularly in light of the International Thermonuclear Experimental Reactor (ITER) project which involves several NEA member countries. While the radiological risks associated with such reactors is generally deemed to be relatively low compared to those associated with fission reactors, the NLC agreed that the matter should be studied in more detail to clarify and evaluate the level of risk associated with the construction and operation of such installations, and to take into account sociological factors such as the public's perception of that risk.

The Second International Workshop on the Indemnification of Nuclear Damage took place on 18-20 May 2005 in Bratislava, Slovak Republic. The workshop was co-organised by the NEA and the Slovak Republic Nuclear Regulatory Authority, and attracted 108 participants from 27 countries. Its purpose was to assess the third party liability and compensation mechanisms that would be implemented by participating countries in the event of a nuclear accident taking place within or near their borders. To accommodate this objective, two fictitious accident scenarios were developed: one involving a fire in a nuclear installation located in the Slovak Republic and the other a fire on board a ship transporting enriched uranium hexafluoride along the Danube River. The first scenario was designed to involve the greatest possible number of countries, with the second being restricted to countries with a geographical proximity to the Danube. Both scenarios aimed to evaluate the compensation mechanisms which would be implemented in countries where resulting nuclear damage had occurred. The issues that attracted the most discussion were claims handling issues, the definition of nuclear damage and the proper functioning of the Joint Protocol linking the Paris and Vienna Conventions. There was general consensus that international workshops such as this contribute significantly towards harmonisation amongst like-minded countries.

### Information on nuclear law

Issues No. 75 and 76 of the *Nuclear Law Bulletin* were published in June and December 2005, along with their respective Supplements reproducing the unofficial consolidated texts of the Paris and Brussels Supplementary Conventions as amended in 2004 and recent radiation protection legislation adopted in Estonia. This periodical provides up-to-date information on 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 for those in government, regulatory, academic, industry and international circles who 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/](http://www.nea.fr/html/law/).

### Educational programme

The fifth session of the International School of Nuclear Law (ISNL) was held at the University of Montpellier 1, France, in August-September 2005. The ISNL is jointly managed by the NEA and the University of Montpellier 1, and its objective is to provide high-quality education in nuclear law to law students



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and legal professionals through a two-week intensive course. A total of 58 participants from 29 countries attended the 2005 programme, held entirely in English.

The University Diploma (*Diplôme d'Université – D.U.*) in International Nuclear Law, established in 2003, attracts an increasing number of candidates each year. ISNL participants may apply for this diploma which is delivered upon successful completion of written examinations and satisfactory performance during the course. The University has also organised official recognition of the Diploma through ECTS credits (European Credit Transfer and Accumulation System). This system, introduced in 1989 within the framework of Erasmus and now part of the Socrates programme, facilitates the recognition of study periods spent in European universities.

Further information on the 2006 session, scheduled to take place from 21 August to 1 September 2006 is available on the NEA website at [www.nea.fr/html/law/isnl/index.html](http://www.nea.fr/html/law/isnl/index.html). Application forms are also available from [www.nea.fr/html/law/isnl/Appform2006.pdf](http://www.nea.fr/html/law/isnl/Appform2006.pdf).

The first session of the World Nuclear University (WNU) Summer Institute took place from 9 July to 20 August 2005 at the US Department of Energy's Idaho National Laboratory. The nuclear law module of this course was organised by the ISNL Secretariat. This six-week training programme covering a broad spectrum of nuclear energy issues was attended by 77 participants from 34 countries.

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