

ADDITIONAL PROTOCOL TO THE CONVENTION OF 31 JANUARY 1963 SUPPLEMENTARY TO THE PARIS CONVENTION OF 29 JULY 1960¹ ON THIRD PARTY LIABILITY IN THE FIELD OF NUCLEAR ENERGY

The Governments of the Federal Republic of Germany, the Republic of Austria, the Kingdom of Belgium, the Kingdom of Denmark, Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of Norway, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, the Kingdom of Sweden and the Swiss Confederation, Signatories of the Convention of 31 January 1963 Supplementary to the Paris Convention of 29 July 1960¹ on Third Party Liability in the Field of Nuclear Energy,

Whereas certain provisions of the Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy, concluded in Paris within the framework of the Organization for European Economic Co-operation, now the Organization for Economic Co-operation and Development, have been modified by the Additional Protocol concluded at Paris, on 28 January 1964,¹ of which they are Signatories,

Whereas the modifications made to the Paris Convention of 29 July 1960 by the above-mentioned Additional Protocol make necessary certain amendments to the Convention of 31 January 1963 Supplementary to the Paris Convention,

Have agreed as follows:

I

The Convention of 31 January 1963 Supplementary to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy shall be amended as follows:

A. The second paragraph of the Preamble shall be replaced by the following text:

Being Parties to the Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy, concluded within the framework of the Organization for European Economic Co-operation, now the Organization for Economic Co-operation and Development, and as modified by the Additional Protocol concluded at Paris, on 28 January 1964 (hereinafter referred to as the "Paris Convention").

B. Article 4 shall be replaced by the following text:

Article 4. a) If a nuclear incident causes damage which gives rise to liability of more than one operator, the aggregate liability provided for in Article 5 (d) of the Paris Convention shall not, to the extent that public funds have to be made available pursuant to Article 3 (b) (ii) and (iii), exceed 120 million units of account.

b) The total amount of the public funds made available pursuant to Article 3 (b) (ii) and (iii) shall not, in such event, exceed the difference between 120 million units of account and the sum of the amounts established with respect to such operators pursuant to Article 3 (b) (i) or, in the case of an operator whose nuclear installation is situated in the territory of a State which is not a Party to this Convention, the amount established pursuant to Article 7 of the Paris Convention. If more than one Contracting Party is required to make available public funds pursuant to Article 3 (b) (ii), such funds shall be made available by them in proportion to the number of nuclear installations situated in their respective territories, which are involved in the nuclear incident and of which the operators are liable.

C. Article 6 shall be replaced by the following text:

Article 6. In calculating the public funds to be made available pursuant to this Convention, account shall be taken only of those rights to compensation exercised within ten years from the date of the nuclear incident. In the case of damage caused

¹ United Nations, *Treaty Series*, vol. 956, p. 251.

by a nuclear incident involving nuclear fuel or radioactive products or waste which at the time of the incident have been stolen, lost, jettisoned, or abandoned and have not yet been recovered, such period shall not in any case exceed twenty years from the date of the theft, loss, jettison or abandonment. It shall also be extended in the cases and under the conditions laid down in Article 8 (d) of the Paris Convention. Amendments made to claims after the expiry of this period, under the conditions laid down in Article 8 (e) of the Paris Convention, shall also be taken into account.

D. Article 7 shall be replaced by the following text:

Article 7. Where a Contracting Party makes use of the right provided for in Article 8 (c) of the Paris Convention, the period which it establishes shall be a period of prescription of three years either from the date at which the person suffering damage has knowledge or from the date at which he ought reasonably to have known of both the damage and the operator liable.

E. Article 8 shall be replaced by the following text:

Article 8. Any person who is entitled to benefit from the provisions of this Convention shall have the right to full compensation in accordance with national law for damage suffered, provided that, where the amount of damage exceeds or is likely to exceed:

- i) 120 million units of account; or
- ii) if there is aggregate liability under Article 5 (d) of the Paris Convention and a higher sum results therefrom, such higher sum,

any Contracting Party may establish equitable criteria for apportionment. Such criteria shall be applied whatever the origin of the funds and, subject to the provisions of Article 2, without discrimination based on the nationality, domicile or residence of the person suffering the damage.

F. Article 10 shall be replaced by the following text:

Article 10. a) The Contracting Party whose courts have jurisdiction shall be required to inform the other Contracting Parties of a nuclear incident and its circumstances as soon as it appears that the damage caused by such incident exceeds, or is likely to exceed, 70 million units of account. The Contracting Parties shall without delay make all the necessary arrangements to settle the procedure for their relations in this connection.

b) Only the Contracting Party whose courts have jurisdiction shall be entitled to request the other Contracting Parties to make available the public funds required under Article 3 (b) (iii) and (f) and shall have exclusive competence to disburse such funds.

c) Such Contracting Party shall, when the occasion arises, exercise the right of recourse provided for in Article 5 on behalf of the other Contracting Parties who have made available public funds pursuant to Article 3 (b) (iii) and (f).

d) Settlements effected in respect of the payment of compensation out of the public funds referred to in Article 3 (b) (ii) and (iii) in accordance with the conditions established by national legislation shall be recognized by the other Contracting Parties, and judgements entered by the competent courts in respect of such compensation shall become enforceable in the territory of the other Contracting Parties in accordance with the provisions of Article 13 (d) of the Paris Convention.

II

(a) The provisions of the Additional Protocol shall form an integral part of the Convention of 31 January 1963 Supplementary to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy.

(b) This Additional Protocol shall be ratified or confirmed. Instruments of ratification of this Additional Protocol shall be deposited with the Belgian Government. Where there is a confirmation of this Additional Protocol it shall be notified to the Belgian Government.

(c) The Signatories of this Additional Protocol undertake to ratify it or to confirm it at the same time as they ratify the Convention of 31 January 1963. Accessions to this Convention will be accepted only if they are accompanied by accession to this Additional Protocol.

(d) The Belgian Government shall give notice to all Signatories, as also to the Governments which have acceded to the Convention of 31 January 1963, of the receipt of instruments of ratification and of notification of confirmations.

(e) In calculating the number of ratifications required in accordance with Article 20 (c) of the Convention of 31 January 1963 for the coming into force thereof, account will be taken only of those Signatories who have ratified this Convention and have ratified or confirmed this Additional Protocol.