

Paris, drafted: 21-Jan-1993

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C(92)166/FINAL

COUNCIL

RECOMMENDATION OF THE COUNCIL

on the application of the Brussels Supplementary Convention,
in the field of Nuclear Liability*

(adopted by the Council at its 793rd Session on 26-27 November 1992)

* Australia abstained.

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THE COUNCIL,

Having regard to Article 5 a) and b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

Having regard to the Paris Convention on Third Party Liability in the Field of Nuclear Energy, as amended by the Additional Protocol of 28th January 1964, and the Protocol of 16th November 1982;

Having regard to the Brussels Convention of 31st January 1963 Supplementary to the Paris Convention on Third Party Liability in the Field of Nuclear Energy, as amended by the Additional Protocol of 28th January 1964, and the Protocol of 16th November 1982;

Having regard to the Joint Protocol of 21st September 1988 relating to the Application of the Vienna Convention and the Paris Convention;

Having regard to the Note by the Secretary-General on questions concerning the application of the Brussels Supplementary Convention [C(92)166];

Considering that the Brussels Supplementary Convention may be inapplicable in certain cases involving the transport of nuclear substances as a consequence of the Joint Protocol;

Considering the importance of preserving the application of the Brussels Supplementary Convention in such cases;

Considering that the object and purpose of the Brussels Supplementary Convention is to supplement the measures provided by the Paris Convention by increasing the amount of compensation for damage which might result from the use of nuclear energy for peaceful purposes;

Considering that some Contracting Parties to the Brussels Supplementary Convention have established amounts of insurance or other financial security to cover the liability of the operator of a nuclear installation which are higher than the threshold for intervention of public funds to be provided by Contracting Parties in accordance with Article 3(b)(iii) of that Convention;

Desirous of preserving as a provisional solution the availability of such public funds under the Brussels Supplementary Convention if a Contracting Party has taken such measures and of ensuring that these funds are exclusively used to compensate victims of a nuclear incident;

RECOMMENDS :

1. That each Contracting Party to the Brussels Supplementary Convention should make a declaration to the Depositary of that Convention, that - if the legislation of a Contracting Party to the Brussels Supplementary Convention establishes, in accordance with Article 3(b)(i) of that Convention, the amount of the insurance or other financial security covering the liability of the operator at a level higher than 175 million Special Drawing Rights per incident - it will not invoke Article 3 of the Convention to refuse a request to make available public funds up to 125 million Special Drawing Rights according to Article 3(b)(iii), to the extent that the damage caused by a nuclear incident exceeds the amount covered by that insurance or other financial security.

2. That the Contracting Parties to the Brussels Supplementary Convention should notify the Secretary General of the OECD of the steps that they have taken to implement their declarations made pursuant to this Recommendation.

INVITES the Secretary-General to communicate all such notifications received from Contracting Parties to the other Contracting Parties;

RECOMMENDS that the Contracting Parties to the Brussels Supplementary Convention which ratify the Joint Protocol should take appropriate measures to ensure that the operators of nuclear installations or carriers under their jurisdiction assume liability in all cases involving the transport of nuclear substances between such installations and those of operators situated in the territory of Contracting Parties to the Vienna Convention and to the Joint Protocol, in the case that nuclear incidents occurring during such transport would, were it not for the operation of the Joint Protocol, lead to the application of the Brussels Supplementary Convention according to its Article 2.

END-OF-TEXT