

# **BACKGROUND**

- **The availability of prompt and adequate compensation for victims is a condition for public acceptance and trust in the development and use of nuclear energy.**
- **To address this important issue, the international community developed, in the early 60's, international nuclear liability principles that still constitute the basis of existing international instruments on third-party liability for the compensation of nuclear damages (that is, the Vienna Convention, the Paris and Brussels Conventions, the Joint Protocol and the Convention on Supplementary Compensation for Nuclear Damage (CSC)).**
- **These principles were improved following the Chernobyl accident and incorporated into the enhanced nuclear liability conventions (that is, the revised Paris and Brussels Conventions, the revised Vienna Convention, and the CSC).**
- **The Fukushima accident has once again underlined how having an adequate liability regime in force is a legitimate concern worldwide, to ensure prompt and appropriate compensation to victims, while avoiding legal uncertainties about the allocation of liability.**

# **IAEA ACTION PLAN**

**On September 22, 2011, IAEA Member States adopted the Action Plan on Nuclear Safety that, among other things, called for:**

- Member States to work towards establishing a global nuclear liability regime that addresses the concerns of all States that might be affected by a nuclear accident with a view to providing appropriate compensation for nuclear damage.**
- The IAEA International Expert Group on Nuclear Liability (INLEX) to recommend actions to facilitate achievement of such a global regime.**
- Member States to give due consideration to the possibility of joining the international nuclear liability instruments as a step toward achieving such a global regime.**

# WORKING GROUP

- **While France and the United States share the IAEA Action Plan objective of establishing a global nuclear liability regime, they have advocated different approaches to achieve this goal.**
- **France has been advocating a system based on the revised Paris Convention (together with the revised Brussels Convention), the revised Vienna Convention and the Joint Protocol.**
- **The United States has been advocating a system based on the CSC.**
- **In order to find common ground, the US Department of Energy and the CEA set up a working group to identify a joint path towards a global nuclear liability regime.**

# Common Positions

- **At the beginning of the working group, France and the United States identified a number of common positions concerning a global nuclear liability regime.**
- **France and the United States shared the view that the existing international instruments (that is, Vienna Convention, Paris Convention, Brussels Supplementary Convention, Joint Protocol, and Convention on Supplementary Compensation for Nuclear Damage (CSC)) should provide the framework for achieving a global liability regime.**

# Common Positions

- **France and the United States acknowledged that the Joint Protocol was developed to link the Paris Convention and the Vienna Convention and has resulted in treaty relations among a number of countries, which provide a contribution to the development of a global nuclear liability regime.**
- **France and the United States acknowledged that the CSC was designed to provide a basis for establishing a global nuclear liability regime by allowing adherence by countries that adhere to the Paris Convention or the Vienna Convention, including those countries that are linked by the Joint Protocol, and by countries with national laws that fully comply with the nuclear liability principles embodied in the Annex to the CSC.**

# Common Positions

- **France and the United States agreed that a global regime is best way to:**
  - **Protect the public by assuring availability of substantial amount of funds to compensate nuclear damage promptly with minimum of litigation;**
  - **Provide nuclear industry with legal certainty through clear allocation of liability risks;**
  - **Permit international insurance markets to marshal their resources;**
  - **Address international aspects, including: international nature of nuclear industry; risks of transboundary damage; and transportation accidents.**

# Common Positions

- **United States and France agreed that global regime should rely on the fundamental principles of nuclear liability law and not on ordinary tort law.**
- **These principles are:**
  - **All legal liability must be channeled exclusively to operator (no one except operator can be sued; no right of recourse except as set forth in contract).**
  - **Operator is subject to strict liability (no need to show intent or fault; only need to show damage caused by nuclear incident).**
  - **Jurisdiction over claims for damage from nuclear incident lies exclusively with courts of country where accident occurs (Lawsuits cannot be brought in multiple fora).**
  - **Liability of operator may be limited in amount and time.**
  - **Citizens of all countries must be compensated without discrimination based on nationality, domicile or residence.**

# Common Positions

- **United States and France agreed that global regime should have worldwide applicability and include as many countries as possible, especially those with nuclear power plants.**
  - **This goal can only be achieved through treaty relations among France, the United States and other countries that might be affected by a nuclear accident.**
  - **Currently, however, over half the installed nuclear capacity in the world is not covered by any international instrument.**
  - **Lack of comprehensive treaty relations give the appearance of a patchwork system when, in fact, the liability systems in countries with nuclear power plants display great similarities.**



# Mandate

- **The working group undertook to review and identify the similarities, the differences and any potential conflicts among the existing international instruments and to examine the conditions allowing these instrument to form the basis for a global regime.**

# Conclusions

- **After over a year of direct and in-depth discussions, the working group found great overall similarity among the existing international instruments and national laws in countries with nuclear power plants, with a few non-essential differences in implementing details.**

# Conclusions

- **The Working Group found that the revised Paris Convention, the revised Vienna Convention and the CSC incorporated the fundamental principles, including enhancements relating to compensation, definition of nuclear damage and jurisdiction over EEZ.**
- **The Working Group also found that these instruments contain sufficient flexibility to permit a country to implement them in a manner consistent with the best practices identified by INLEX.**

# Conclusions

- **The working group found that in order to adhere to the CSC, a country must have national law consistent with the fundamental principles.**
- **The working group found that membership in the Joint Protocol and the Paris Convention or the Vienna Convention is consistent with membership in the CSC and that there should be no obstacle in principle for a country to belong to the CSC and to the Paris Convention or the Vienna Convention, as well as the Joint Protocol.**

# Joint Statement

**The Joint Statement commits France and the United States to:**

- **Promote efforts to achieve a global nuclear liability regime based on treaty relations among France, the United States and other countries that might be affected by a nuclear accident;**
- **Coordinate their actions in encouraging adherence to the enhanced international nuclear liability instruments, including, as appropriate, the revised Paris Convention (together with the revised Brussels Convention) or the revised Vienna Convention, which may be linked by the Joint Protocol, and the CSC, with an initial step being the entry into force of the CSC; and**
- **Urge countries to adopt national laws that incorporate the nuclear liability principles, recent enhancements to those principles and certain best practices.**

# Joint Statement

**The Joint Statement identifies the following good practices:**

- **liability limits and financial security requirements are sufficiently high to make adequate funds available to compensate all victims of a nuclear accident, without discrimination;**
- **compensation is available for nuclear damage wherever suffered, including countries with no nuclear installations;**
- **compensation is available in the event of an accident directly due to a grave natural disaster;**
- **compensation for latent injuries is available over a period of at least thirty years; and**
- **all claims resulting from a nuclear accident are dealt with in a single forum, and in a prompt, equitable and non-discriminatory manner, with a minimum of litigation, and with only one court being competent to hear claims arising from the accident;**

# Path Forward

- **France views a system based on the revised Paris Convention (together with the revised Brussels Convention) the revised Vienna Convention and Joint Protocol as providing an appropriate basis for the compensation of nuclear damage and will continue to promote these instruments**
- **France does not currently envisage adhering to another instrument, after having completed the legislative process for the ratification of the Joint Protocol.**
- **However, France considers that a global regime that would exclude the US, which currently operates a quarter of the world nuclear capacity, would not make much sense .**
- **The United States views the CSC as the only existing international nuclear liability instrument to which the United States can adhere and will continue to promote the CSC.**
- **Like France, the United States believes that a global regime must include France, the United States and all other countries with significant nuclear programs.**

# Path Forward

## France and the United States:

- **View their efforts as complementary;**
- **Believe that early entry into force of the revised Paris and Brussels Conventions and the CSC are very important steps towards a global regime and will encourage efforts to achieve these objectives; and**
- **Will continue to work together to urge those countries that do not belong to an international instrument to join one or more of the enhanced instruments, as appropriate for each country.**



# Path Forward

- **France and the United States encourage other NEA countries to join in working towards a global regime**
- **France and the United States invite each NEA country to associate itself with the Joint Statement.**