



Treaty Series No. 17 (1992)

Protocol

to Amend 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, as Amended by the
Additional Protocol of 28 January 1964

Done at Paris on 16 November 1982

[The Protocol entered into force on 1 August 1991]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 1992*

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PROTOCOL
TO AMEND 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, AS AMENDED BY THE ADDITIONAL
PROTOCOL OF 28 JANUARY 1964

The Governments of the Federal Republic of Germany, the Republic of Austria, the Kingdom of Belgium, the Kingdom of Denmark, the Kingdom of Spain, the Republic of Finland, 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,

Considering that certain provisions of the Convention of 29 July 1960¹ on Third Party Liability in the Field of Nuclear Energy, as amended by the Additional Protocol of 28 January 1964¹ have been amended by the Protocol concluded at Paris on 16 November 1982² and of which they are Signatories,

Considering that it is desirable to amend also the Convention of 31 January 1963³ Supplementary to the Paris Convention of 29 July 1960, as amended by the Additional Protocol of 28 January 1964³,

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, as amended by the Additional Protocol of 28 January 1964 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 Organisation for European Economic Co-operation, now the Organisation for Economic Co-operation and Development, and as amended by the Additional Protocol concluded at Paris, on 28 January 1964 and by the Protocol concluded at Paris on 16 November 1982 (hereinafter referred to as the "Paris Convention");

B. Paragraph (b) of Article 2 shall be replaced by the following text:

(b) Any Signatory or acceding Government may, at the time of signature of or accession to this Convention or on the deposit of its instrument of ratification, declare that, for the purposes of the application of paragraph (a) (ii) (3) of this Article, individuals or certain categories thereof, considered under its law as having their habitual residence in its territory, are assimilated to its own nationals.

C. Article 3 shall be replaced by the following text:

ARTICLE 3

(a) Under the conditions established by this Convention, the Contracting Parties undertake that compensation in respect of the damage referred to in Article 2 shall be provided up to the amount of 300 million Special Drawing Rights per incident.

(b) Such compensation shall be provided:

(i) up to an amount of at least 5 million Special Drawing Rights, out of funds provided by insurance or other financial security, such amount to be established by the legislation of the Contracting Party in whose territory the nuclear installation of the operator liable is situated;

¹Treaty Series No. 69 (1968), Cmnd. 3755.

²Treaty Series No. 6 (1989), Cm 659.

³Treaty Series No. 44 (1975), Cmnd. 5948.

- (ii) between this amount and 175 million Special Drawing Rights, out of public funds to be made available by the Contracting Party in whose territory the nuclear installation of the operator liable is situated;
 - (iii) between 175 million and 300 million Special Drawing Rights, out of public funds to be made available by the Contracting Parties according to the formula for contributions specified in Article 12.
- (c) For this purpose, each Contracting Party shall either:
- (i) establish the maximum liability of the operator, pursuant to Article 7 of the Paris Convention, at 300 million Special Drawing Rights, and provide that such liability shall be covered by all the funds referred to in paragraph (b) of this Article; or
 - (ii) establish the maximum liability of the operator at an amount at least equal to that established pursuant to paragraph (b) (i) of this Article and provide that, in excess of such amount and up to 300 million Special Drawing Rights, the public funds referred to in paragraph (b) (ii) and (iii) of this Article shall be made available by some means other than as cover for the liability of the operator, provided that the rules of substance and procedure laid down in this Convention are not thereby affected.
- (d) The obligation of the operator to pay compensation, interest or costs out of public funds made available pursuant to paragraphs (b) (ii) and (iii), and (f) of this Article shall only be enforceable against the operator as and when such funds are in fact made available.
- (e) The Contracting Parties, in carrying out this Convention, undertake not to make use of the right provided for in Article 15(b) of the Paris Convention to apply special conditions:
- (i) in respect of compensation for damage provided out of the funds referred to in paragraph (b) (i) of this Article;
 - (ii) other than those laid down in this Convention in respect of compensation for damage provided out of the public funds referred to in paragraph (b) (ii) and (iii) of this Article.
- (f) The interest and costs referred to in Article 7(g) of the Paris Convention are payable in addition to the amounts referred to in paragraph (b) of this Article and shall be borne in so far as they are awarded in respect of compensation payable out of the funds referred to in:
- (i) paragraph (b) (i) of this Article, by the operator liable;
 - (ii) paragraph (b) (ii) of this Article, by the Contracting Party in whose territory the nuclear installation of that operator is situated;
 - (iii) paragraph (b) (iii) of this Article, by the Contracting Parties together.
- (g) For the purposes of this Convention, "Special Drawing Right" means the Special Drawing Right as it is defined by the International Monetary Fund. The amounts mentioned in this Convention shall be converted into the national currency of a Contracting Party in accordance with the value of that currency at the date of the incident, unless another date is fixed for a given incident by agreement between the Contracting Parties. The equivalent in Special Drawings Rights of the national currency of a Contracting Party shall be calculated in accordance with the method of valuation applied at the date in question by the International Monetary Fund for its own operations and transactions.

D. 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 300 million Special Drawing Rights.

- (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 300 million Special Drawing Rights 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.

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) 300 million Special Drawing Rights; 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. Paragraph (a) of Article 10 shall be replaced by the following text:

- (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, 175 million Special Drawing Rights. The Contracting Parties shall without delay make all the necessary arrangements to settle the procedure for their relations in this connection.

G. Paragraph (b) of Article 14 shall be replaced by the following text:

- (b) Any such provisions made by a Contracting Party pursuant to Articles 2 and 9 of the Paris Convention as a result of which the public funds referred to in Article 3(b) (ii) and (iii) are required to be made available may not be invoked against any other Contracting Party unless it has consented thereto.

H. The Annex shall be replaced by the following text:

ANNEX

**to 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,
as amended by the Additional Protocol of 28 January 1964 and by the Protocol
of 16 November 1982**

The Governments of the Contracting Parties declare that compensation for damage caused by a nuclear incident not covered by the Supplementary Convention solely by reason of the fact that the relevant nuclear installation, on account of its utilisation, is not on the list referred to in Article 2 of the Supplementary Convention, (including the case where such installation is considered by one or more but not all of the Governments to be outside the Paris Convention):

- shall be provided without discrimination among the nationals of the Contracting Parties to the Supplementary Convention; and
- shall not be limited to less than 300 million Special Drawing Rights.

In addition, if they have not already done so, they shall endeavour to make the rules for compensation of persons suffering damage caused by such incidents as similar as possible to those established in respect of nuclear incidents occurring in connection with nuclear installations covered by the Supplementary Convention.

II

- (a) The provisions of this Protocol shall, as between the Parties thereto, 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, as amended by the Additional Protocol of 28 January 1964 (hereinafter referred to as the "Convention"), which shall be known as the "Convention of 31 January 1963 Supplementary to the Paris Convention of 29 July 1960, as amended by the Additional Protocol of 28 January 1964 and by the Protocol of 16 November 1982".
- (b) This Protocol shall be ratified or confirmed. Instruments of ratification of this Protocol shall be deposited with the Belgian Government. Where there is a confirmation of this Protocol it shall be notified to the Belgian Government.
- (c) The Signatories of this Protocol who have already ratified the Convention undertake to ratify or to confirm this Protocol as soon as possible. The other Signatories of this Protocol undertake to ratify it or to confirm it at the same time as they ratify the Convention.
- (d) This Protocol shall be open for accession in accordance with the provisions of Article 22 of the Convention. Accessions to the Convention will be accepted only if they are accompanied by accession to this Protocol.
- (e) This Protocol shall come into force in accordance with the provisions of Article 21 of the Convention.¹
- (f) The Belgian Government shall give notice to all Signatories and acceding Governments of the receipt of any instrument of ratification or accession and of the receipt of any confirmation.

In witness whereof, the undersigned Plenipotentiaries, duly empowered, have signed this Protocol.

Done at Paris, this 16th day of November 1982, in the English, Dutch, French, German, Italian and Spanish languages, the six texts being equally authoritative, in a single copy which shall be deposited with the Belgian Government by whom certified copies will be communicated to all Signatories and acceding Governments.

¹ The Protocol entered into force on 1 August 1991.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Ratification</i>
Austria	16 Nov 1982	
Belgium	16 Nov 1982	20 Aug 1985
Denmark	16 Nov 1982	10 May 1989
Finland	16 Nov 1982	15 Jan 1990
France	16 Nov 1982	11 Jul 1990
Germany, F.R.	16 Nov 1982	25 Sep 1985
Italy	16 Nov 1982	14 Jun 1985
Luxembourg	16 Nov 1982	
Netherlands, The	16 Nov 1982	1 Aug 1991
Norway	16 Nov 1982	13 May 1986
Spain	16 Nov 1982	29 Sep 1988
Sweden	16 Nov 1982	22 Mar 1983
Switzerland	16 Nov 1982	
United Kingdom	16 Nov 1982	8 Aug 1985

EXTENSIONS

	<i>Date</i>
Bailiwick of Jersey	26 Feb 1988
Bailiwick of Guernsey	25 Mar 1986
Isle of Man	18 Nov 1987



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