



Recommendation of the Council on
the Application of the Brussels
Supplementary Convention, in
the Field of Nuclear
Liability

**OECD Legal
Instruments**

This document is published under the responsibility of the Secretary-General of the OECD. It reproduces an OECD Legal Instrument and may contain additional material. The opinions expressed and arguments employed in the additional material do not necessarily reflect the official views of OECD Member countries.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

For access to the official and up-to-date texts of OECD Legal Instruments, as well as other related information, please consult the Compendium of OECD Legal Instruments at <http://legalinstruments.oecd.org>.

Please cite this document as:

OECD, *Recommendation of the Council on the Application of the Brussels Supplementary Convention, in the Field of Nuclear Liability*, OECD/LEGAL/0272

Series: OECD Legal Instruments

© OECD 2018

This document is provided free of charge. It may be reproduced and distributed free of charge without requiring any further permissions, as long as it is not altered in any way. It may not be sold.

This document is available in the two OECD official languages (English and French). It may be translated into other languages, as long as the translation is labelled "unofficial translation" and includes the following disclaimer: *"This translation has been prepared by [NAME OF TRANSLATION AUTHOR] for informational purpose only and its accuracy cannot be guaranteed by the OECD. The only official versions are the English and French texts available on the OECD website <http://legalinstruments.oecd.org>"*

Date(s)

Adopted on 27/11/1992

THE COUNCIL¹,

HAVING REGARD to Article 5 a) and b) of the Convention on the Organisation for Economic Co-operation and Development of 14 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 28 January 1964, and the Protocol of 16 November 1982;

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

HAVING REGARD to the Joint Protocol of 21 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.

¹ Australia abstained.

Adherents*

OECD Members

Australia
Austria
Belgium
Canada
Chile
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Ireland
Israel
Italy
Japan
Korea
Latvia
Luxembourg
Mexico
Netherlands
New Zealand
Norway
Poland
Portugal
Slovak Republic
Slovenia
Spain
Sweden
Switzerland
Turkey
United Kingdom
United States

Non-Members

* Additional information and statements are available in the Compendium of OECD Legal Instruments:
<http://legalinstruments.oecd.org>

About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Legal Instruments

Since the creation of the OECD in 1961, around 450 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions:** OECD legal instruments which are legally binding on all Members except those which abstain at the time of adoption. While they are not international treaties, they entail the same kind of legal obligations. Adherents are obliged to implement Decisions and must take the measures necessary for such implementation.
- **Recommendations:** OECD legal instruments which are not legally binding but practice accords them great moral force as representing the political will of Adherents. There is an expectation that Adherents will do their utmost to fully implement a Recommendation. Thus, Members which do not intend to do so usually abstain when a Recommendation is adopted, although this is not required in legal terms.
- **Declarations:** OECD legal instruments which are prepared within the Organisation, generally within a subsidiary body. They usually set general principles or long-term goals, have a solemn character and are usually adopted at Ministerial meetings of the Council or of committees of the Organisation.
- **International Agreements:** OECD legal instruments negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.
- **Arrangement, Understanding and Others:** several ad hoc substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.