



Liability Limit Review

NUCLEAR LIABILITY AND COMPENSATION ACT



BACKGROUND

Canada's civil liability and compensation regime is a foundational element of the country's nuclear legislative and regulatory framework, and addresses civil liability and compensation for injury and damage arising from nuclear incidents occurring at certain nuclear facilities.

From the 1970's to 2015, the *Nuclear Liability Act* (NLA), which was modelled on the provisions of the 1963 Vienna Convention on Civil Liability for Nuclear Damage, made nuclear operators absolutely liable for nuclear damage. Under the NLA, operators of nuclear power plants were liable for up to C\$75 million in damages resulting from a potential accident at a nuclear facility.

In 2015 the NLA was replaced by the *Nuclear Liability and Compensation Act* (NLCA, "the Act"). The NLCA significantly strengthened the compensation and civil liability regime for damages that result from a nuclear accident and, under the Act, nuclear operators are now liable up to \$1 billion. The Act also expands the types of damages for which people and businesses affected by an accident can be compensated. In addition, it provides a longer time period for making claims for bodily injury and elaborates a system that can be established by the Government of Canada to accelerate and provide efficient and equitable claim settlements.

LIABILITY LIMIT REVIEW

The purpose of this Discussion Paper is to seek input from stakeholders and Canadians on the current C\$1 billion liability limit for power reactors under the Act. Under Section 26 of the NLCA, the Minister of Natural Resources is required to complete a review of the existing liability limit for power reactors by January 2022. The Act stipulates that, at a minimum, the review must consider:

- 1. Changes in the Consumer Price Index, as published by Statistics Canada under the authority of the *Statistics Act*.** Since the NLCA came into force, inflation has increased between 1.6% and 2.3% annually, with 2020 being an exception. During that same time, the liability limit for power reactors was increased in phases from C\$650 million to C\$1 billion as mandated within the Act.
- 2. Financial security requirements under international agreements respecting nuclear liability.** At present, there are seven international civil nuclear liability conventions that govern relations among nuclear and non-nuclear nations. While these conventions may vary in some respects, they all set out the same basic principles that operators are liable for all nuclear damage; liability of the operator is absolute and exclusive; operators must maintain a minimum amount of financial security. It should be noted that each of the conventions and their associated amendments may be viewed as mutually exclusive as some countries may have chosen not to ratify amending protocols.

Paris Convention on Third Party Liability in the Field of Nuclear Energy (1960)

- Protocol to Amend the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960 - the Paris Protocol (2004)

The Convention Supplementary to the Paris Convention of 29 July 1960 - Brussels Supplementary Convention (1963)

- Protocol to amend the Convention Supplementary to the Paris Convention - Revised Brussels Supplementary Convention (2004)

Vienna Convention on Civil Liability for Nuclear Damage (1963)

- Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage - the Vienna Protocol (1997)

Convention on Supplementary Compensation for Nuclear Damage (CSC) (1997)

The Convention on Supplementary Compensation for Nuclear Damage:

Canada is a Contracting Party to the Convention on Supplementary Compensation for Nuclear Damage (CSC), an international instrument under the auspices of the International Atomic Energy Agency (IAEA) that addresses nuclear civil liability in the event of a nuclear incident occurring in a member country or during the transportation of nuclear material resulting in damage within member countries. As a member of the CSC, Canada has available, if required, access to an additional ~C\$174 million, provided through member country contributions in the event damages exceed our domestic liability limit.

The Paris and Brussels Supplementary Conventions:

On February 12, 2004 the contracting parties to the Paris Convention and the Brussels Supplementary Convention adopted the Protocol to Amend the Paris Convention on Third Party Liability in the Field of Nuclear Energy of July 29, 1960, as amended.

The 2004 Protocol has not yet entered into force; however, should it, the new international standard for liability limits for operators will be raised from approximately €170 million (C\$264 million) to €1,200 million (~C\$1.86 billion) per incident.

Some countries (Sweden, Belgium, and the Netherlands) have proactively raised their liability limit in anticipation of the 2004 Protocol coming into effect (Figure 1).

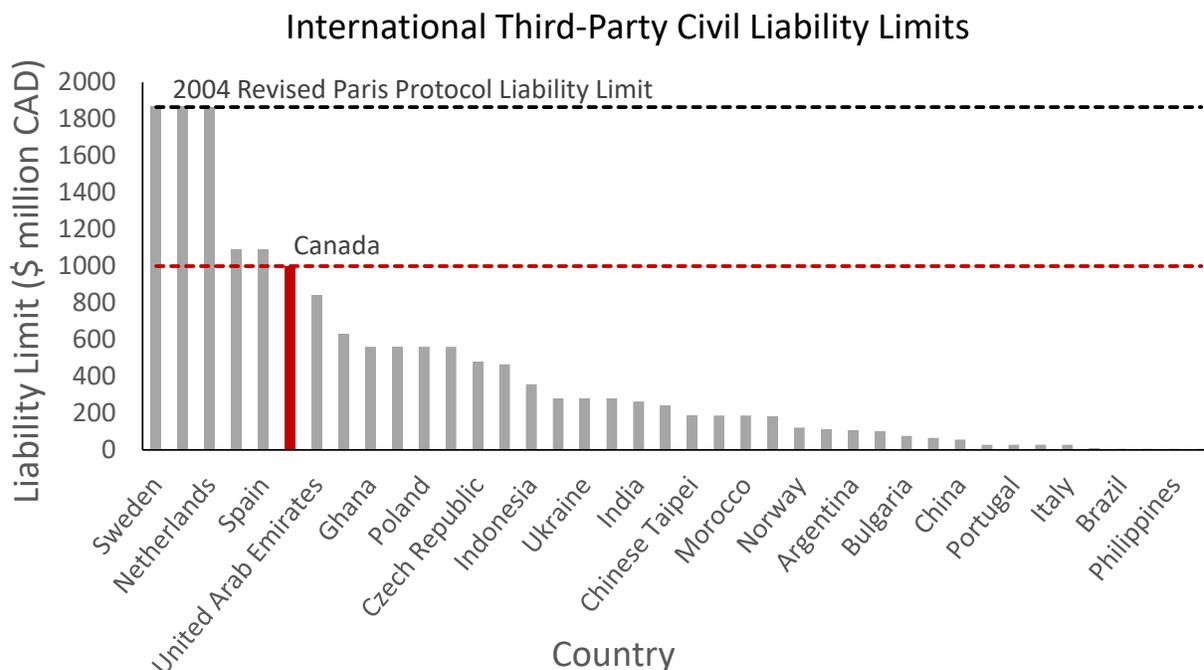


Figure 1. A comparison of the international third-party civil liability limits.

NOTES:

- The graph provides current and proposed operator liability limits and required financial security amounts under the respective nuclear civil liability laws of a representative range of countries.
- Some countries (Finland, Germany, Japan, Russia, Luxembourg, and Switzerland) have unlimited liability and have not been included in the graph.
- The United States' Price-Anderson Act provides for compensation from operators totaling US\$13.4 billion. However, US law does not channel all legal liability to the operator but rather caps aggregate liability for nuclear damage to the sum of the funds (private insurance and contributions to pool) provided by operators.
- Countries with liability limits in excess of C\$10 billion are excluded.

- 3. Any other considerations that the Minister considers relevant.** The review will have the flexibility to take into consideration any other criteria that the Minister deems appropriate. This is one area, where we would like to hear your views.

DISCUSSION QUESTIONS

1. What are your views on the existing C\$1 billion liability limit for power reactors under the NLCA? Should the existing limit be changed based on the factors defined in the NLCA? What additional factors should be considered?
2. What are the implications of an adjustment to the existing liability limit for power reactors? What, if any, additional measures should be contemplated if the existing liability limit were to be increased/decreased?

For further information on the review process and/or to submit your feedback to the discussion questions above, please email nrcan.nlca2021-lrimn2021.nrcan@canada.ca. Feedback to the discussion questions should be submitted by May 31, 2021.

LIABILITY LIMIT REVIEW PROCESS

