

## **Convention on Early Notification of a Nuclear Accident**

### Significance of the Convention:

The Convention strengthens the international response to nuclear accidents by providing a mechanism for rapid information exchange in order to minimize transboundary radiological consequences.

### Scope of the Convention:

The Convention applies in the event of any accident involving specified facilities or activities of a State Party from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in an international transboundary release that could be of radiological safety significance to another State.

### Obligations of States Parties:

- In the event of an accident, the State Party must directly or through the Agency forthwith notify States which are or may be physically affected, and the Agency of the accident, its nature, the time of its occurrence and its exact location where appropriate. (Article 2(a))
- Each State Party must promptly provide those States and the Agency with available information relevant to minimizing the radiological consequences in those States. (Article 2(b))
- Each State Party must notify the Agency and other States Parties, directly or through the Agency, its competent authorities and point of contact and a focal point responsible for issuing and receiving notification and information. (Article 7(1))

### Obligations of the Agency:

- The Agency is to inform States Parties, Member States, other States which are or may be physically affected, and relevant international organisations of any notification it has received. (Article 4 (a))
- The Agency must promptly provide any State Party, Member State or relevant international organisation, on request, with information it has received. (Article 4(b))
- The Agency is required to maintain an up-to-date list of national authorities and points of contact as well as points of contact of relevant international organisations and is to provide it to States Parties and Member States and to relevant international organisations. (Article 7(3))

## **Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency**

### Significance of the Convention:

The Convention strengthens the international response to a nuclear accident or radiological emergency, including a terrorist or other malicious act, by providing a mutual assistance mechanism with a view to minimizing the consequences of such accidents or emergencies and protecting life, property and the environment against the effects of radioactive releases.

### Scope of the Convention:

The Convention provides an international framework to facilitate prompt requests for and provision of assistance in the event of a nuclear accident or radiological emergency and to promote, facilitate and support cooperation between States Parties to that end.

### Obligations of States Parties:

- Co-operate amongst themselves and with the Agency to facilitate prompt assistance. (Article 1(1))
- When assistance is requested from a State Party, it must promptly decide and notify the requesting State Party, directly or through the Agency, whether it is in a position to render the assistance requested and the scope and terms of the assistance that might be rendered. (Article 2(3))
- The requesting State is to provide local facilities and services for the proper and effective administration of the assistance. Also it should ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting party for such purpose. (Article 3(b))
- Each State Party is to notify the Agency and other States Parties its competent authorities and point of contact authorized to make and receive requests for and to accept offers of assistance. (Article 4(1))
- Unless otherwise agreed, the requesting State is to reimburse the assisting party for costs incurred for the services and for all expenses in connection with the assistance. (Article 7(2))
- The requesting State is to afford personnel of the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions. (Article 8(1))

### Obligations of the Agency:

- The Agency is required to respond to a State Party's or a Member State's request for assistance, in accordance with its Statute and the terms of the Convention, by making available appropriate resources for this purpose, promptly transmitting the request to other States and international organisations which may possess the necessary resources, and co-ordinating assistance at the international level if so requested by the requesting State. (Article 2)
- The Agency is required to regularly and expeditiously provide to States Parties, Member States and relevant international organisations information and changes made regarding the competent authorities and points of contact of each State Party. (Article 4)
- The Agency is required (a) collect and disseminate to States Parties and Member States information concerning (i) experts, equipment and materials which could be made available in the event of nuclear accidents or radiological emergencies and (ii) methodologies, techniques and available results of research relating to response to nuclear accidents or radiological emergencies ... (e) establish and maintain liaison with relevant international organisations for the purposes of obtaining and exchanging relevant information and data, and make a list of such organisations available to States Parties, Member States and the aforementioned organizations. (Article 5)

## **Convention on Nuclear Safety**

### Significance of the Convention:

The Convention is the first legally binding international treaty to address the safety of nuclear installations and seeks to ensure that such installations are operated in a safe, well-regulated and environmentally sound manner.

### Objectives of the Convention:

- To achieve and maintain a high level of nuclear safety worldwide through the enhancement of national measures and international cooperation including, technical cooperation.
- To establish and maintain effective defences in nuclear installations against potential radiological hazards to protect individuals, society and the environment.
- To prevent accidents with radiological consequences and to mitigate the consequences of accidents if they should occur.

### Scope of the Convention:

The Convention applies to the safety of nuclear installations meaning land-based civil nuclear power plants under a Contracting Party's jurisdiction including such storage, handling and treatment facilities for radioactive materials as are on the same site and are directly related to the operation of the nuclear power plant.

### Obligations of Contracting Parties:

- Each Party to the Convention is required to take, within the framework of national law, the legislative, regulatory and administrative measures and other steps necessary to implement its obligations under the Convention. (Article 4)
- Each Party is required to submit for review a report on the measures it has taken to implement each of the obligations of the Convention. (Article 5)
- Each Party must establish an independent regulatory body to implement the legislative and regulatory framework required by the Convention with adequate authority, competence, human and financial resources (Article 8).
- Each Party is required to ensure that on-site and off-site emergency plans are in place, are routinely tested and cover the activities to be carried out in the event of an emergency. (Article 16(1))
- Each Party is required to take appropriate steps to ensure that the siting, design and construction, and operation of a nuclear installation are in accordance with their obligations under the Convention with a view to preventing the occurrence of accidents, protect against release of radioactive materials and to mitigate their radiological consequences should they occur. (Articles 17-19)
- Each Party is required to attend meetings of the Contracting Parties and be represented at such meetings by one delegate and such others as it deems necessary. (Article 24(1))

### Obligations of the Agency:

- The Agency is required to provide the secretariat for the meetings of the Contracting Parties. (Article 28)
- The Secretariat is to convene, prepare and service the meetings as well as to transmit to the Contracting Parties information received or prepared in accordance with the provisions of this Convention. (Article 28)

## **Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management**

### Significance of the Convention:

The Joint Convention is the first legally binding international treaty on the safety of spent fuel management and radioactive waste management. It represents a commitment by participating States to achieve and maintain a high level of safety in these areas as part of a global regime for ensuring the protection of people and the environment.

### Objectives of the Convention:

- To achieve and maintain a high level of safety worldwide through the enhancement of national measures and international co-operation.
- To ensure that there are effective defenses against potential hazards so that individuals, society and the environment are protected from harmful effects of ionizing radiation so that the needs and aspirations of the present generation are met without compromising the ability of future generations to meet their needs and aspirations.
- To prevent accidents with radiological consequences and to mitigate their consequences should they occur.

### Scope of the Convention:

- The Convention applies to (i) safety of spent fuel management when the spent fuel results from the operation of civilian nuclear reactors, (ii) safety of radioactive waste management when the radioactive waste results from civilian application and (iii) to certain discharges.

### Obligations of Contracting Parties:

- Contracting Parties shall take the appropriate legislative, regulatory and administrative measures to ensure that at all stages of spent fuel management and radioactive waste management, individuals, society and the environment are adequately protected against radiological hazards in the siting, design and construction, assessment of facilities, operations and closure. (Articles 4-17)
- Each Contracting Party shall ensure that before and during operation of a spent fuel or radioactive waste management facility there are appropriate on-site and, if necessary, off-site emergency plans. (Article 25 (1))
- Each Contracting Party shall take the appropriate steps for the preparation and testing of emergency plans for its territory insofar as it is likely to be affected in the event of a radiological emergency at a spent fuel or radioactive waste management facility in the vicinity of its territory. (Article 25 (2))
- Each Contracting Party shall submit a national report to each review meeting of Contracting Parties. (Article 32)
- Each Contracting Party shall attend meetings of the Contracting Parties and be represented at such meetings by one delegate, and by such alternates, expert and advisers as it deems necessary. (Article 33(1))

### Obligations of the Agency:

- The Agency shall provide the secretariat for the meetings of the Contracting Parties. (Article 37(1))
- The secretariat shall (i) convene, prepare and service the meetings of the Contracting Parties; (ii) transmit to the Contracting Parties information received or prepared in accordance with the provisions of this Convention. (Article 37(2))

## **Convention on the Physical Protection of Nuclear Material**

### Significance of the Convention:

The Convention is one of the thirteen counter-terrorism instruments and is the only internationally legally binding undertaking in the area of physical protection of nuclear material.

### Objective of the Convention:

- To achieve and maintain worldwide effective physical protection of nuclear material used for peaceful purposes and of nuclear facilities used for peaceful purposes;
- To prevent and combat offences relating to such material and facilities worldwide; and
- To facilitate co-operation among States Parties to those ends.

### Scope of the Convention:

This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport and, with certain exceptions, while in domestic use, storage and transport.

### Obligations of State Parties:

- Each State shall take appropriate steps to ensure that during international nuclear transport, nuclear material within its territory or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected. (Article 3)
- Each State Party shall not import, export or authorize the import or export or the transit of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport. (Article 4)
- States Parties shall identify and make known to each other directly or through the IAEA their central authority and point of contact having responsibility for physical protection of nuclear material and for coordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof. (Article 5(1))
- In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. (Article 5(2))
- States Parties shall cooperate and consult regarding guidance on the design, maintenance and improvement of systems of physical protection for nuclear material in international transport. (Article 5(3))
- Each State Party shall make certain offences punishable by appropriate penalties which take into account their grave nature. (Article 7(2))
- Each State Party shall take such measures as necessary to establish its jurisdiction over certain offences when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State and when the alleged offender is a national of that State or when the offender is present in its territory and it does not extradite him. (Article 8(1)-(2))
- The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with laws of that State. (Article 10)
- States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings. (Article 13(1))

- Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. (Article 14(1))
- The State Party where an alleged offender is prosecuted shall first communicate the final outcome of the proceedings to the States directly concerned then to the depositary who shall inform the States. (Article 14(2))

Obligations of the Agency:

- The Agency shall make known any information it has received regarding States Parties' designated central authorities and points of contact. (Article 5(1))
- The Agency shall periodically communicate such information as it receives from States Parties regarding their laws and regulation which give effect to this Convention. (Article 14(1))
- The Agency shall inform all States of any communication received from a State Party concerning the final outcome of proceedings. Article 14(2))

Amendment to the Convention:

In July 2005, the States Parties agreed to amend the Convention and strengthen its provisions. The Amended Convention makes it legally binding for States parties to protect nuclear facilities and material in peaceful domestic use, storage as well as transport. It also provides for expanded cooperation between and among States regarding rapid measures to locate and recover stolen or smuggled nuclear material, mitigate any radiological consequences of sabotage, and prevent and combat related offences.

## **Amendment to the Convention on the Physical Protection of Nuclear Material**

### Significance of the Amendment:

The Amendment to the Convention on the Physical Protection of Nuclear Material is vitally important for nuclear security and, upon its entry into force, would have a major impact on reducing the vulnerability of States Parties to nuclear terrorism. The Amended Convention would make it legally binding for States Parties to protect nuclear facilities and material in peaceful domestic use, storage as well as transport. It also provides for expanded cooperation between and among States regarding rapid measures to locate and recover stolen or smuggled nuclear material, mitigate any radiological consequences of sabotage, and prevent and combat related offences.

### Objectives of the Amendment:

To achieve and maintain worldwide effective physical protection of nuclear material and of nuclear facilities used for peaceful purposes; to prevent and combat offences relating to such material and facilities worldwide; as well as to facilitate co-operation among States Parties to those ends.

### Scope of the Amendment:

Where the obligations for physical protection under the previous Convention covered nuclear material during international transport, the Amendment extends the scope of the Convention to also cover nuclear facilities, nuclear material in domestic use, storage and transport used for peaceful purposes as well as sabotage.

The scope of the Amendment to the Convention is confined to nuclear material and facilities and does not extend to “all radioactive material and associated facilities”.

The Amendment explicitly excludes “activities of armed forces during an armed conflict” and “activities undertaken by military forces in the exercise of their official duties”, from the scope of the Amendment, inasmuch as they are covered by other rules of international law. (Article 2)

The Amendment also explicitly excludes nuclear material used or retained for military purposes and nuclear facilities containing such material. (Article 2)

### Obligations of State Parties:

The Amendment strengthens the original Convention in the following three main areas:

- First, the Amendment sets out a new “core” undertaking by States to establish, implement and maintain a physical protection regime applicable to nuclear material and facilities under their jurisdiction, including: an appropriate legislative and regulatory framework for physical protection; a competent authority responsible for its implementation; and, other administrative measures necessary for the physical protection of such material and facilities. In implementing the relevant obligations under the Amendment, each State shall apply insofar as is reasonable and practicable a number of Fundamental Principles of Physical Protection of Nuclear Material and Nuclear Facilities (amendments to Article 2).
- Second, it requires States to bring under their jurisdiction and make punishable under their national laws certain offences including theft, robbery, smuggling of nuclear material or sabotage of nuclear facilities, as well as acts related to directing and contributing to the commission of such offences. It is worth noting in this context that a number of offences were extended to include “substantial damage to the environment” (amendments to Article 7).
- Third, the Amendment introduces new arrangements for co-operation, assistance and coordination amongst States and the Agency including points of contact, exchange of information with a view to protecting or recovering unlawfully taken nuclear material, credible threats of sabotage of nuclear material or a nuclear facility or in the case of sabotage thereof, guidance in the area of physical protection of nuclear material in international transport and guidance on the design, maintenance and improvement of national systems of physical protection of nuclear material in domestic use, storage and transport and of nuclear facilities (amendments to Article 5).

The Amendment also contains new provisions pursuant to which States undertake not to regard the offences described by the Amendment as being political offences for the purposes of extradition (amendments to Article 11).

The Amendment contains explicit confirmation that nothing in the Amendment shall affect other rights, obligations and responsibilities of States Parties under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law; shall be construed as a lawful authorization to use or threaten to use force against nuclear material or nuclear facilities used for peaceful purposes; condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws (amendments to Article 2).

The Amendment also contains explicit confirmation that nothing in the Amendment shall affect the transfer of nuclear technology for peaceful purposes to strengthen physical protection of nuclear material and facilities (amendments to Article 13).

#### Obligations of the Agency:

Pursuant to the Amendment, the IAEA will assume certain functions in addition to those foreseen in the existing Convention. Further to the Agency's usual depositary functions, these additional functions include:

- to participate in information exchange for recovering and protecting unlawfully taken nuclear material (amendment to paragraph 2 of Article 5);
- to facilitate, coordinate, cooperate and assist in cases related to sabotage of nuclear material and facilities (amendment to paragraph 3 of Article 5);
- to provide guidance on the design, maintenance and improvement of national systems of physical protection (amendment to paragraph 5 of Article 5);
- to communicate information on laws and regulations giving effect to the Convention, received from States Parties (amendment to paragraph 1 of Article 14);
- As depositary for the Convention, the Director General is required to convene a conference of States Parties five years after the entry into force of the Amendment adopted on 8 July 2005 to review the implementation of the Convention as amended (amendment to paragraph 1 of Article 16).

#### Entry into Force

Pursuant to Article 20.2 of the CPPNM, "the amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment."

On 19 September 2005, the Board of Governors welcomed the Amendment of the Convention, urged all States Parties to ratify it and, in the meantime, to act in accordance with its objects and purposes pending its entry into force.

The General Conference, in its resolutions GC(49)/RES/10 and GC(50)/RES/11, has encouraged States Parties to the CPPNM to act in accordance with the object and purpose of the Amendment until such time as it enters into force.