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Introduction to Nuclear Law - International Instruments

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Introduction to Nuclear Law - International Instruments

**Nuclear Law Institute
21 November 2011
Vienna**

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IAEA

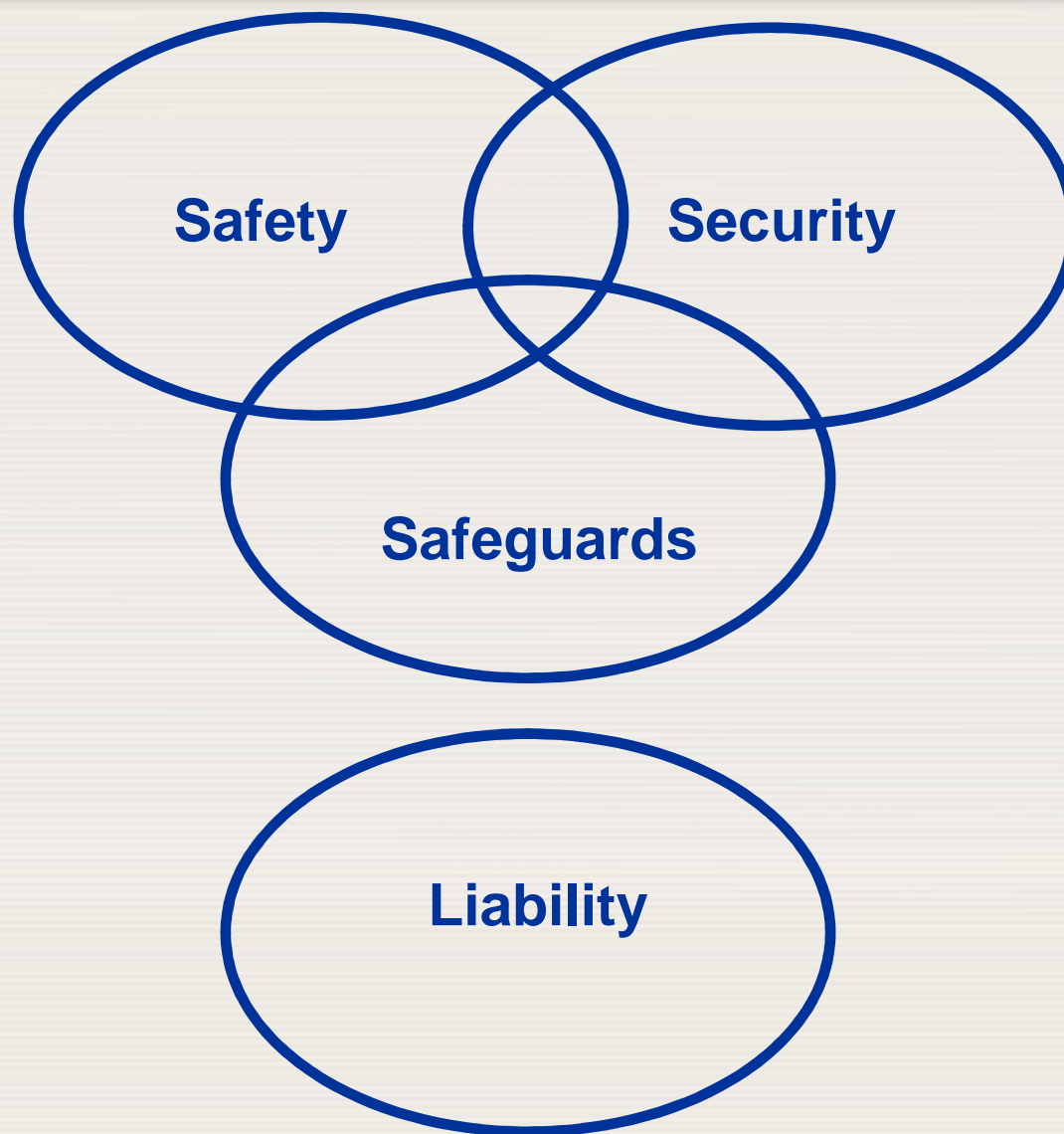
International Atomic Energy Agency

“Nuclear law is the body of special legal norms created to regulate the conduct of legal or natural persons engaged in activities related to fissionable materials and ionizing radiation”

International legal framework



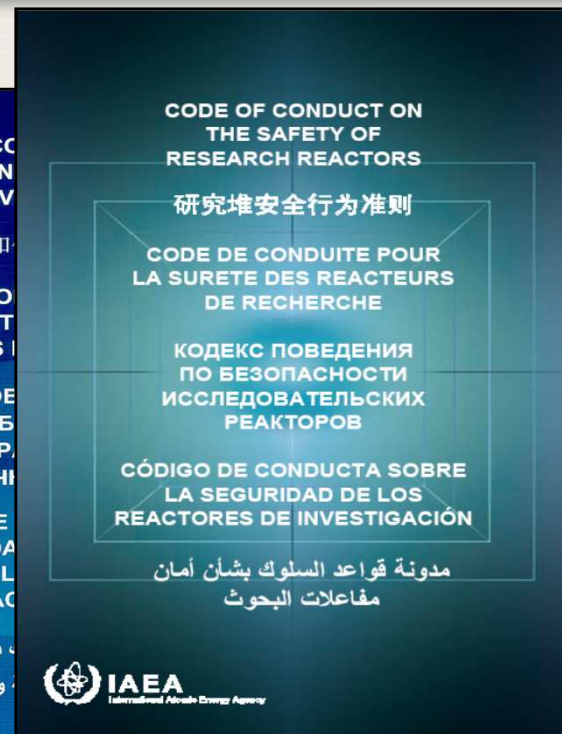
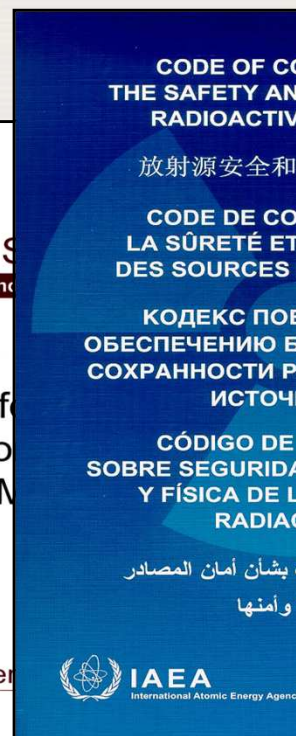
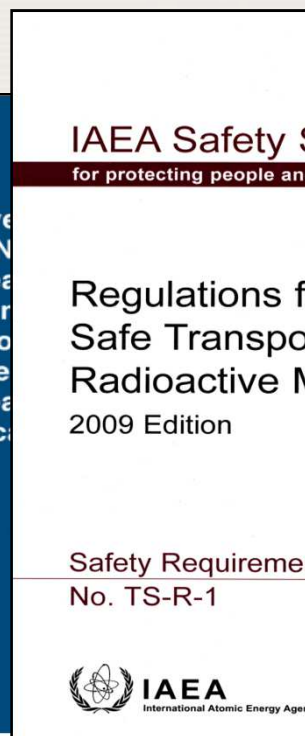
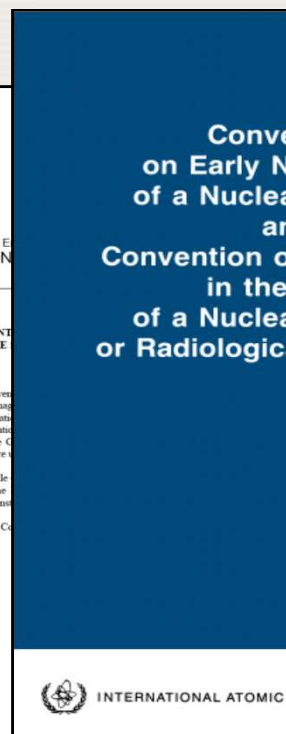
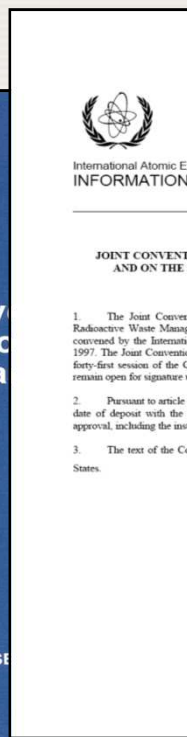
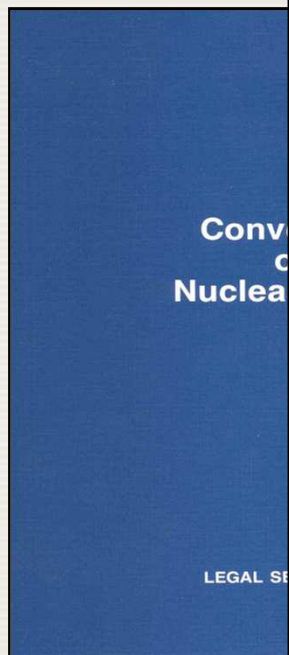
National law



Nuclear Safety

**Aims to protect individuals, society and the
environment from radiological releases**

Seven international instruments to remember



CONVENTION ON NUCLEAR SAFETY

Convention on Nuclear Safety

LEGAL SERIES No. 16



INTERNATIONAL ATOMIC ENERGY AGENCY, VIENNA, 1994

Scope:

Safety of nuclear installations

=

“any land-based civil nuclear power plant including storage, handling and treatment facilities that are on the same site and directly related to the operation of the nuclear power plant”

Does not apply to research reactors

CONVENTION ON NUCLEAR SAFETY

Key points:

All countries operating nuclear power plants are party to the Convention

Peer review process

Adequacy has been questioned

Extraordinary Meeting to discuss lessons learned from Fukushima

JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT



International Atomic Energy Agency
INFORMATION CIRCULAR

INF

INFCIRC/546
24 December 1997

GENERAL Distr.
Original: ARABIC, CHINESE
ENGLISH, FRENCH, RUSSIAN and
SPANISH

JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT

1. The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management was adopted on 5 September 1997 by a Diplomatic Conference convened by the International Atomic Energy Agency at its headquarters from 1 to 5 September 1997. The Joint Convention was opened for signature at Vienna on 29 September 1997 during the forty-first session of the General Conference of the International Atomic Energy Agency and will remain open for signature until its entry into force.
2. Pursuant to article 40, the Joint Convention will enter into force on the ninetieth day after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen States each having an operational nuclear power plant.
3. The text of the Convention, as adopted, is attached hereto for the information of Member States.

Scope:

Spent fuel from the operation of
civilian nuclear reactors

Radioactive waste from civilian
applications, including
decommissioning activities

Uranium mining and milling
wastes

Not spent fuel held at
reprocessing facilities as part of
a reprocessing activity

Not NORM material which is
outside the nuclear fuel cycle

JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT

Key points:

Only 60 parties although relevant to all states (with or without a nuclear power programme)

Peer review process

CONVENTIONS ON EARLY NOTIFICATION AND ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

Convention
on Early Notification
of a Nuclear Accident
and
Convention on Assistance
in the Case
of a Nuclear Accident
or Radiological Emergency

Scope:

Obligation to notify nuclear accidents which have resulted or may result in a transboundary release that could be of radiological safety significance for another State

System of national contact points for information exchange



CONVENTIONS ON EARLY NOTIFICATION AND ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

Key points:

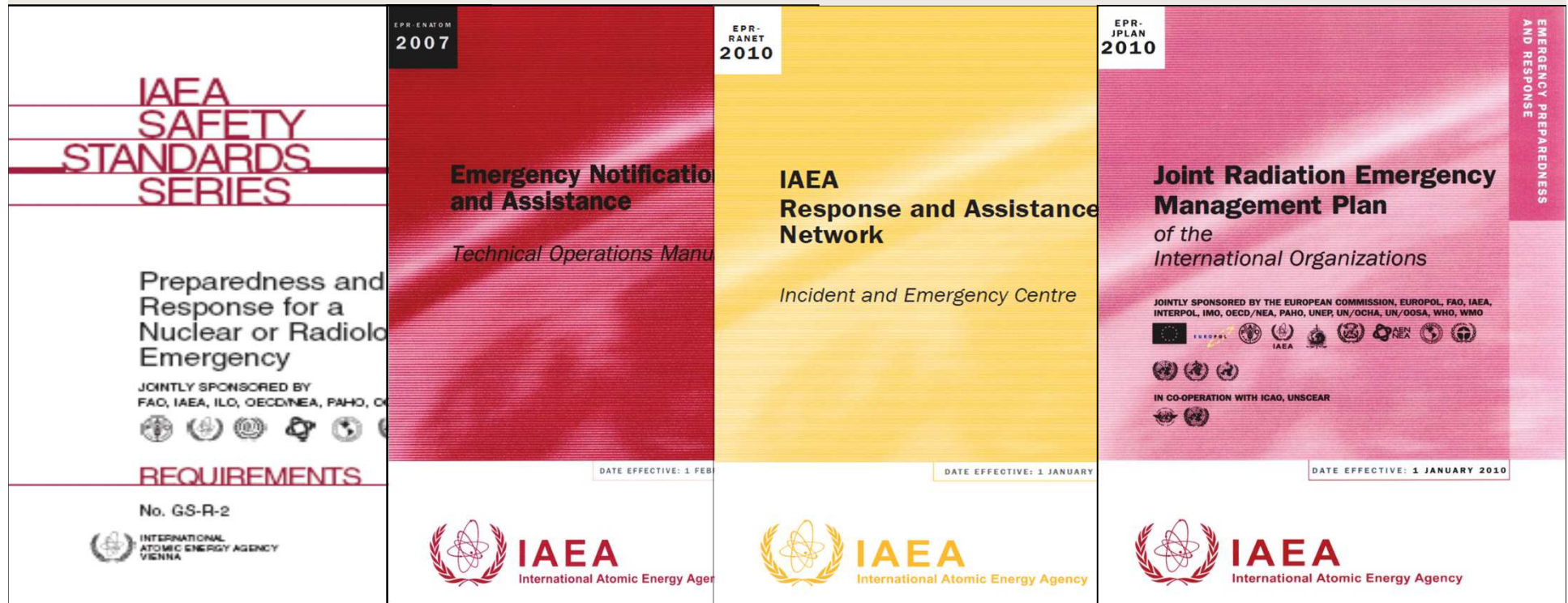
So-called post-Chernobyl conventions

Global regime with more than 100 parties

CONVENTIONS ON EARLY NOTIFICATION AND ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

Complemented by:

- Bilateral agreements between neighbouring States
- A number of safety standards; and practical arrangements and mechanisms:



ENATOM

RANET

JPLAN

IAEA REGULATIONS FOR THE SAFE TRANSPORT OF RADIOACTIVE MATERIAL

IAEA Safety Standards

for protecting people and the environment

Regulations for the
Safe Transport of
Radioactive Material

2009 Edition

Safety Requirements

No. TS-R-1



Scope:

All radioactive material ranging from very low activity material to very high activity material such as spent fuel and high-level waste

World-wide transport of radioactive material by all modes of transport, i.e. air, sea, land

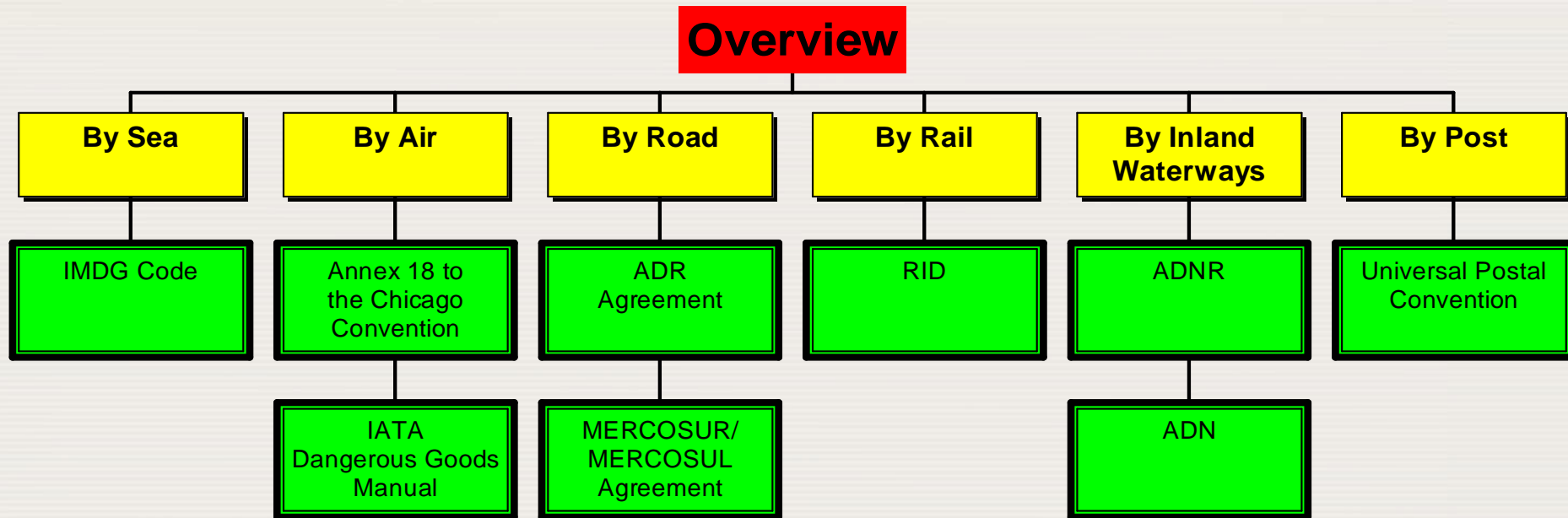
IAEA REGULATIONS FOR THE SAFE TRANSPORT OF RADIOACTIVE MATERIAL

Key point:

Not only a non-binding safety standard but creates also a legally binding regime

This is necessary to facilitate the movement of radioactive material across borders

IAEA REGULATIONS FOR THE SAFE TRANSPORT OF RADIOACTIVE MATERIAL



= incorporate the principles of the IAEA Transport Regulations

CODE OF CONDUCT ON THE SAFETY AND SECURITY OF RADIOACTIVE SOURCES

CODE OF CONDUCT ON
THE SAFETY AND SECURITY OF
RADIOACTIVE SOURCES

放射源安全和保安行为准则

CODE DE CONDUITE SUR
LA SÛRETÉ ET LA SÉCURITÉ
DES SOURCES RADIOACTIVES

КОДЕКС ПОВЕДЕНИЯ ПО
ОБЕСПЕЧЕНИЮ БЕЗОПАСНОСТИ И
СОХРАННОСТИ РАДИОАКТИВНЫХ
ИСТОЧНИКОВ

CÓDIGO DE CONDUCTA
SOBRE SEGURIDAD TECNOLÓGICA
Y FÍSICA DE LAS FUENTES
RADIATIVAS

مدونة قواعد السلوك بشأن أمان المصادر
المنشعة وأمنها

Scope:

‘High risk’ sealed radioactive sources (Categories 1-3)

Supplemented by import/export guidance document to facilitate harmonized approach among exporting countries

CODE OF CONDUCT OF THE SAFETY AND SECURITY OF RADIOACTIVE SOURCES

Key points:

Is a non-binding legal instrument

Presently just over 100 political commitments

For the first time, cross-over with nuclear security regime

No peer review process but regular meetings

CODE OF CONDUCT OF THE SAFETY OF RESEARCH REACTORS

CODE OF CONDUCT ON
THE SAFETY OF
RESEARCH REACTORS

研究堆安全行为准则

CODE DE CONDUITE POUR
LA SURETE DES REACTEURS
DE RECHERCHE

КОДЕКС ПОВЕДЕНИЯ
ПО БЕЗОПАСНОСТИ
ИССЛЕДОВАТЕЛЬСКИХ
РЕАКТОРОВ

CÓDIGO DE CONDUCTA SOBRE
LA SEGURIDAD DE LOS
REACTORES DE INVESTIGACIÓN

مدونة قواعد السلوك بشأن أمان
مفاعلات البحوث

Scope:

Safety of “research reactors”

=

nuclear reactors used mainly for
the generation and utilization of
neutron flux and ionising
radiation for research and other
purposes

CODE OF CONDUCT OF THE SAFETY OF RESEARCH REACTORS

Key points:

Is a non-binding legal instrument

Covers all stages of RR lives from siting to decommissioning

No political commitment foreseen under this Code

No peer review process but regular meetings

Lacks security provisions



POINTS TO REMEMBER

Safety:

Regime started with Chernobyl in 1986

Comprehensive suite of legal instruments – although combination of binding and non-binding instruments

Complemented by a comprehensive set of safety standards

Common element of all of these instruments is the establishment of a system of control of nuclear activities

Regime now under scrutiny notably regarding its technical contents (design requirements, independence of regulatory body, analysis of information)



Nuclear Security

**Aims to protect radioactive and nuclear material
and facilities from malicious acts by non-State
actors**

Seven international instruments to remember

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Convention
on the Physical Protection
of Nuclear Material

LEGAL SERIES No.12



INTERNATIONAL ATOMIC ENERGY AGENCY, VIENNA, 1982

Scope: (threefold)

Physical protection of
nuclear material during
international transport

Criminalisation of offences
(prosecution or extradition)

International co-operation
and information exchange

THE AMENDMENT TO THE CPPNM

Amendment to the Convention on the Physical Protection of Nuclear Material

1. The Title of the Convention on the Physical Protection of Nuclear Material adopted on 26 October 1979 (hereinafter referred to as "the Convention") is replaced by the following title:

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL AND NUCLEAR FACILITIES

2. The Preamble of the Convention is replaced by the following text:
THE STATES PARTIES TO THIS CONVENTION,

RECOGNIZING the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

CONVINCED of the need to facilitate international co-operation and the transfer of nuclear technology for the peaceful application of nuclear energy,

BEARING IN MIND that physical protection is of vital importance for the protection of public health, safety, the environment and national and international security,

HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and co-operation among States,

CONSIDERING that under the terms of paragraph 4 of Article 2 of the Charter of the United Nations, "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations,"

RECALLING the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994,

DESIRING to avert the potential dangers posed by illicit trafficking, the unlawful taking and use of nuclear material and the sabotage of nuclear material and nuclear facilities, and noting that physical protection against such acts has become a matter of increased national and international concern,

DEEPLY CONCERNED by the worldwide escalation of acts of terrorism in all its forms and manifestations, and by the threats posed by international terrorism and organized crime,

Scope (extended):

Physical Protection of nuclear facilities and of nuclear material in domestic use, storage and transport

New offences relating to nuclear smuggling/illicit trafficking and sabotage

Expanded co-operation among States regarding stolen or smuggled nuclear material, sabotage, and related offences

CODE OF CONDUCT ON THE SAFETY AND SECURITY OF RADIOACTIVE SOURCES

CODE OF CONDUCT ON
THE SAFETY AND SECURITY OF
RADIOACTIVE SOURCES

放射源安全和保安行为准则

CODE DE CONDUITE SUR
LA SÛRETÉ ET LA SÉCURITÉ
DES SOURCES RADIOACTIVES

КОДЕКС ПОВЕДЕНИЯ ПО
ОБЕСПЕЧЕНИЮ БЕЗОПАСНОСТИ И
СОХРАННОСТИ РАДИОАКТИВНЫХ
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SOBRE SEGURIDAD TECNOLÓGICA
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RADIATIVAS

مدونة قواعد السلوك بشأن أمان المصادر
المنشعة وأمنها

Scope:

Applies to security of sealed sources

Nuclear material or unsealed sources are not covered

INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM

United Nations

A/RES/59/290



General Assembly

Distr.: General
15 April 2005

Fifty-ninth session
Agenda item 148

Resolution adopted by the General Assembly

[on the report of the Ad Hoc Committee established by General Assembly
resolution 51/210 of 17 December 1996 (A/59/766)]

59/290. International Convention for the Suppression of Acts of Nuclear Terrorism

The General Assembly,

Having considered the text of the draft international convention for the suppression of acts of nuclear terrorism elaborated by the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and the Working Group of the Sixth Committee,

1. *Adopts* the International Convention for the Suppression of Acts of Nuclear Terrorism annexed to the present resolution, and requests the Secretary-General to open the Convention for signature at United Nations Headquarters in New York from 14 September 2005 to 31 December 2006;
2. *Calls upon* all States to sign and ratify, accept, approve or accede to the Convention.

*91st plenary meeting
13 April 2005*

Annex

International Convention for the Suppression of Acts of Nuclear Terrorism

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995,

Recognizing the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

Scope:

All radioactive material,
including nuclear material

Same subject matter as the
CPPNM and its Amendment (i.e.
physical protection,
criminalization of offences and
international cooperation)

Refers to relevant IAEA
recommendations regarding the
physical protection of
radioactive material

IMO SUA CONVENTION AND PROTOCOLS



Scope:

All ships except warships

Criminalisation of offences (prosecution or extradition)

International cooperation and information exchange

The 2005 Protocols (eif in 2010) extend scope to include criminalisation of maritime transport of terrorists, terrorist acts and unlawful transport of WMD and related materials

ICAO SUA CONVENTION AND PROTOCOL

PROTOCOL

SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT

THE STATES PARTIES TO THIS PROTOCOL,

DEEPLY CONCERNED about the worldwide escalation of unlawful acts against civil aviation;

RECOGNIZING that new types of threats against civil aviation require new concerted efforts and policies of cooperation on the part of States; and

BELIEVING that in order to better address these threats, it is necessary to adopt provisions supplementary to those of the *Convention for the Suppression of Unlawful Seizure of Aircraft* signed at The Hague on 16 December 1970, to suppress unlawful acts of seizure or exercise of control of aircraft and to improve its effectiveness;

HAVE AGREED AS FOLLOWS:

Article I

This Protocol supplements the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970 (hereinafter referred to as "the Convention").

Article II

Article 1 of the Convention shall be replaced by the following:

"Article 1

1. Any person commits an offence if that person unlawfully and intentionally seizes or exercises control of an aircraft in service by force or threat thereof, or by coercion, or by any other form of intimidation, or by any technological means.
2. Any person also commits an offence if that person:
 - (a) makes a threat to commit the offence set forth in paragraph 1 of this Article; or
 - (b) unlawfully and intentionally causes any person to receive such a threat,under circumstances which indicate that the threat is credible.

Scope:

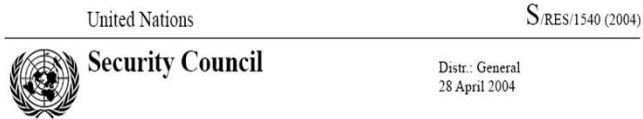
Civil aircraft

Criminalisation of offences (prosecution or extradition)

International cooperation and information exchange

Beijing 2010 Conference extend scope of Convention and Protocol to include criminalisation of unlawful transport of WMDs and radioactive material, use of civil aircraft to discharge WMDs and use of WMDs to attack civil aircraft

UN SECURITY COUNCIL RESOLUTION 1540



Resolution 1540 (2004)

Adopted by the Security Council at its 4956th meeting,
on 28 April 2004

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,* constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

* Definitions for the purpose of this resolution only:

Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

04-32843 (E)

0432843

Scope:

Weapons of mass destruction (nuclear, biological, chemical)

States to prohibit non-State actors from acquiring such weapons through:

- adoption of laws
- enforcement measures
- domestic controls

Establishes the 1540 Committee to monitor implementation of the resolution

POINTS TO REMEMBER

Security:

- Was reinforced after 9/11
- Multiplicity of instruments and numerous international initiatives (currently 18 international counter terrorism instruments)
- The common thread for the majority of these instruments is the threefold scope of application: subject matter; criminalization and international cooperation
- International legal framework on nuclear security is supported by a number of international initiatives

Safeguards

**Three international instruments to
remember**



International Atomic Energy Agency
INFORMATION CIRCULAR

TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Notification of the entry into force

1. By letters addressed to the Director General on 5, 6 and 20 March 1968, the Governments of the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Union of Soviet Socialist Republics, which are designated in Article IX, 2, of the Treaty on the Non-Proliferation of Nuclear Weapons, informed the Agency that the Treaty had entered into force on 5 March 1968.
2. The text of the Treaty, taken from a certified true copy provided by the United Kingdom Government, is reproduced below for the convenience of all Member States.

TREATY

ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

The States concluding this Treaty, hereinafter referred to as the "Parties",

Considering the devastation that would be visited upon all mankind by a nuclear war, and consequent need to make every effort to avert the danger of such a war, and to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously endanger the security of peoples,

In conformity with resolutions of the United Nations General Assembly, and in conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other applications, within the framework of the International Atomic Energy Agency, of the principle of safeguarding effectively the flow of source materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear energy, including any technological by-products which may be derived by such applications, should be available for the development of nuclear explosive devices, should be available for the Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty should participate in the fullest possible exchange of scientific information for peaceful purposes or in co-operation with other States to, the further development of the energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the co-operation of all States in the attainment of this objective,

INFCIRC/138
(Corrected)

THE STRUCTURE AND
CONTENT OF AGREEMENTS
BETWEEN
THE AGENCY AND STATES
REQUIRED IN CONNECTION
WITH THE TREATY
ON THE
NON-PROLIFERATION
OF NUCLEAR WEAPONS



IAEA
International Atomic Energy Agency

INFCIRC/540
(Corrected)

MODEL PROTOCOL
ADDITIONAL
TO THE AGREEMENT(S)
BETWEEN STATE(S)
AND THE
INTERNATIONAL
ATOMIC ENERGY AGENCY
FOR THE
APPLICATION OF SAFEGUARDS



IAEA
International Atomic Energy Agency



IAEA

Nuclear Liability

International Instruments

**OECD/NEA
REGIONAL**

1960 Paris Convention

**1963 Brussels
Supplementary Convention**

**2004 Protocols revising
the Paris and Brussels Conventions**

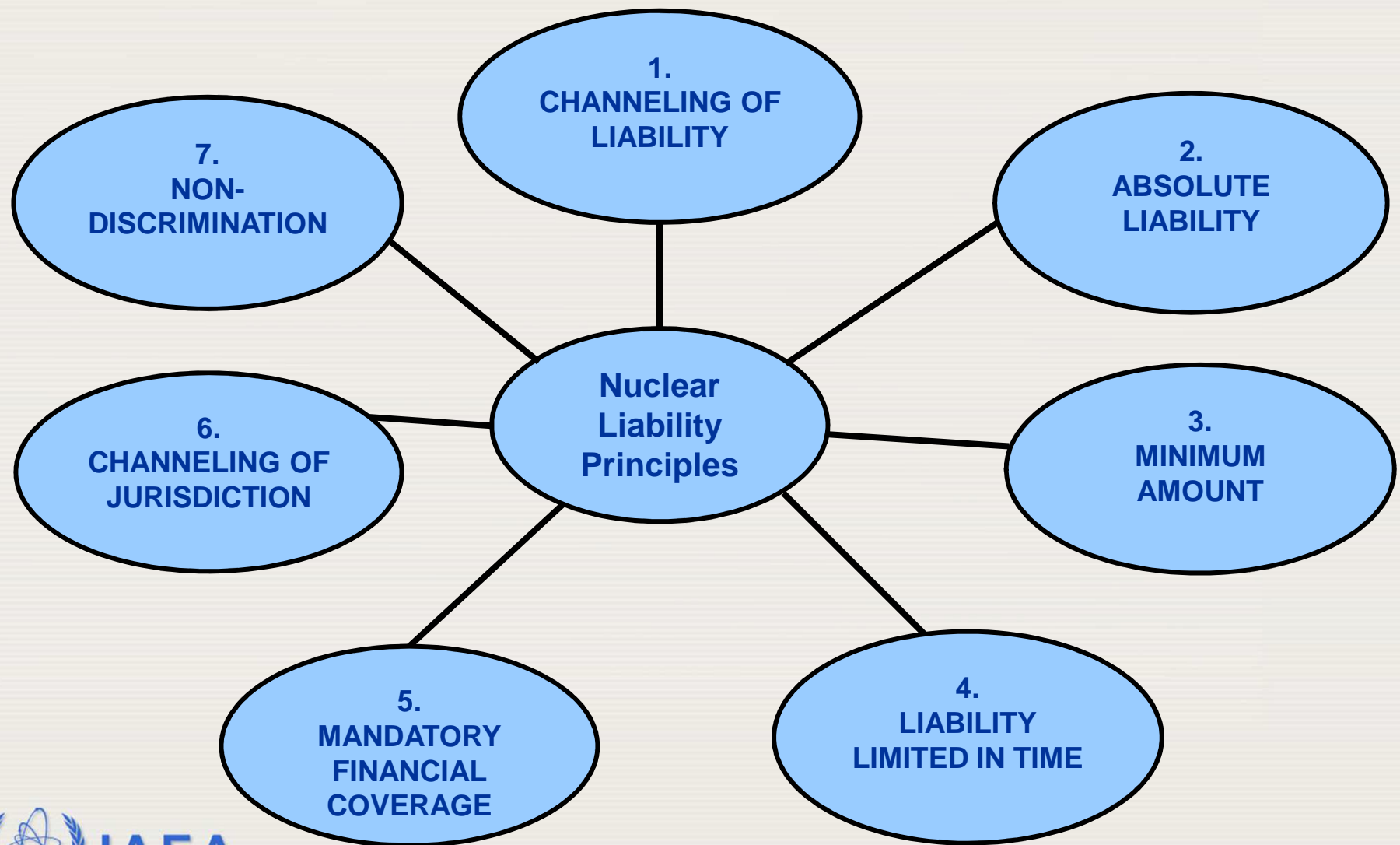
**IAEA
GLOBAL**

1963 Vienna Convention

**1997 Protocol to amend the
Vienna Convention**

**1997 Convention on
Supplementary Compensation**

1988 Joint Protocol



POINTS TO REMEMBER

Liability:

- The liability regime was created with the dual objective of assuring adequate compensation for victims and facilitating nuclear energy development
- The international instruments are relevant for both nuclear power and non-nuclear power countries
- 1997 CSC provides the basis for a global nuclear liability regime but not yet in force

**All of these international legal instruments are
relevant as States will transform them into
national law**

**All texts can be found via the website of the
Office of Legal Affairs**

<http://ola.iaea.org/OLA/default.asp>

THANK YOU FOR YOUR ATTENTION!