

Legal Framework for Nuclear Safety (General Overview)

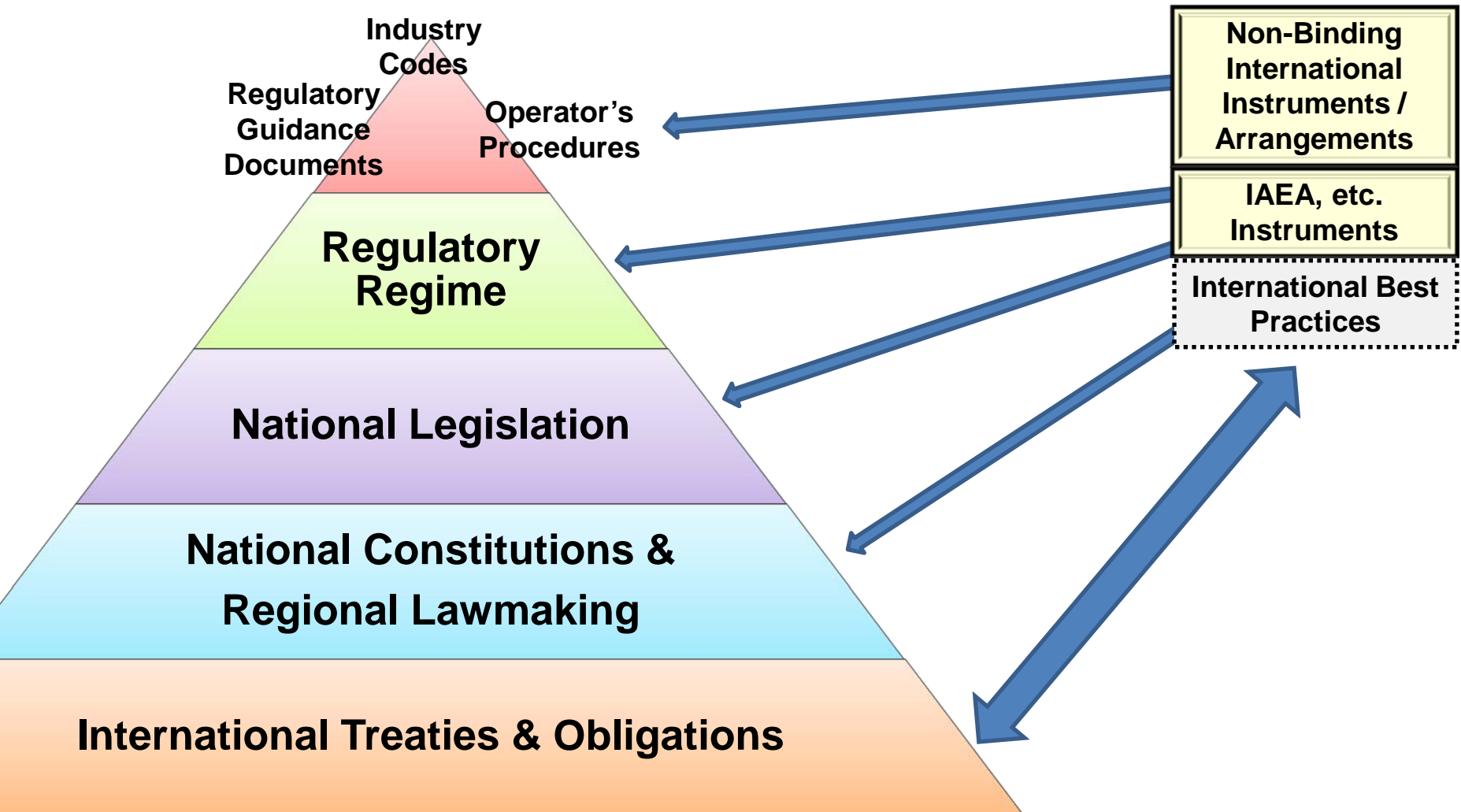
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FNCA Study Panel
23 March 2018

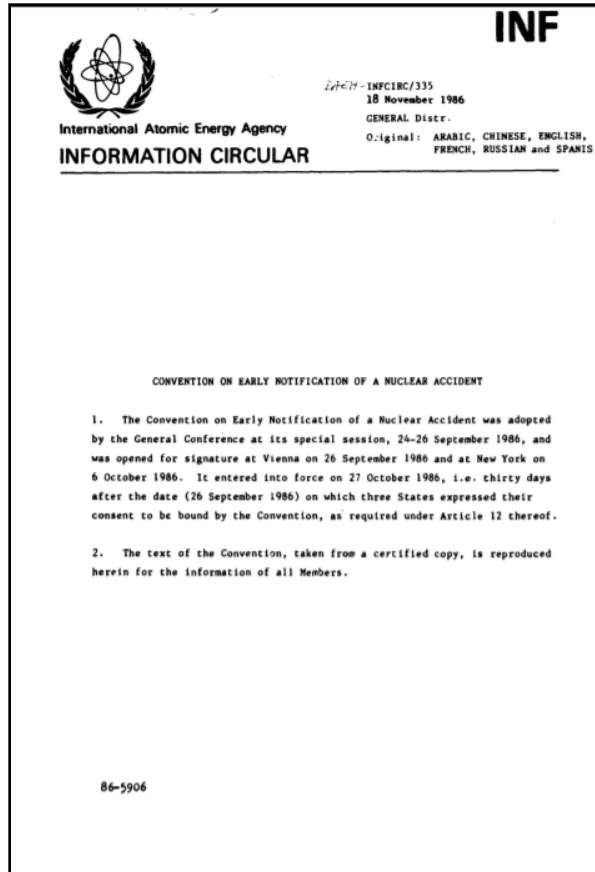
Overview

- Overview of conventions important to nuclear safety
- Focus on the Convention on Nuclear Safety

Legal Framework for Nuclear Safety



Emergency Response



Convention on Early Notification of a Nuclear Accident (Early Notification Convention)

The Early Notification Convention establishes a notification system for nuclear accidents that have the potential for an international transboundary release of radioactive material that could be of radiological safety significance for another state.

Adopted: 26 September 1986

Entered into force: 27 October 1986

Parties: 121

Emergency Response

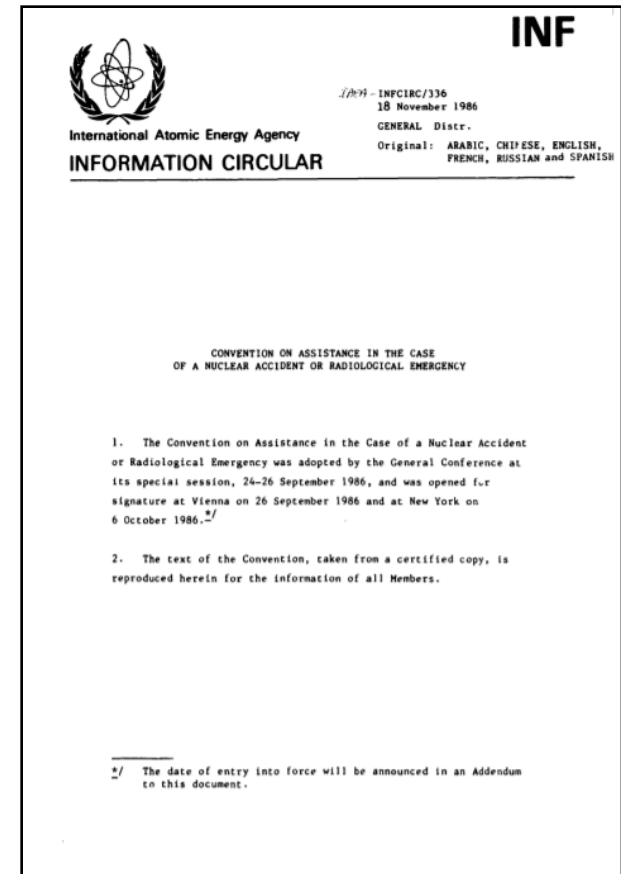
Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (Convention on Assistance)

Sets up a framework for states parties to co-operate amongst themselves and with the IAEA to facilitate prompt assistance in the event of a nuclear accident or radiological emergency.

Adopted: 26 September 1986

Entered into force: 26 February 1987

Parties: 115



Nuclear Safety



International Atomic Energy Agency
INFORMATION CIRCULAR

INF

Inf - INFCIRC/449
5 July 1994

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

CONVENTION ON NUCLEAR SAFETY

1. The Convention on Nuclear Safety was adopted on 17 June 1994 by a Diplomatic Conference convened by the International Atomic Energy Agency at its Headquarters from 14 to 17 June 1994. The Convention will be opened for signature on 20 September 1994 during the thirty-eighth regular session of the Agency's General Conference and will enter into force on the ninetieth day after the date of deposit with the Depositary (the Agency's Director General) of the twenty-second instrument of ratification, acceptance or approval, including the instruments of seventeen States, having each at least one nuclear installation which has achieved criticality in a reactor core.

2. The text of the Convention as adopted is reproduced in the Annex hereto for the information of all Member States.

Convention on Nuclear Safety (CNS)

An incentive convention that aims to, *inter alia*, achieve and maintain a high level of nuclear safety worldwide through the enhancement of national measures and international co-operation including, where appropriate, safety-related technical co-operation.

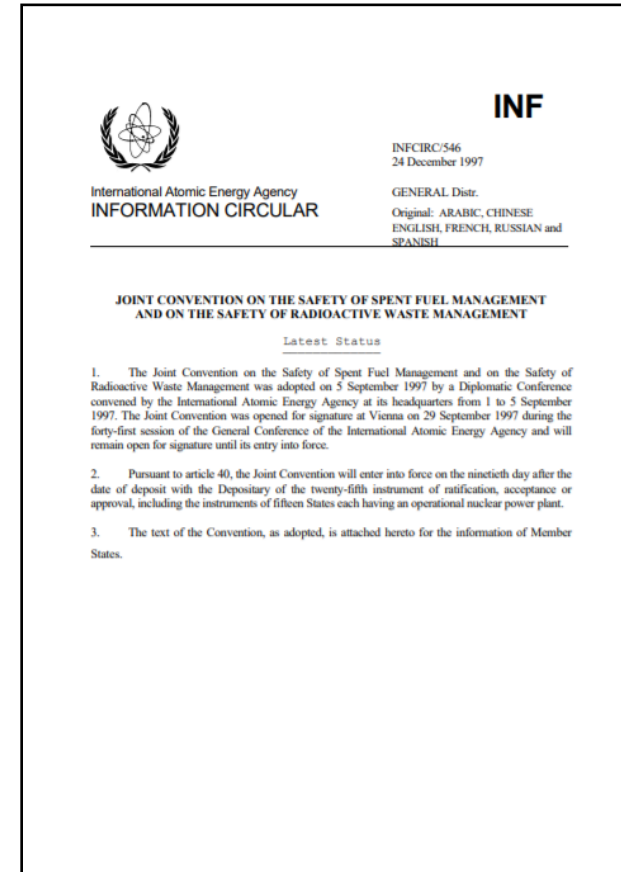
- **Adopted:** 17 June 1994
- **Entry into force:** 24 October 1996
- **Parties:** 84

Nuclear Safety

Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (Joint Convention)

An incentive convention that aims to, *inter alia*, achieve and a high level of safety worldwide in spent fuel and radioactive waste management, through the enhancement of national measures and international co-operation, including where appropriate, safety-related technical co-operation.

- **Adopted:** 5 September 1997
- **Entry into force:** 18 June 2001
- **Parties:** 78



Convention on Nuclear Safety

Main Principles (Preamble)

- It is necessary to promote a high level of nuclear safety worldwide
- Promotion of an effective nuclear safety culture is desirable
- Responsibility for nuclear safety rests with the state with responsibility over a nuclear installation
- Accidents have the potential for transboundary consequences
- International co-operation is key

Convention on Nuclear Safety

Obligations

- **Article 4:** implement the obligations of the CNS in national legal frameworks
- **Article 7:** establish and maintain a legislative and regulatory framework providing for: (i) national safety requirements and regulations; (ii) licensing and prohibition; (iii) inspection and assessment; and (iv) enforcement.
- **Article 8(1):** establish or designate a regulatory body with adequate authority, competence and financial and human resources
- **Article 8(2):** ensure an effective separation between the functions of the regulator and any body or organization concerned with the promotion or utilization of nuclear energy
- **Article 9:** ensure that the prime responsibility for the safety of a nuclear installation rests with the license holder and ensure that the license holder meets its responsibility

Convention on Nuclear Safety

Obligations: General Safety Considerations and Safety of Installations

- **Article 10:** Priority to Safety
- **Article 11:** Financial and Human Resources
- **Article 12:** Human Factors
- **Article 13:** Quality Assurance
- **Article 14:** Assessment and Verification of Safety
- **Article 15:** Radiation Protection
- **Article 16:** Emergency Preparedness
- **Article 17:** Siting
- **Article 18:** Design and Construction
- **Article 19:** Operation

Key Points: Regulatory Functions (Art. 7)

Standards setting



Licensing and permitting



Inspection and monitoring



Enforcement



Key Points: Responsibility (Art. 9)



The **regulatory body** sets the standards and enforces them within the legal framework.



The **nuclear operator**, however, bears ultimate responsibility for the safety and security of the installation.



Use of radioactive materials and operation of nuclear facilities must be deemed safe with low risk of harm to workers, the public and the environment

Key Points: Independence (Art. 8(2))



Effective

Separation



Independence in Focus (IAEA)

IAEA Safety Standards for protecting people and the environment

Governmental, Legal and Regulatory Framework for Safety

General Safety Requirements No. GSR Part 1 (Rev. 1)



Requirement 4: Independence of the regulatory body

The government shall ensure that the regulatory body is *effectively independent* in its safety related decision making and that it has functional separation from entities having responsibilities or interests that could unduly influence its decision making.

Independence in Focus (IAEA)

IAEA Safety Standards

for protecting people and the environment

Governmental, Legal and Regulatory Framework for Safety

General Safety Requirements
No. GSR Part 1 (Rev. 1)



2.8 To be effectively independent from undue influences on its decision making, the regulatory body:

- (a) Shall have sufficient authority and sufficient competent staff;
- (b) Shall have access to sufficient financial resources ...;
- (c) Shall be able to make independent regulatory judgements and regulatory decisions ...;
- (d) Shall be free from any pressures associated with political circumstances or economic conditions, or pressures from government departments, authorized parties or other organizations;
- (e) Shall be able to give independent advice and provide reports to government ...;
- (f) Shall be able to liaise directly with regulatory bodies of other States and with international organizations to promote cooperation and the exchange of regulatory related information and experience.



Independence in Focus (EU)

Member States shall ensure the effective independence from undue influence of the competent regulatory authority in its regulatory decision-making. For this purpose, Member States **shall ensure** that the national framework requires that the competent regulatory authority:

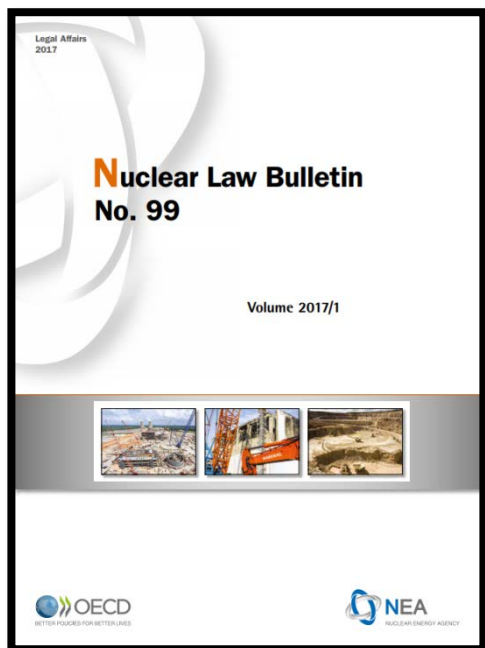
- a) is **functionally separate** from any other body or organisation concerned with the promotion or utilisation of nuclear energy, and does not seek or take instructions from any such body or organisation when carrying out its regulatory tasks;
- b) takes regulatory decisions founded on **robust and transparent nuclear safety-related requirements**;
- c) is given **dedicated and appropriate budget** allocations to allow for the delivery of its regulatory tasks as defined in the national framework and is responsible for the implementation of the allocated budget;
- d) employs an **appropriate number of staff with qualifications, experience and expertise necessary** to fulfil its obligations. It may use external scientific and technical resources and expertise in support of its regulatory functions;
- e) establishes **procedures** for the prevention and resolution of any conflicts of interest;
- f) **provides nuclear safety-related information** without clearance from any other body or organisation, provided that this does not jeopardise other overriding interests, such as security, recognised in relevant legislation or international instruments.

Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations

Concluding Thoughts

- There is broad agreement among international and national organisations that the fundamental objective of all nuclear safety regulatory bodies – the regulator’s prime purpose – is to ensure that nuclear licensees operate their facilities at all times in a safe manner.
- While there is great support for the safety conventions (84 parties to the CNS and 77 parties to the Joint Convention), not every party has fully subscribed to the articles on responsibility, functions and characteristics of regulatory bodies.
- Without any forcing function in the conventions, countries are left with only encouragement to subscribe to the principles of the conventions.

Other NEA Nuclear Law Resources



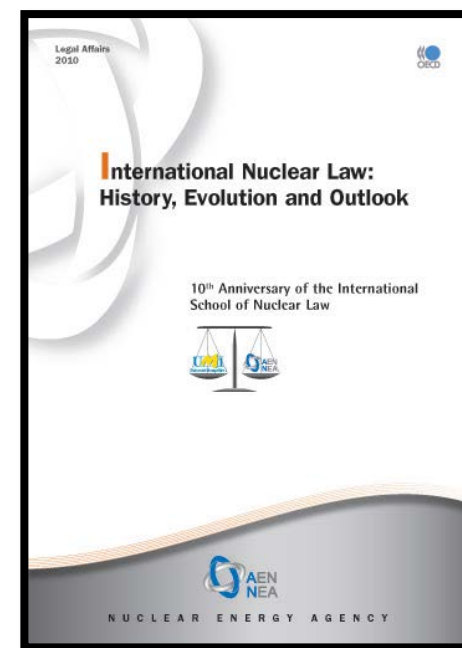
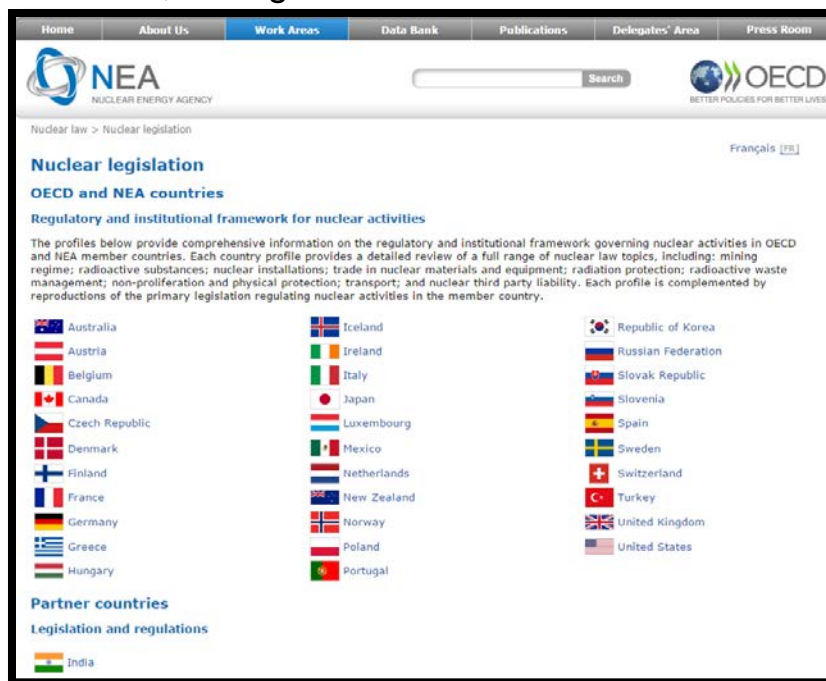
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Thank you for your attention!



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