

The IAEA Conventions on Early Notification of a Nuclear Accident and on Assistance in the Case of a Nuclear Accident or Radiological Emergency

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Abstract

This article provides a comprehensive analysis of the provisions of both conventions. Special attention is paid to the rules of the Convention on Early Notification which identify the event subject to notification and the content and addressees of the information provided with regard to a nuclear accident, as well as to the provisions of the Convention on Assistance concerning the request and grant of international assistance with regard to a nuclear accident and the duties attributed in this field to the IAEA. The author also considers the liability questions raised by that convention.

I. General

In the wake of the Chernobyl reactor accident on 26 April 1986, discussions were initiated in the International Atomic Energy Agency (IAEA) with the object of strengthening international co-operation in the development and use of nuclear energy. To that end, the intention, among other things, was that IAEA Member States (and the IAEA itself) should be under an obligation, in the event of an accident in their own country, to notify any other states for which there was a danger of harmful radiological effects as quickly as possible. It was also the intention that Member States and the IAEA should agree on an undertaking to provide assistance in the case of a nuclear accident or a radiological emergency. The Chernobyl accident in the Ukraine had radiological consequences on an unprecedented scale on the territory of other states not limited to those bordering the USSR. The disaster was in no way attributable solely to reactor staff; a major factor was the extremely risky design of this type of reactor in which the drawbacks are so serious that the construction of this type of power plant has hardly ever been authorised in any other country.¹ For this reason, it is not possible to

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1. The moderator used in the Chernobyl 1 000 megawatt reactor (a type known as RBMK 1000) is a graphite block of slightly oval shape, average diameter 11.8 metres and 7 metres high. The graphite is carbon. The moderator is needed in order to slow down the fast neutrons released by nuclear fission to a lower energy level by collision with the atoms of the moderator material, since only a few fast neutrons are sufficient to cause further nuclear fission. The radioactive fissile material is contained in the approximately 7m long metal alloy (zircalloy) rods which are cooled by water circulating in cooling channels in the graphite block. It is clear that the cooling system failed, causing the fuel in the rods to overheat. This burst open the jackets which were oxidised by the vaporised water and the direct contact with the fissile material caused the graphite to burn. The gases generated by the fire exploded upward throwing radioactive material from the fuel rods as high as some 1 500 metres in the air.

In contrast, with graphite-moderated reactors, the moderator used in other countries is water – light water or heavy water. The United Kingdom (together with a few other countries) is an exception to the rule, having long built mainly graphite-moderated reactors. Their design, however, is not the same as that of

compare the potential danger of such an installation with that of other nuclear plants and yet it was vitally important to take the fullest possible precautions for the future.²

Both conventions, drawn up in a very short space of time, had their precursors in the form of bilateral agreements between various neighbouring European states. In their scope, however, they go far beyond these agreements, to the extent that they are not confined to relations between neighbouring countries – indeed the geographical situation of countries affected by a radiation accident is immaterial.

II. The substantive provisions of the two conventions

A. *The Convention on Early Notification*

1. The essential substantive content of this convention [Article 2] consists of the obligation to notify and inform those states affected or likely to be affected by a nuclear accident. To notify means to advise that the accident has occurred and to inform means to provide further information. Accident means essentially an effect occurring suddenly or within a very short space of time. An accumulation of minor damage within a short time may also constitute an accident. Personal injury or damage to property must have been brought about by the incident. Whether the accident was foreseeable or not is irrelevant. A further point is that the territory of a state being physically affected is also covered regardless of whether the affected part of the country is subject to use or not. In addition, the traditional definition of an accident requiring that there has to be actual damage is extended insofar as the probability of damage or harm is sufficient to cause the convention to come into effect. The authentic English and French wordings of the convention read “...accident... from which a release of radioactive material occurs or is likely to occur” and “...*accident... qui entraîne ou entraînera probablement un rejet de matières radioactives...*”. Where there is no certainty, therefore, there has to be the probability of a release of radioactive materials.

Thus the convention needs two conditions to come into operation:

- the actual or probable release of radioactive materials; and
- the actual or possible crossing of frontiers by the materials actually or probably released.

The accident is a nuclear accident if it is caused by radioactive material released by a specific plant or because of specific activities in such a way that radiological consequences occur or may occur in the territory of another state. Who the owner or operator of the plant happens to be or who performs

the Chernobyl units and the power rating much lower. In the other types of reactors, water is used as both coolant and moderator. Water cannot burn.

However, there was another major determinant in the course taken by the Chernobyl disaster. Unlike other types of reactors, RBMK 1 000 reactors have no steel and concrete protective shield (containment) which is why the burning gases were released into the open air without the slightest hindrance. In the nuclear reactors operated in the Federal Republic of Germany, France and Switzerland, for example, the provision of a protective shield of this type goes without saying.

Cf. Wenger, Sicherheitsaspekte in “Kernkraftwerken”, in *Der Kernkraftwerkunfall von Tschernobyl, Forum Wissenschaft und Energie*, Zurich 1986, p. 13 et seq, and Sonneck, *Aufbau und Funktionsweise des Reaktors von Tschernobyl – Unfallhergang mit Freisetzung von Radionuklide*, Seibersdorf 1986.

2. Some 17-18 reactors of this dangerous design are still in service in the USSR. See *SVA Bulletin*, Bern 1989, Vol. 11, p. 21.

the activity is irrelevant. Whether it is the government itself or natural persons, corporations or companies with a legal personality under its jurisdiction or control is also irrelevant. In every case the duty to notify and inform lies with the state in which the plant is located or the activity performed.

2. The plants and activities concerned are listed by types in Article 1, paragraph 2. They are as follows: nuclear reactors; nuclear fuel cycle and radioactive waste storage facilities; the storage of nuclear fuels or radioactive wastes; the manufacture, use, storage, disposal and transport of radioisotopes³ for agricultural, industrial, medical and related scientific and research purposes; and lastly, the use of radioisotopes for power generation in space objects. Whether the use of nuclear energy is for civil or military purposes is, as far as the application of the convention is concerned, immaterial. This list by types applies unless a State Party to the convention extends the list unilaterally or by agreement between two or more States Parties. Under Article 3, States Parties are at liberty to notify other states of other nuclear accidents caused by radioactive materials. This applies in particular to accidents caused by nuclear weapons or during tests of nuclear weapons.

The purpose served by the nuclear reactor is of no importance. It may be for the production of electrical power or heat, for research, experimental or instructional purposes, for the recovery of certain radioactive materials or for any other purpose. The location of the nuclear reactor and whether it is stationary or mobile is of no importance. Radioactive waste treatment plants may similarly differ in their type, the main ones being reprocessing plants and plants for the conditioning of waste for the purpose of safe disposal.

The convention also refers, under the different types of plant and activities, to the transport and storage of nuclear fuels or radioactive wastes. Transport embraces all types of transport by road, rail, sea, waterway or air. For transport by ship or by aircraft, responsibility for notification under the convention lies with the state to which the means of transport “belongs”. This, in the case of state-owned ships and aircrafts, is the owning state and, in the case of privately-owned ships and aircrafts, the state where the ship or aircraft is registered since that is the state that exercises jurisdiction. The storage of nuclear fuels means both intermediate and final storage.

The convention also applies to accidents caused by radioactive materials that are neither fuel nor fuel wastes since it refers to radioisotopes for agricultural, industrial, medical and related scientific and research purposes and to the production and use of such radioactive materials as well as their storage, disposal and transport. In many cases the plants handling nuclear fuel and fuel wastes may also be used for the intermediate or final storage or reprocessing of radioisotopes.

One type of use of radioisotopes is specifically listed in the convention, namely their use for power generation in space objects. Here, the obligation to notify and inform after the occurrence of an accident lies with the launching country. This is the country that launches the space object or causes it to be launched or from whose territory or installations a space object is launched, the reason being that this is the state having jurisdiction or control over the event.

3. The plants and activities listed in Article 1, paragraph 2, do not, as already pointed out, include all possible sources of damage with transboundary radiological consequences. In particular, there is no mention of plants and activities connected with nuclear weapons and the testing of such weapons. Article 3 allows for such cases but in an incomplete fashion. It says that States Parties may notify in

3. The term “radioisotopes” means the same thing as radioactive material. Although nuclear fuels are also no different from radioactive materials, for brevity’s sake in legal language the term radioisotope or radionuclide is used for radioactive materials that are neither nuclear fuel nor wastes from nuclear fuel and are therefore not or no longer used in the operation of nuclear power plants.

the event of nuclear accidents other than those specified in Article 1. This supplementary field of application of the convention is therefore purely optional. It is a regrettable omission but can be explained by the fact that states in possession of nuclear weapons are not prepared for their military sector to be subject to international regulations in respect of nuclear or any type of weapon.⁴ Whether and to what extent notification and information are given following an accident in connection with nuclear weapons or nuclear weapon testing is left to the discretion of the state where the accident has taken place. Furthermore, Article 3 refers only to notification. Since, in any case, the initiative for notification in such cases is a matter for the discretion of the states, the provision of further information is not ruled out.

4. The content of the notification and information to be supplied is specified in Article 2(a) and paragraphs 1 and 2 of Article 5. Article 2(a) relates to the basic obligation to provide information whereas Article 5 sets out what this information should contain. Apart from the fact of its occurrence, the notification of a nuclear accident has to specify its nature, time of occurrence and, if possible, exact location. Where the state concerned is in a position to do so, the information given has to include the following further details: the facility or activity involved in the accident; the assumed or established cause of the nuclear accident; its foreseeable development relevant to the transboundary release of the radioactive materials and its predicted behaviour over time; the general characteristics of the radioactive release including the nature, probable physical and chemical form and the quantity, composition and effective altitude of the radioactive release; the metrological and hydrological conditions necessary for forecasting the transboundary release; and lastly, the offsite protective measures taken or planned. Since the purpose of all this information is to keep the radiological consequences in other states to a minimum, Article 6 of the convention provides that affected States Parties may request further information or consultations from the state providing the information. This right to request further information only applies to a State Party affected by the accident but not to a state that is not affected or to a state that is affected – even if a member of the IAEA – that is not a Party to the convention.

Under paragraph 3 of Article 5, there is in principle no restriction on the use of any of this information. The only exception concerns information provided in confidence.

5. Article 8 of the convention makes provisions for assistance to countries which do not have nuclear activities themselves but border on a state having an active nuclear programme but which is not Party to the convention. For such states, the feasibility and establishment of an appropriate radiation monitoring system is to be facilitated; the responsibility for providing this assistance lies with the IAEA.

B. The Convention on Assistance

1. Like the Convention on Early Notification of a Nuclear Accident, the Convention on Assistance is also not limited to accidents originating in nuclear installations but also applies to accidents caused by other kinds of radioactive materials. Similarly, it is applicable not only to neighbouring states but generally and without reference to the location of the state exposed to radiation. However, its scope exceeds that of the Convention on Early Notification in that it applies not only to accidents but also to radiological emergencies. The definition of these terms is not easy since several circumstances have to be borne in mind. First and foremost is the fact that this convention and the Convention on Early Notification of a Nuclear Accident were drawn up in the IAEA prompted by the same event – the

4. The representative of India specifically complained of this omission on the occasion of the signing of the convention. IAEA, INFCIRC/355/Add 2 of 20 May 1988.

Chernobyl accident on 26 April 1986 – and have a considerable similarity in their content. The term nuclear accident therefore has to be understood in the same way as in the Convention on Early Notification.

Though the meaning of nuclear accident is thus established, extreme difficulties arise in defining the term “radiological emergency”. A first point is that a radiological emergency can be understood as being less than a nuclear accident because radiological emergency also covers a process that has certainly or probably caused no injury or damage but may possibly give rise thereto. Assistance is then requested to prevent or at least minimise the occurrence of injury or damage in all cases.

What is more, in the absence of closer definition, radiological emergency could also apply to those cases where damage or injury or the threat of damage or injury originates in installations or activities connected with nuclear weapons or the testing of nuclear weapons. If so, a situation calling for assistance would arise if the territory or population of a state at war suffered damage as a result of belligerent activity in which atomic weapons were used or if damage was caused to a state not involved in the hostilities. Would the Convention on Assistance apply in such cases or not? Of itself, the expression radiological emergency would have to be understood in its unlimited sense and would therefore include damage or the threat of damage due to the testing and use of atomic weapons. On the other hand, however, the role of the IAEA is to concern itself with the peaceful uses of nuclear energy so that measures connected with the use of atomic weapons for military purposes are excluded from its field of responsibility – and this would apply to regulations drawn within the IAEA framework. Against this, however, there is the fact that Article 3 of the Convention on Early Notification leaves it to the States Parties to decide whether to notify in cases other than the accidents listed in Article 1 as set out above, and these include the military sector. Because of this confusion it would seem important to clarify the situation by making the necessary additions to the wording of the Convention on Assistance. This could be done by an amendment as provided under Article 16.

2. From the substantive viewpoint, the Convention on Assistance contains various provisions that can be divided into three groups. The first group, which may well be described as the fundamental provisions because they govern the preconditions for and the content and scope of the measures of assistance, includes Articles 1, 3 and 5. The second group relates to questions of reimbursement of costs and compensation, the relevant provisions here being contained in Articles 7, 10, 11. The third group is to do with special provisions for assistance personnel and the state providing the assistance, the relevant provisions here being Articles 8 and 9. In detail the situation is as follows:

- a) As regards the assistance arrangements, Article 1 lays down the principle that the States Parties should co-operate between themselves to minimise the consequences of a nuclear accident or radiological emergency and thus to protect life, property and the environment. Agreement on bilateral and multilateral arrangements or a combination of these is recommended as the most effective way of achieving this object. The IAEA should also be asked to lend its aid in arriving at this co-operation. In actual fact there are already a fair number of such bilateral arrangements.

Nothing further is said in the convention about the detailed nature of such assistance arrangements; they will depend on the requirements of each individual case. For this reason only general indications are given as set out in Article 2. First, the article makes it clear that whether the nuclear accident or radiological emergency has its origin in the state requesting the assistance or has started elsewhere is irrelevant, its effects having come into that state across its borders. The state requesting assistance has to specify the scope and type of assistance. If it is impracticable to give this information immediately,

the two states shall decide upon the scope and type of assistance by joint consultation. The state requested to provide assistance must promptly notify the requesting state, either directly or via the IAEA, whether and to what extent it is able to provide such assistance. The assistance will, in any case, include medical treatment and the temporary relocation of people into the territory of the state affording assistance.⁵

The request for assistance does not have to be directed to other states alone. It may also be addressed to the IAEA so that experts and articles of equipment and other material may be made available or assistance requested of other states by the IAEA itself. The IAEA also has the responsibility of co-ordinating assistance at the international level. Where such co-ordination is not ensured by the IAEA and if no other arrangement is made, then the direction, control, co-ordination and supervision of the assistance within its territory shall, under Article 3 of the convention, be the responsibility of the requesting state. The requesting state is also responsible for protecting personnel, equipment and materials brought into its territory and ensuring their safe return. In addition to the general indications given in Article 3, the IAEA's field of responsibility in the provision of assistance is set out in Article 5 as follows: in addition to the supply of experts, equipment and materials and the transmission of requests for assistance to other states, the IAEA also has to supply the requesting state with information on methodologies, techniques and results of research relating to response to emergencies. Even in the absence of any actual emergency situation the IAEA is required to respond to requests from individual states – even if they are not IAEA Member States – for assistance in precautions against possible future emergency situations with advice of the most varied kind. This includes preparing emergency plans, recommending appropriate legislation, developing training programmes for emergency personnel, developing warning systems, establishing and maintaining liaison with relevant international organisations for the purpose of exchanging information and data, etc.⁶

The termination of the assistance may be requested both by the state requesting the assistance and by the state providing it. Provision for this is made in Article 11. Once such a request is made the two states have to consult together. The request to terminate assistance has to be made in writing. Where assistance has been provided by the IAEA, the same provisions, *mutatis mutandis*, apply.

- b) Since assistance understandably entails cost, Article 7 makes the necessary provisions. The basic principle is that the assisting state provides its help without claiming back the

5. In the technical annex on emergency assistance in his book “The IAEA Notification and Assistance Convention in case of a Nuclear Accident”, London 1987, Graham and Trotman, p. 199 et seq., Adede, former head of the IAEA legal department summarises the staff and material (technological and medical) requirements for effective assistance in the case of a nuclear accident or radiological emergency. Adede sees three phases of assistance: the initial phase when the most urgent measures have to be taken and which may last anything from a few hours to two days, an intermediate phase ranging from a number of days to several weeks and a final phase which may last months or even years.

As regards the very many individual measures, see also IAEA publication *Mutual Emergency Assistance for Radiation Accident*, IAEA-TECDOC-237, IAEA, Vienna, 1980, together with Supplement IAEA-TECDOC-284, Vienna, 1983.

6. The IAEA sent out a detailed questionnaire to all Member States on preparations for assistance applicable to any kind of radiological accident. Each country had to state those kinds of assistance it could provide and those it could not. The results of the survey are published in IAEA Safety Series No. 50-SG-06, Vienna, 1982, p. 55 et seq.

cost. Departures from this principle are, however, possible by mutual agreement, this having to relate to whether the assistance is wholly or partly reimbursed. In the decision as to whether the assistance should be provided without cost or wholly or partly on a reimbursement basis, various factors are to be taken into account including: the nature of the emergency, the place of origin of the accident and needs of developing countries and of countries without nuclear facilities. However, even in cases where reimbursement has been agreed, the state providing the assistance is at all times free to waive part or all of the reimbursement of its costs. Reimbursement is to be provided promptly and be freely transferable. Since Article 7 refers to “assisting parties” in general, the above principles are also applicable to assistance provided by the IAEA.

- c) It is also understandable that various kinds of injury and damage could be sustained on the territories of both the requesting and the assisting state in the course of providing assistance. This may include personal injury, damage to or loss of property and damage to the environment. Unless otherwise agreed, the provisions of Article 10 apply. The rule is that the state requesting assistance has no claim for compensation against the state providing it. This has several implications. First, the requesting state is not allowed to bring any legal proceedings against the assisting party or persons or other legal entities acting on its behalf. Next, the requesting state must assume responsibility for claims of this nature brought by third parties. In such cases the state that has received assistance must either come to an arrangement with the persons claiming compensation or hold the state against which the claim is made and persons acting on its behalf harmless and blameless. This does not apply in cases where those persons acting in the name or on behalf of the assisting state have caused damage intentionally. The requesting state is free to decide whether to make these provisions binding in whole or in part on its own nationals or permanent residents.
- d) In order that assistance personnel may reach the target location as quickly as possible and, once there, perform their duties unhindered, various exceptions have to be made on their behalf to the provisions of the generally applicable local legislation. To that end, the requesting state has to grant a number of immunities and privileges to persons sent by the assisting state or acting on its behalf. This is conditional on such personnel having been duly declared to and accepted by the requesting state. Assistance personnel may not be arrested or detained in respect of acts or omissions in connection with the assistance they are rendering. They are also immune from legal process including criminal, civil and administrative jurisdiction and exempt from all taxation, duties or other charges, the only exception being those normally incorporated in the price of goods and services, e.g. value-added tax. In addition, they must have freedom of entry into and departure from the territory of the requesting state. The requesting state is free to decide whether or not to provide its own nationals and permanent residents with the same privileges and immunities as non-national assistance personnel. Conversely, all beneficiaries of such privileges and immunities have a duty to respect laws and regulations of the requesting state and not to interfere in the domestic affairs of that state.

The assisting state itself is also exempt from taxes and other charges on the equipment and other materials that it causes to be brought in for assistance purposes nor may such articles be seized or searched. In addition, the requesting state is required to facilitate the importation and exportation of items of equipment and other materials. Should such articles become radioactive during the provisions of assistance, the state that has been assisted is responsible for their decontamination.

Should it be necessary for assistance personnel or equipment to be routed through another state, then under Article 8, that state is required, at the request of the state requesting or providing assistance, to facilitate transit across its territory. However, such personnel, equipment and other property must be duly notified for this purpose to the country of transit.

III. Procedural provisions of the two conventions

A. *The Convention on Early Notification*

1. The essential provisions are contained in Article 2 which governs notification and the provision of information in the event of a nuclear accident. Two possibilities are provided for. In the first, both the state which may be affected by radiation and the IAEA are immediately and directly notified. In the second, there is no direct notification and information of the states that may be affected, notification of and provision of information to the IAEA alone being sufficient. The choice is left to the judgement of the state responsible. In either case, the IAEA becomes a centre for the receipt and distribution of notifications and information. Since the purpose of this provision of information is to minimise radiological consequences, it would be advisable, in order to save time in particularly urgent cases, to notify directly any states that may be affected as well as the IAEA.

Under Article 4 of the convention, the IAEA must immediately convey every notification of a nuclear accident, together with the information it contains, to those states that are or may be affected and to the relevant international organisations.⁷ This duty of notification also applies with regard to states that are neither party to the convention nor even IAEA Member States.

Under Article 7, the issue and receipt of the notifications and information referred to in Article 2 has to be via points of contact. These have to be decided by the States Parties and made known to the IAEA and, either directly or via the IAEA, to the other States Parties. Within the Agency, a similar focal point has to be set up for the receipt and issue of these reports. The States Parties are also required to indicate the authority responsible for the ongoing performance of the duties set out in the convention. Other international organisations concerned with protection against nuclear accidents may also set up points of contact. The points of contact both of the States Parties and the IAEA must be continuously available. The IAEA is to be promptly informed of any changes in the responsible authorities or points of contact.

The convention does not specify the way in which notifications and information are to be conveyed. Each State Party is therefore free to choose the method of transmission unless some particular mode is agreed with the IAEA and other states.

2. A further procedural provision concerns the settlement of disputes between states that are Party to the convention or between one or more States Parties and the IAEA on the interpretation or application of the convention. Article 11 provides, on the pattern of other international agreements, that consultations should be held in such a case with a view to settling the dispute by negotiation or other peaceful means. If a dispute cannot be settled in this way, it has to be submitted to arbitration or to the International Court of Justice at the request of one of the Parties. If no agreement can be reached on an arbitrator, the president of the International Court of Justice or the secretary-general of the United Nations may be asked to appoint one or more arbitrators.

7. Including the Organisation for Economic Co-operation and Development (OECD) and its Nuclear Energy Agency (NEA), the International Labour Organization (ILO) and the World Health Organization (WHO).

Every State Party is entitled to declare that it does not consider itself bound by this dispute settlement procedure. Declarations to that effect may, however, be withdrawn at any time.⁸

B. *The Convention on Assistance*

1. In the same way as in the Convention on Early Notification of a Nuclear Accident, states that are party to the Convention on Assistance are required under Article 4 to make known to both the IAEA and other States Parties the responsible authorities and the points of contact authorised to make and receive requests for and to accept offers of assistance. The more detailed provisions on this point are the same as those in the Convention on Notification. These provisions, however, are supplemented by a special article on the confidentiality of requests for assistance.

This is Article 6 which says that if any information is given by the requesting state to any other state or the IAEA in confidence, that confidentiality must be respected and the information may only be used for the purpose of the assistance. Where possible, the assisting state or the IAEA must obtain the agreement of the requesting state before releasing information to the public.

2. Like the Convention on Early Notification, the Convention on Assistance also contains provisions for the settlement of disputes. These are set out in Article 13. Since the wording of the two conventions is identical on this point, reference is directed to III.A.2 above.

IV. Relationship with other international agreements

1. Article 10 of the Convention on Early Notification leaves the States Parties free to conclude bilateral or multilateral agreements relating to matters covered by the convention and in accordance with the object and purpose of the convention. Such agreements are unaffected by the convention. Article 9 even suggests that such additional agreements should be considered by the States Parties. Existing international agreements relating to the subject matter of the convention are also unaffected. As regards future agreements, the rule is clear: they have to be in accordance with the object and purpose of the convention. If not, then the convention takes precedence in every case. However, the provision is less clear regarding international agreements that already exist, in that these could possibly be in conflict with the convention. If so, do the provisions of the convention apply or do those of the earlier agreement? In such a case the preferred interpretation must presumably be that the provisions of the convention take precedence as being later in date.

2. Article 12 of the Convention on Assistance also says that international agreements which relate to the matters covered by the convention are not affected. States Parties are also free to conclude bilateral or multilateral agreements on the subject in the future. As already pointed out in the commentary on Article 1, such agreements or combinations of such agreements should be concluded to facilitate co-operation between them.

V. Adoption, entry into force and denunciation of the conventions

Both conventions were adopted by the General Conference of the IAEA at a special session in Vienna on 26 September 1986 and were open for signature by all states as of 26 September 1986 at the

8. It should be noted that when signing each convention, a number of States Parties entered reservations about Article 11 and rejected the compulsory method for the settlement of disputes by an arbitrator or the International Court of Justice. IAEA INFCIRC/335add.1 and INFCIRC/336Add.2 of May 1987 and INFCIRC/335add.2 and INFCIRC/336add.3 of 20 May 1988.

IAEA headquarters and as of 6 October 1986 at UN headquarters. Each convention entered into force thirty days after three states had expressed their consent to be bound by its provisions. For the Convention on Notification this was 27 October 1986 and for the Convention on Assistance it was 26 February 1987.⁹

For each state the convention entered into force thirty days after it declared itself bound by the convention but each signatory state was free to declare that it would apply the convention provisionally even though the convention had not yet entered into force in this respect.

Articles 15 and 17 respectively provide for possible denunciation of the conventions. Notification must be in writing and takes effect one year following receipt by the IAEA.

Like all documents to be sent to the IAEA, late accessions and denunciations have to be addressed to the Director General who, under Articles 16 and 18 respectively, is the depositary of both conventions. This applies in particular to the declaration regarding provisional application of the convention and the reservations in respect of certain provisions. The Director General of the IAEA is required to inform other States Parties immediately on receipt of such declarations.

VI. Amendments to the conventions

Under Articles 14 and 16 respectively, every State Party is entitled to propose amendments to the Director General of the IAEA as depositary of the conventions. As provided for any other declarations, the latter has to inform all the other States Parties thereof immediately. At the request of a majority of Member States a conference then has to be called to discuss the proposed amendments. If the amendment is carried by a two-thirds majority, it is laid down in a protocol which will be open for signature by all Member States in Vienna and New York and enter into force after three states have expressed consent to be bound.

VII. Authentic text

The original of the conventions deposited with the Director General of the IAEA in accordance with Articles 17 and 19 is in six languages – Arabic, Chinese, English, French, Russian and Spanish – all six texts being equally authentic.

VIII. Concluding remarks

The two IAEA conventions represent a considerable advance on the previous legal situation since early notification of a nuclear accident and assistance in the event of a nuclear accident or radiological emergency considerably reduce the risk to other countries and often make it easier to repair the damage. After the Chernobyl accident, the consent of the states affected was forthcoming only after great hesitation so that it was relatively late before the necessary protective measures could be taken. Nor did any prior arrangements exist for assistance from other countries, so that help from outside was the exception. Let us hope that the two IAEA conventions rarely have to be applied and that, should a nuclear accident or radiological emergency occur, it will be on a far smaller scale than the Chernobyl disaster.

9. IAEA INFCIRC/335 of 18 November 1986 and INFCIRC/336/Add.1 of 10 March 1987.