

INTERNATIONAL REGULATORY ACTIVITIES

International Atomic Energy Agency

Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management – Second Review Meeting (2006)

As of 13 September 2006, 41 States and Euratom are Party to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (hereinafter the “Joint Convention”; see *Nuclear Law Bulletin* Nos. 60, 67, 69 and 74), which entered into force on 18 June 2001.

The primary objective of the Joint Convention is to achieve and maintain a high level of nuclear safety worldwide in spent fuel and radioactive waste management, through the enhancement of national measures and international co-operation.

Pursuant to Article 30 of the Joint Convention, the Second Review Meeting of the Contracting Parties to the Convention was held at IAEA Headquarters, Vienna, Austria, from 15 to 24 May 2006.

As for the first Review Meeting held in 2003 (see *Nuclear Law Bulletin* No. 74), the main purpose of the second Review Meeting was to review the safety of spent fuel and radioactive waste management, focusing on the steps and measures already taken and on progress made in implementing the obligations stipulated in the convention, including the respective national policies and practices of Contracting Parties.

Forty States and Euratom participated in the Review Meeting. The President of the Review Meeting was Mr. André-Claude Lacoste, Director General of the General Directorate for Nuclear Safety and Radiation Protection, France. A number of issues were discussed at the Review Meeting and an outcome of the meeting is available in a comprehensive and publicly available, 39-paragraph Summary Report.¹

1. Summary report of the second Review Meeting of the Contracting Parties to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management [JC/RM.2/03/Rev.1, 23 May 2006]:
www-ns.iaea.org/downloads/rw/conventions/second-review-meeting/summary-report-of-the-second-review-meeting.pdf.

Civil Liability for Nuclear Damage – International Expert Group on Nuclear Liability (INLEX)

The International Expert Group on Nuclear Liability (INLEX) established by the Director General in 2003 (see *Nuclear Law Bulletin* Nos. 74 and 75), held its fifth and sixth meetings in July 2005 and May 2006, respectively.

During the course of these meetings, the Group continued its work on addressing possible gaps and ambiguities in the existing nuclear liability regime. Some of the Group's conclusions and recommendations in this regard are set out in the explanatory texts on the nuclear liability instruments adopted under the IAEA's auspices in 1997, as a comprehensive study and authoritative interpretation of the Agency's nuclear liability regime. The texts have been posted (in all IAEA official languages) on the IAEA's website and will also be published as part of the IAEA International Law Series.

Other conclusions and recommendations are reflected in the Group's outreach activities. In this respect, the first outreach activity of the Group, the Regional Workshop on Liability for Nuclear Damage, was held in Sydney, Australia, from 28 to 30 November 2005. A second regional workshop for IAEA Member States of the Latin America region will be held in Lima, Peru, from 11 to 13 December 2006.

Finally, other conclusions and recommendations of the Group are reflected in Annex 3 to the Nuclear Safety Review for the Year 2005 [see document GC(50)/INF/2]. Further information on the work of Group, in particular during 2006, is also provided in the report by the Director General on co-operation in nuclear, radiation and transport safety and waste management [see paragraphs 156-158 of document GOV/2006/40-GC(50)/3].

Resolutions Adopted by the IAEA General Conference (2006)

The 50th regular session of the IAEA General Conference was held in Vienna, from 18 to 22 September 2006 with the participation of delegates from 132 Member States and representatives of various international organisations.

A number of resolutions were adopted by the General Conference. The following takes note of the two Resolutions GC(50)/RES/10 relating to nuclear, radiation and transport safety and waste management and GC(50)/RES/11 relating to nuclear security. Some of the relevant sections of Resolution 10 can be summarised as follows:

Measures to Strengthen International Co-operation in Nuclear, Radiation and Transport Safety and Waste Management [GC(50)/RES/10]

In Part A.1 of the resolution, the Conference requested the Director General to continue the current programme (which included legislative assistance) to assist Member States in improving their national infrastructures for nuclear installation, radiation, transport and waste safety.

Nuclear Installation Safety

In Part A.3 of the resolution, the General Conference noted with satisfaction that all States currently operating nuclear power plants are now Contracting Parties to the Convention on Nuclear Safety, and urged all Member States considering a nuclear power programme to become Parties to the convention as part of the establishment and maintenance of the requisite nuclear power infrastructure.

The Conference also welcomed the efforts of the Contracting Parties to the Convention on Nuclear Safety to enhance the transparency, efficiency and effectiveness of the review process and encouraged them to pursue these efforts in preparation for the Review Meeting in 2008.

The Conference also continued to endorse the principles and objectives of the Code of Conduct on the Safety of Research Reactors and encouraged Member States constructing, operating or decommissioning research reactors or with research reactors in extended shutdown to apply the guidance in the code. The Conference supported the recommendation of the open-ended meeting on the effective application of the code hosted by the Agency from 14 to 16 December 2005 that periodic meetings be organised to discuss the application of the code in Member States.

Safety of Radioactive Waste Management

In Part A.5 of the resolution, the General Conference welcomed the increase in the number of Contracting Parties to the Joint Convention and appealed to all Member States which have not yet become Party to the Joint Convention to do so. The Conference also endorsed the conclusions and recommendations of the second Review Meeting and called upon the Contracting Parties to take steps to further improve the implementation of their obligations and to further enhance safety in the management of spent fuel and radioactive waste, particularly in those areas identified as warranting further attention.

Nuclear and Radiological Emergency Preparedness and Response

In Part A.8 of the resolution, the General Conference again urged all Member States to become Parties to the Convention on Early Notification of a Nuclear Accident (the Early Notification Convention) and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (the Assistance Convention), thereby contributing to a broader and improved basis for international emergency response, to the benefit of all Member States.

The Conference also continued to encourage all Member States to enhance, where necessary, their own preparedness and response capabilities for nuclear and radiological incidents and emergencies, including their arrangements for responding to acts involving the malicious use of nuclear or radioactive material and to threats of such acts, and to adopt and implement relevant international standards and guidelines.

Additionally, the Conference welcomed the initiative to develop a new Code of Conduct on International Emergency Management related to nuclear and radiological incident and emergency response, with the objective of ensuring appropriate development, implementation and maintenance of harmonised emergency preparedness and response programmes.

Safety and Security of Radioactive Sources

In Part A.9 of the resolution, the General Conference continued to endorse the principles and objectives of the non-legally-binding Code of Conduct on the Safety and Security of Radioactive Sources and welcomed the high level of global support for the code. The Conference noted that, as at 11 September 2006, 86 States had made a political commitment to it in line with Resolutions GC(47)/RES/7.B and GC(48)/RES/10.D and urged other States to make such a commitment.

The Conference underlined the important role of the Guidance on the import and export of radioactive sources for the establishment of continuous, global control of radioactive sources and noted that, as at 11 September 2006, 33 States had notified the Director General, pursuant to Resolution GC(48)/RES/10.D, of their intention to act in accordance with the guidance on a harmonised basis. The Conference reiterated the need for States to implement the guidance in a co-operative, harmonised and consistent fashion and noted that the guidance is supplementary to the code and encouraged those States which have not already notified the Director General to do so, recalling operative Paragraph 6 of Resolution GC(47)/RES/7.B, and encouraged the Secretariat to make available relevant information that will facilitate States' implementation of the guidance, subject to the consent of the States concerned.

In addition, the Conference welcomed the progress made by many Member States in working towards implementing the Code of Conduct and the supplementary guidance, and encouraged other States to do the same to ensure the sustainability of the control of radioactive sources. The Conference also recognised the value of information exchange on national approaches to controlling radioactive sources.

Civil Liability for Nuclear Damage

In operative Paragraph 11 of the resolution, the General Conference again welcomed the valuable work that INLEX has done over the past year to clarify the application and scope of the international nuclear liability regime, including its outreach workshop in Australia in November 2005 for representatives of countries in Asia and the Pacific. The Conference also looked forward to the continuation of INLEX's work, including its further examination of possible ways in which identified gaps in the regime might be addressed and its outreach workshop in Peru in December 2006 for Latin American countries.

Transport Safety

In Part B of the resolution, the General Conference stressed the importance of having effective liability mechanisms in place to insure against harm to human health and the environment as well as actual economic loss due to an accident or incident during the maritime transport of radioactive materials and welcomed the continuing work of INLEX in this regard.

Nuclear Security – Measures to Protect Against Nuclear Terrorism [GC(50)RES/11]

The General Conference again reaffirmed the importance of the Convention on the Physical Protection of Nuclear Material (CPPNM) and called on States to ratify this convention and its amendment adopted in July 2005.

The Conference also recalled that other international agreements negotiated under the auspices of the Agency are relevant to an integrated approach to nuclear security and the physical protection of nuclear material and other radioactive materials against the threat of nuclear and radiological terrorism, based on prevention, including the Early Notification and Assistance Conventions, the Convention on Nuclear Safety and the Joint Convention.

The Conference also noted the central contribution of Agency safeguards agreements and additional protocols, and also of States' systems of accounting for and control of nuclear materials, to the prevention of illicit trafficking and to deterring and detecting diversion of nuclear materials.

In operative Paragraph 4 of the resolution, the General Conference expressed its deep satisfaction at the adoption by the United Nations General Assembly of the International Convention for the Suppression of Acts of Nuclear Terrorism as the 13th multilateral legal instrument dealing with terrorism. The Conference invited all States that have not yet done so, to sign it before 31 December 2006 and to strive for its early entry into force.

IAEA 50th General Conference – Special Event – New Framework for the Utilisation of Nuclear Energy: Assurances of Supply and Non-proliferation

The special event entitled "New Framework for the Utilisation of Nuclear Energy in the 21st Century: Assurances of Supply and Non-proliferation", organised by the IAEA Director General, was held from 19 to 21 September 2006.

The special event was held to facilitate discussion among the IAEA's Member States of various suggestions regarding new approaches to the nuclear fuel cycle which essentially aim to establish an assured supply of nuclear fuel, as a back-up measure to the commercial market, in certain situations. In addition, the purpose was also to further the discussion of the challenge of meeting increasing global energy demands through a possible expansion of the use of nuclear energy, while at the same time minimising the proliferation risks created by the further spread of sensitive nuclear technology such as uranium enrichment and plutonium reprocessing.

As reflected in the report of the Chairman of the special Event, Mr. Charles Curtis, President of the Nuclear Threat Initiative (NTI), one of the outcomes recognised that the various suggestions tabled so far indicated that establishing a fully-developed multilateral framework that is equitable and accessible to all users of nuclear energy will be a complex endeavour that would likely require a progressively phased approach.

The report identified that a possible way forward may include a first – near term – phase, focusing on establishing mechanisms for assurances of supply of nuclear fuel for nuclear power plants and a second – mid and long term – phase, focusing on the possibilities of evolving a truly comprehensive multilateral system, integrated with commercial market mechanisms and designed to assure supply adequacy and responsible management and disposition of waste. In this regard, the IAEA Secretariat is presently formulating the proposals and structuring them in terms of policy, legal and technical issues, while at the same time taking into account current as well as future proposals and other relevant ideas and studies so as to allow consideration of these matters by the IAEA Board of Governors in 2007.

Further information on the special event is available on the International Atomic Energy Agency's website, including the above-mentioned report of the Chairman:
www.iaea.org/About/Policy/GC/GC50/SideEvent/report220906.pdf.

European Union

Communication of the European Commission on Verification of Environmental Radioactivity Monitoring Facilities (2006)

This communication deals with the verification of environmental radioactivity monitoring facilities under the terms of Article 35 of the Euratom Treaty as regards practical arrangements for the conduct of verification visits in Member States. It was published in Official Journal C 155 of 4 July 2006 at pages 2 to 5.

The practical arrangements for carrying out verifications under Article 35 were traditionally agreed on the basis of bilateral meetings held with the authorities concerned in the Member States in order to clarify the scope, intention and conduct of such verifications. Conclusions were subsequently laid down in bilateral protocols forwarded through the permanent representatives to the national authorities and approved by the Member States. Following enlargement of the Community to 25 Member States as from May 2004, the need was felt to establish a common basis for Article 35 verifications in all Member States by means of a Commission communication, which may be supplemented, if necessary, by bilateral protocols between individual Member States and the Commission services.

Commission Recommendation on the Efficient Use of Nuclear Decommissioning Funds (2006)

On 24 October 2006, the Commission adopted a recommendation on the efficient use of nuclear decommissioning funds. The recommendation proposes measures to ensure adequate and properly managed financial resources for all decommissioning activities of nuclear installations as well as for the safe management of spent fuel and radioactive waste. While a segregated fund – either externally or internally managed – with appropriate controls on use is the preferred option for all nuclear installations, a clear recommendation to this effect is made for the newly established ones.

The recommendation proposes the establishment of competent national bodies, which are independent in their decisions from the contributors to the decommissioning funds, with a mandate and the capacity to deliver an expert judgment on decommissioning matters.

Council Decision on ITER (2006)

On 25 September 2006, the Council of the European Union adopted a decision approving the conclusion of an international Agreement on implementation of the International Thermonuclear Experimental Reactor (ITER) fusion energy project (see *Nuclear Law Bulletin* No. 77). The decision authorises the Commission to conclude an agreement between the EU's Atomic Energy Community (Euratom), China, India, Japan, the Republic of Korea, the Russian Federation and the United States on the establishment of the ITER International Fusion Energy Organisation for the joint implementation of the ITER project. It also approves the conclusion of an arrangement on provisional application of the agreement.

The purpose of the ITER Organisation is to provide for and promote co-operation among the members of the ITER project, which aims to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes. The functions of the Organisation include the construction, operation and exploitation of ITER facilities and the promotion of public understanding of fusion energy.

The agreement, with an initial duration of 35 years, will enter into force once ratified by ITER partners when construction commences. The EU will contribute to 50% of construction costs.

The ITER experimental reactor and the Headquarters of the Organisation will be situated in Cadarache (France).

A joint undertaking, which will be based in Barcelona (Spain), will manage the EU contribution to the ITER Organisation.