

International Regulatory Activities

International Atomic Energy Agency

Guidance on the Import and Export of Radioactive Sources supplementary to the Code of Conduct on the Safety and Security of Radioactive Sources (2008)

The agency held an open-ended meeting of technical and legal experts to share information on states' implementation of the guidance from 26 to 28 May 2008 in Vienna. This was a follow-up to the first international meeting on sharing information about states' implementation of the code held in Vienna in 2007 (see *Nuclear Law Bulletin* No. 80). The meeting was attended by 167 experts from 88 member states and by observers from the European Commission (EC), the Organization for Security and Co-operation in Europe (OSCE) and the International Source Suppliers and Producers Association (ISSPA).

The meeting included topical sessions on experiences and lessons learned from implementing the guidance from the perspective of exporting countries (and source suppliers) and importing countries. In addition, participants shared their experience regarding the application of the concept of "exceptional circumstances", the transit and trans-shipment of sources and the existing forms, the list of contact points and the protected webpage.

The meeting emphasised that it is important for each state to make a political commitment to the guidance recalling that a political commitment to the code did not automatically equate to the former.

Many states had provided national contact points to the IAEA. This information, which is available on the IAEA code webpage, is of mutual benefit to both importing states and exporting states, and all states (including those which had not yet made a political commitment) were encouraged to provide their point of contact to the IAEA.

The meeting concluded that the provision of information to exporting states on the regulatory and technical capacity of importing states would assist the former in reaching prompt and consistent decisions on applications for export authorisations which would also benefit the importing state. To that end, all states were encouraged to utilise appropriate bilateral, regional and multilateral networks and other mechanisms to provide such information consistent with the provisions of the code and the guidance.

The IAEA Secretariat was requested to assist states to develop regional networks or utilise existing ones to discuss the implementation of the guidance. Discussions within those networks would feed into the code's information exchange mechanism as foreseen by paragraph 3(b) of the "Process for the Sharing of Information as to States' Implementation of the Code of Conduct on the Safety and Security of Radioactive Sources and its associated Guidance on the Import and Export of Radioactive Sources" (GOV/2006/40-GC(50)/3, Annex 2).

To address the potential gap which might exist in relation to notification of the transit or trans-shipment of sources across states, the IAEA Secretariat was requested to analyse the scope of that gap

in consultation with the Transport Safety Standards Committee (TRANSSC) and other relevant agency mechanisms, and to advise the next information exchange meeting thereon.

Paragraph 20 of the guidance provides that “The Guidance should be reviewed and, if appropriate, revised by member states approximately five years after publication of this Guidance, or earlier if needed. In that regard, it was noted that any revision to the Guidance would necessitate the institution of a fresh process of political commitment, and should therefore be approached with caution”. Participants viewed the next information exchange meeting, currently planned for 2010, as the appropriate opportunity to review the guidance, as provided for in paragraph 20.

52nd IAEA General Conference

The 52nd regular session of the IAEA General Conference was held from 29 September to 4 October 2008 in Vienna, with the participation of delegates from member states and representatives of various international organisations.

Resolutions of the Conference

A number of resolutions were adopted by the General Conference. As in previous years, two resolutions: GC(52)/RES/9 relating to International Cooperation in Nuclear, Radiation, Transport and Waste Safety and GC(52)/RES/10 relating to Nuclear Security include sections that are of legal relevance. This year’s General Conference devoted special attention to the question of nuclear liability as indicated further below.

Measures to Strengthen International Cooperation in Nuclear, Radiation and Transport Safety and Waste Management (GC(52)/RES/9)

Nuclear Liability

In paragraph r) of the preamble, the General Conference noted the importance of effective and coherent nuclear liability regimes at the national and global levels and in paragraph s) of the preamble, the conference made specific reference to the Vienna Convention on Civil Liability for Nuclear Damage, the Paris Convention on Third Party Liability in the Field of Nuclear Energy as well as the Protocols amending these conventions. It further noted the intention of the Convention on Supplementary Compensation for Nuclear Damage to establish a worldwide nuclear liability regime based on the principles of nuclear liability law, without prejudice to other liability regimes.

In part A, the conference continued to welcome the valuable work of the International Expert Group on Nuclear Liability (INLEX) and paid special tribute to its outreach activities, specifically referring to the regional workshop held for African countries in February 2008 and encouraging relevant member states to participate in INLEX’s next workshop in early 2009, for countries which have expressed an interest in launching a nuclear power programme.¹

In Part B of the resolution relating to transport safety, the General Conference continued to stress 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.

1. For further information on the INLEX meeting, see page 231 of this Bulletin.

National Infrastructures

In Part A.1 of the resolution, the conference requested the Director General to continue the current programme to assist member states in improving their national infrastructures for nuclear installation, radiation, transport and waste safety, including their legislative and regulatory frameworks.

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 contracting parties to the Convention on Nuclear Safety (CNS), and urged all member states constructing or planning nuclear power plants, or considering a nuclear power programme, to become parties to the CNS as part of the establishment and maintenance of the requisite nuclear power infrastructure.

The findings and outcomes of the fourth review meeting of contracting parties, including on the importance of ensuring openness and transparency were welcomed, and it was noted that the issue of regulatory independence requires further attention.

The conference also continued to endorse the principles and objectives of the non-legally binding 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 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 on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management from 32 in 2003 to 46 in 2008, and encouraged member states which have not yet become party to the Joint Convention to do so. The conference also welcomed the efforts of the contracting parties to enhance the transparency, efficiency and effectiveness of the review process, including the creation of a website to facilitate information sharing. The Joint Convention's third review meeting will be held in May 2009.

Safety and Security of Radioactive Sources

In Part A.9 of the resolution, the General Conference endorsed the principles and objectives of the non-legally-binding Code of Conduct on the Safety and Security of Radioactive Sources, noted that as at 4 July 2008, 92 states had made a political commitment to it and urged other states to follow suit.

The conference also underlined the importance of the Guidance on the Import and Export of Radioactive Sources for establishing continuous, global control of radioactive sources and noted that, as at 4 July 2008, 46 states had notified the Director General of their intention to act in accordance with the guidance on a harmonised basis. The conference encouraged those states which have not already notified the Director General to do so and the Secretariat was encouraged to make information available that would facilitate states' implementation of the guidance subject to the consent of the states concerned.

The conference took note of the report of the Chairman of the Open-ended Meeting of Technical and Legal Experts for Sharing of Information on Lessons Learned from States'

Implementation of the Guidance on the Import and Export of Radioactive Sources held in Vienna in May 2008.²

Nuclear and Radiological Incident and Emergency Preparedness and Response

In Part A.10 of the resolution, the General Conference urged all member states to become parties to the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency. This would contribute to a broader and improved basis for international emergency response and work to the benefit of all member states.

Nuclear Security – Measures to Protect Against Nuclear Terrorism (GC(52)/RES/10)

The General Conference reaffirmed the importance of the Convention on the Physical Protection of Nuclear Material (CPPNM) as the only multilateral legally binding instrument dealing with the physical protection of nuclear material and the value of its amendment extending its scope, thereby strengthening global nuclear security.

States parties to the CPPNM were called upon to work towards its universal adherence and to accelerate the ratification of the Amendment to the CPPNM and to act for its early entry into force. They were also encouraged to act in accordance with the object and purpose of the amendment until such time as it enters into force. All states that have not done so were encouraged to adhere to the CPPNM and the amendment as soon as possible.

The conference reaffirmed the importance for nuclear security of the Code of Conduct on the Safety and Security of Radioactive Sources, the contribution of IAEA safeguards systems and of states' nuclear materials accounting and control systems, and the IAEA's contribution in preventing illicit trafficking and deterring and detecting diversion of nuclear materials.

2. See above, page 193 for further details on the meeting.