

Legislative Framework and international legal instruments

A.Cherf

Office of Legal Affairs
International Atomic Energy Agency



IAEA
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Introduction

Clear understanding of the legal issues related to a nuclear power programme in particular:

- Appropriate legislative framework
- International legal instruments

Need for a legal framework

- Need to establish an appropriate legal framework to support the national policy.
- Need for a comprehensive legislation establishing a regulatory body and covering all areas of nuclear law: safety, security, safeguards and liability for nuclear damage.
- International commitments of the State need to be reflected in national legislation.
- Legal framework should also include the underlying environmental protection, commercial and industrial aspects.

Objectives of nuclear legislation

- To ensure control over nuclear material, facilities and any other radioactive material
- To ensure that nuclear energy and its applications are exclusively used for peaceful uses.
- To ensure that nuclear facilities, nuclear materials and any other radioactive material are handled and operated safely and securely through a system of regulatory control.
- To ensure that compensation mechanisms are in place in case of nuclear damage

Scope: the “3S” concept

- The “3S” concept recognizes the interface and interrelations between nuclear safety, security and safeguards as well as liability for nuclear damage.
- One of the aims of the activities is to avoid inconsistent, incompatible or incomplete pieces of legislation in Member States

Elements of a national legislation

The “3S” approach covers the development of legislation in the following areas:

- a. National institutional framework;
- b. General principles of nuclear legislation: national regulatory framework for nuclear activities (regulation and control);
- c. Radiation Protection;
- d. Safety and security;
- e. Safety of Nuclear Facilities;

Elements of a national legislation

- f. Emergency Preparedness and Response;
- g. Mining and Milling;
- h. Transport of Radioactive Material;
- i. Radioactive Waste and Spent Fuel;
- j. Civil Liability for Nuclear Damage;
- k. Import/export of nuclear materials;
- l. Safeguards and non-proliferation;
- m. Physical protection; and
- n. Protection against nuclear terrorism in general.

Assessment of Relevant Laws

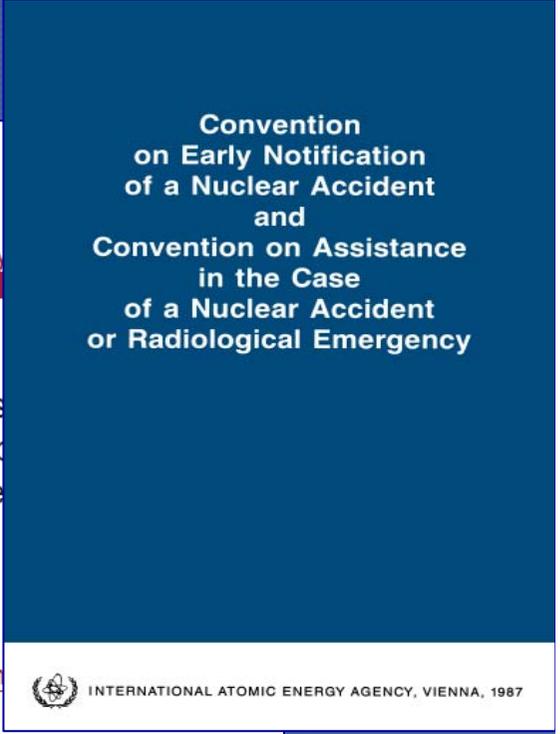
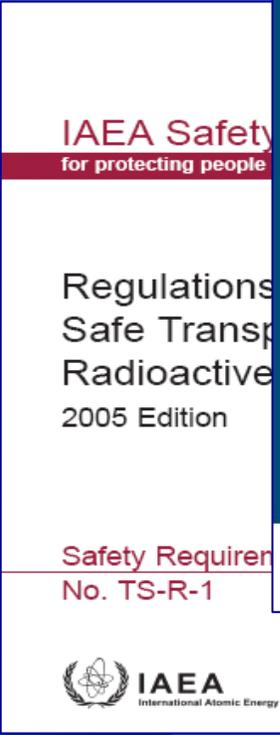
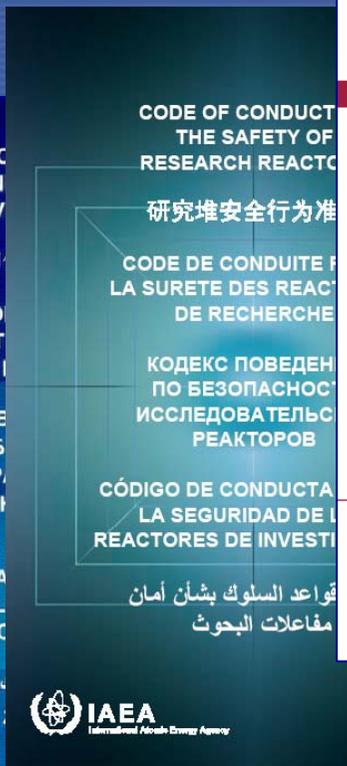
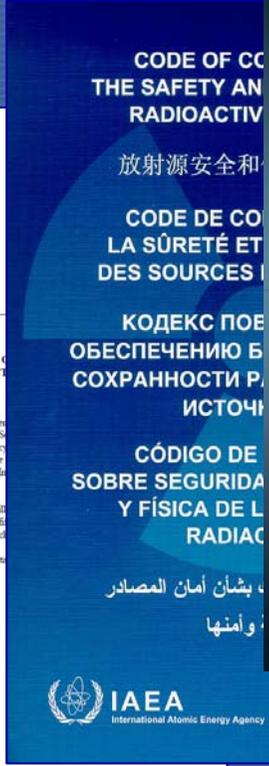
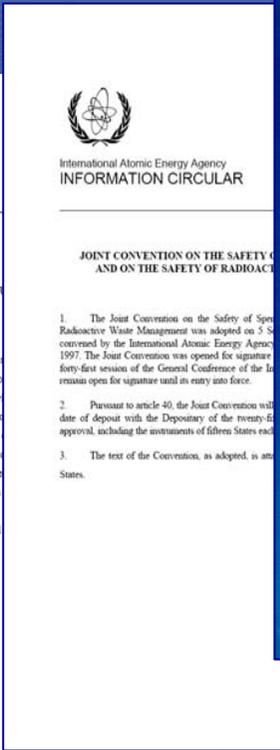
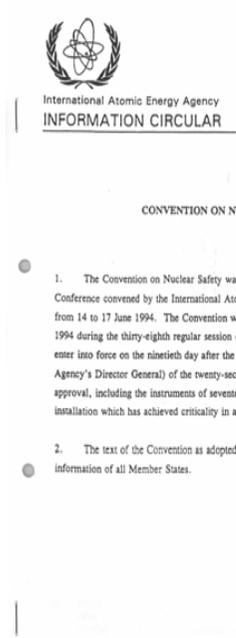
Comprehensive review and analysis of the status of all laws and regulatory arrangements relevant to nuclear energy

- **General environmental laws**
- **Economic laws (taxation, liability, fees, monetary penalties, electricity rate-making, etc.)**
- **Worker health and safety**
- **Civil and criminal enforcement**
- **Land use planning**
- **International trade and customs**
- **Scientific research and development (intellectual property rights)**

These subjects are only examples of subjects to be examined



International legal instruments



International Law on Nuclear Safety

- **Convention on Nuclear Safety, 1996**
- **Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, 1997**
- **Convention on Early Notification of a Nuclear Accident, 1986**
- **Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, 1986**

Common elements

Objectives:

- Providing a legal framework for conducting nuclear activities in a manner which adequately protects individuals, property and the environment
- Creation and maintenance of a regulatory body
- Ensuring independence and separation of regulatory functions
- Establishing a system of authorisation
- Establishing a system of inspection and enforcement of applicable laws and regulations



The Convention on Nuclear Safety

- **OBJECTIVES**

to achieve and maintain a high level of nuclear safety worldwide through the enhancement of national measures and international co-operation

to establish and maintain effective defences in nuclear installations against potential radiological hazards in order to protect individuals, society and the environment from harmful effects of ionizing radiation from such installations

to prevent accidents with radiological consequences and to mitigate such consequences should they occur

The Joint Convention

Combines two distinct subject matters:

- safety of spent fuel management



- safety of radioactive waste management



JOINT STRUCTURE

Objectives

- **to achieve and maintain a high level of safety worldwide in spent fuel and radioactive waste management through the enhancement of national measures, international co-operation**
- **to ensure that there are effective defenses against potential hazards in the course of such activities**
- **to prevent radiological accidents and to mitigate their consequences should they occur during any stage of spent fuel or radioactive waste management**

Convention on Early Notification of a Nuclear Accident

- Strengthens the international response for nuclear accidents by providing a mechanism for rapid information exchange in order to minimize radiological consequences
- Applies in the event of any accident involving specified facilities or activities of a State Party from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in an international transboundary release that could be of radiological safety significance to another State.

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

- The convention strengthens the international response to a nuclear accident or radiological emergency, by providing a mutual assistance mechanism with a view to minimize the consequences of such accidents or emergencies and protecting life, property and the environment against the effects of radioactive releases.
- The convention provides an international framework to facilitate prompt requests for and provision of assistance in the event of a nuclear accident or radiological emergency and to promote, facilitate and support cooperation between States Parties to that end

International Law on Nuclear Security and non Proliferation

- Convention on the Physical Protection of Nuclear Material
- The Treaty on the Non-proliferation of Nuclear Weapons (NPT)
- International Convention for the Suppression of Acts of Nuclear Terrorism

Convention on the Physical Protection of Nuclear Material and its amendment

- The CPPNM has a threefold scope of application: the physical protection of nuclear material during international transport; the criminalisation of offences; and international co-operation and information exchange
- The Amendment of 2005 extends the scope of the CPPNM to nuclear facilities and material in peaceful domestic use, storage as well as transport.

The Treaty on the Non-proliferation of Nuclear Weapons (NPT)

Rights and Obligations of All States Parties

- Inalienable right to develop research, production and use of nuclear energy for peaceful purposes

Nuclear-Weapon States (NWSs)

- Not to provide nuclear weapons or nuclear explosive devices to NNWS

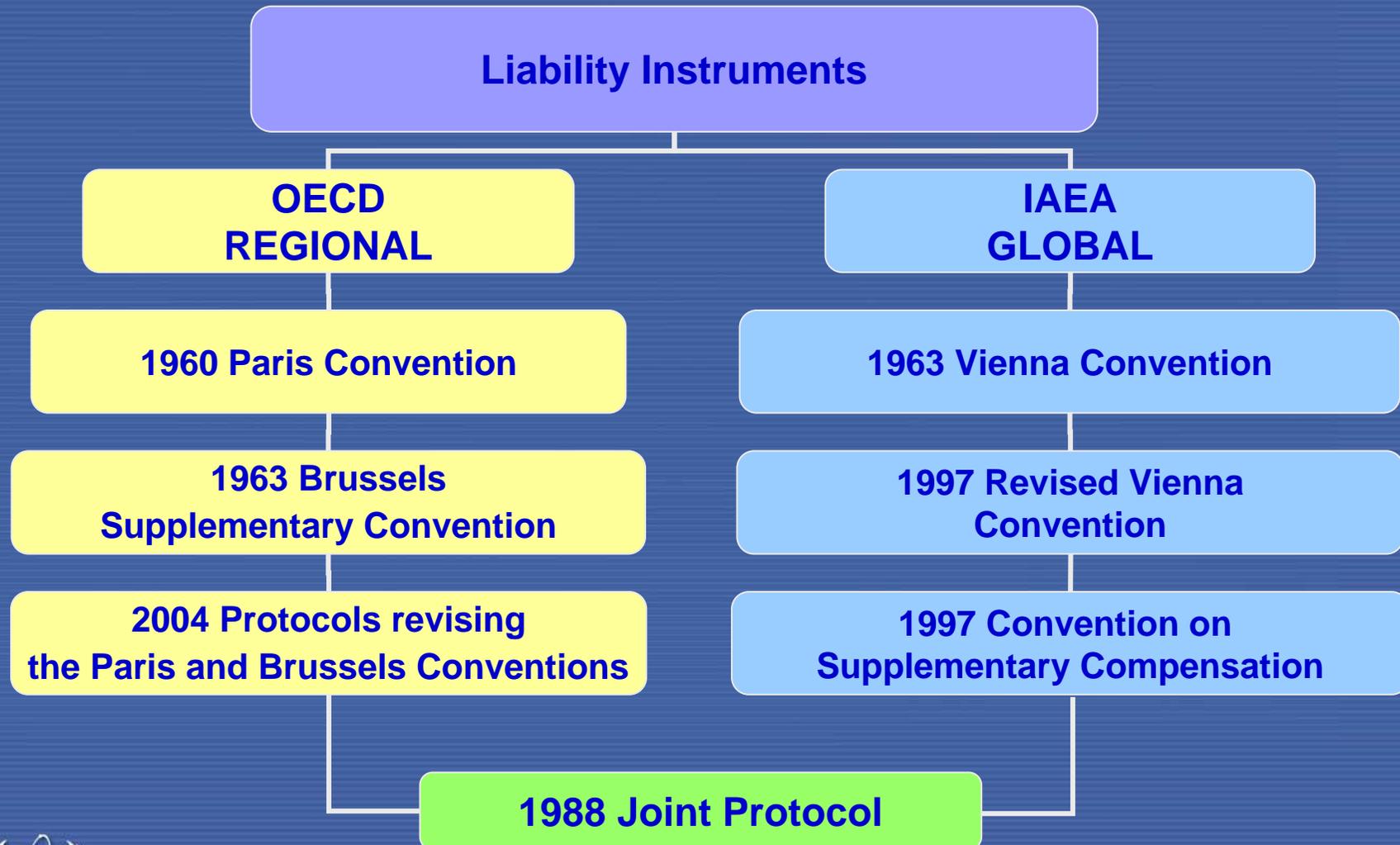
Non-Nuclear-Weapon States (NNWSs)

- Not to acquire nuclear weapons or other nuclear explosive devices
- Accept Agency safeguards on all nuclear material in the State
- Conclude SA within 18 months

International Convention for the Suppression of Acts of Nuclear Terrorism

- **Adopted by the UNGA on 13 April 2005**
 - **Details offences relating to unlawful and intentional possession and use of radioactive material or a nuclear explosive device or radioactive material dispersal or radiation-emitting device, and use or damage of nuclear facilities**
 - **States Parties are required to adopt measures as necessary to criminalize these offences**
 - **States Parties are “to make every effort to adopt appropriate measures to ensure the protection of radioactive material, taking into account relevant recommendations and functions of the International Atomic Energy Agency”**

International Law on Nuclear Liability



International Law on Nuclear Liability

Objective:

- To establish minimum standards of financial protection against damage resulting from the peaceful uses of nuclear energy, in particular, in a cross-border context

International Law on Nuclear Liability

- **Common elements:**
 - **All conventions apply to liability for nuclear damage caused by a nuclear incident in a nuclear installation situated in the territory of the Parties to the conventions, or in the course of transport of nuclear material to or from such an installation**
 - **Exclusive liability of the operator, i.e. no liability outside the regime and no liability by anyone else**
 - **Limitation of liability in amount (but Installation State is free to impose a higher amount or even unlimited liability)**

International Law on Nuclear Liability

- **Common elements cont'd.**
 - **Operator must maintain financial security (insurance)**
 - **Limitation of liability in time (ten years but thirty years for loss of life and personal injury)**
 - **Equal treatment of victims**
 - **Channelling of jurisdiction and recognition of judgments**

Other relevant non-binding instruments

- **Legal and Governmental Infrastructure for Nuclear, Radiation, Radioactive Waste and Transport Safety**
- **International Basic Safety Standards for Protection Against Ionizing Radiation and for the Safety of Radiation Sources**
- **Code of Conduct on the Safety and Security of Radioactive Sources**
- **Guidance on the Import and Export of Radioactive Sources**
- **Code of Conduct on the Safety of Research Reactors**
- **Regulations for the Safe Transport of Radioactive Material**
- **Safety Requirements on Preparedness and Response to a Nuclear or Radiological Emergency**

THANK YOU