

Legal

The Importance of Having an Adequate National Legal Framework for the Safe, Secure and Peaceful Use of Nuclear Technology



The annual session of the Nuclear Law Institute conducted by the IAEA at Baden, Austria 2015.

(Photo: D. Calma/IAEA)

SUMMARY

- It is important to develop and maintain an adequate national legal framework to ensure the safe, secure and peaceful use of nuclear technology.
- A broad range of international legal instruments has been adopted under the auspices of the IAEA in the areas of safety, security, safeguards and civil liability for nuclear damage.
- The IAEA supports Member States in adhering to and implementing these international legal instruments and in developing corresponding comprehensive national legislation.

INTRODUCTION

Nuclear technology holds the promise of significant benefits in a variety of fields, from medicine and

agriculture to electricity production and industry. However, nuclear energy and ionizing radiation may also pose risks to human health and safety and to the environment: risks that need to be carefully managed and regulated.

An important factor here is the development and maintenance of an adequate national legal framework for regulating and controlling activities related to nuclear technology.

The development and maintenance of an adequate national legal framework is relevant for all States engaged in any activity involving the use of nuclear energy and ionizing radiation, from the use of X ray machines for medical purposes to the generation of nuclear power and the management of spent nuclear fuel.

WHAT IS NUCLEAR LAW?

The objective of nuclear law is to provide a legal framework for conducting activities related to nuclear energy and ionizing radiation in a manner that adequately protects individuals, property and the environment.

Nuclear law covers three primary areas which need to be addressed when developing an adequate national legal framework:

- **Safety**, which refers to the protection of people and the environment against radiation risks and to the safety of facilities and activities that give rise to these risks;
- **Security**, which refers to the prevention and detection of, and response to, malicious acts involving nuclear and other radioactive material or facilities associated with such material;

- **Safeguards**, which refers to measures to ensure that States' undertakings to use nuclear material only for peaceful purposes are upheld.

Nuclear law also covers **liability**, which refers to the establishment of mechanisms for compensation of nuclear damage caused by a nuclear accident.

Nuclear law has a national and an international component:

- **National** – legislative documents (for example: laws, acts, statutes and decrees) that establish rules for the safe, secure and peaceful use of nuclear technology;
- **International** – a broad range of international legal instruments has been adopted under the auspices of the IAEA in the areas of safety, security, safeguards and civil liability for nuclear damage.

INTERNATIONAL LEGAL INSTRUMENTS

Legal instruments adopted under the auspices of the IAEA establish internationally recognized principles and requirements for the safe, secure and peaceful use of nuclear technology. These include legally binding instruments (such as treaties, conventions and agreements) and non-legally-binding instruments (such as codes of conduct, safety standards and security guidance documents).

An important element of the national legal framework in a given State is the set of conventions to which a State has adhered or the agreements which it has concluded. By becoming a party to any of these instruments, States assume a number of obligations, and their national legislation must be consistent with them.

The relevant legally binding instruments include the following:

| SAFETY | SECURITY | SAFEGUARDS | LIABILITY |
|---|---|--|---|
| <ul style="list-style-type: none"> • Convention on Early Notification of a Nuclear Accident • Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency • Convention on Nuclear Safety • Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management | <ul style="list-style-type: none"> • Convention on the Physical Protection of Nuclear Material • Amendment to the Convention on the Physical Protection of Nuclear Material | <ul style="list-style-type: none"> • Comprehensive safeguards agreements • Additional protocols to comprehensive safeguards agreements | <ul style="list-style-type: none"> • Vienna Convention on Civil Liability for Nuclear Damage • Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage • Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention • Convention on Supplementary Compensation for Nuclear Damage |

DEVELOPING AND ENHANCING THE NATIONAL LEGAL FRAMEWORK

From the early days of development of nuclear technology to its uses today, it has always been considered that this technology requires special legal arrangements. The national legal framework provides an adequate foundation for the regulation and control of activities involving nuclear technology. Experience in several Member States shows that this may best be achieved through the elaboration of a comprehensive national nuclear law covering all relevant aspects of nuclear regulation and control.

As with other national laws, nuclear legislation is regularly assessed, reviewed and amended as necessary to identify and address gaps, or to bring the legislation into line with a treaty or convention to which a State is a party or to which it intends to adhere. Laws are also updated to take into account new plans for the use of nuclear applications, lessons learned from national or international experiences, peer reviews or international best practices.

When assessing, drafting or revising nuclear legislation and any related laws, legislative drafters consider whether the national legal framework:

- Covers all activities involving the use of nuclear energy and ionizing radiation that are conducted or planned to be conducted in the State;
- Provides for the establishment of an independent regulatory body with clear authority and functions for nuclear regulation and control;
- Contains adequate provisions on safety, security, safeguards and, where appropriate, liability for nuclear damage;
- Complies with the State's international legal obligations;
- Is clear and consistent, without gaps or overlaps that may have an impact on the discharge of regulatory functions.



Nuclear law discussed at the Joint Japan-IAEA Nuclear Energy Management School. Tokyo, Japan, July 2017.

(Photo: Nuclear Energy Management School, Japan)

IAEA LEGISLATIVE ASSISTANCE PROGRAMME

A broad range of international legal instruments has been adopted under IAEA auspices in the nuclear field. Owing to the complexity and the number of instruments, the development and adoption of national nuclear legislation may be a challenging task. Against this background, there is an increasing demand from Member States for legislative assistance from the IAEA.

IAEA support focuses on:

- Raising awareness among senior officials and decision-makers about the importance of the international legal instruments adopted under IAEA auspices and about the importance of putting in place and maintaining an adequate national legal framework;
- Helping States to assess, review and develop nuclear legislation, gain a better understanding of the international legal instruments, and implement their international obligations;
- Training officials from Member States in nuclear law to support national capacity building in assessing, revising and maintaining an up-to-date national legal framework;
- Preparing and disseminating reference materials on nuclear law.



Participants at the regional workshop on nuclear law for Member States of the Latin America region in Santo Domingo, Dominican Republic, December 2014.

(Photo: Ministry of Energy and Mines, Dominican Republic)

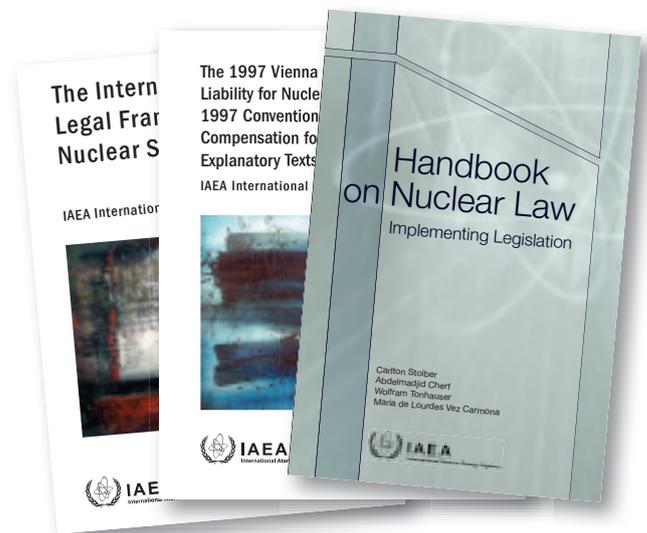
AREAS WHERE MEMBER STATES MAY BENEFIT FROM IAEA ASSISTANCE

- Assessment and update, as appropriate, of their respective national legal framework for the conduct of activities involving the safe, secure and peaceful use of nuclear technology.
- Enhancing knowledge about the various international legal instruments adopted under IAEA auspices for the safe, secure and peaceful use of nuclear technology.
- Availing themselves of the IAEA's legislative assistance programme in order to gain a better understanding of the elements of an adequate national nuclear legal framework and the related international legal framework.

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