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# Measures to Strengthen International Cooperation in Nuclear, Radiation and Transport Safety and Waste Management

## **Code of Conduct on the Safety and Security of Radioactive Sources: Revision of the Guidance on the Import and Export of Radioactive Sources**

*Report by the Director General*

### **Summary**

The purpose of this document is to seek approval by the Board of Governors of the draft revised Guidance on the Import and Export of Radioactive Sources to supplement the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.

### **Recommended Action**

It is recommended that the Board approve the draft revised *Guidance on the Import and Export of Radioactive Sources* that is contained in Annex 1 to this document and request the Director General to transmit it to the General Conference with a recommendation that the Conference endorse it and encourage its wide application.



# Measures to Strengthen International Cooperation in Nuclear, Radiation and Transport Safety and Waste Management

## **Code of Conduct on the Safety and Security of Radioactive Sources: Revision of the Guidance on the Import and Export of Radioactive Sources**

*Report by the Director General*

### **Background**

1. On 8 September 2003, the Board approved the revised Code of Conduct on the Safety and Security of Radioactive Sources (the Code of Conduct) that was contained in Annex 1 to document GOV/2003/49-GC(47)/9,<sup>1</sup> and on 19 September 2003 the General Conference, in resolution GC(47)/RES/7.B, welcomed the Board's approval of the revised Code of Conduct, endorsed the objectives and principles set out in it, and urged each State to "write to the Director General that it fully supports and endorses the IAEA's efforts to enhance the safety and security of radioactive sources, is working toward following the guidance contained in the Code of Conduct and encourages other States to do the same".
2. On 14 September 2004, the Board approved the Guidance on the Import and Export of Radioactive Sources (the Guidance) that was contained in Annex 1 to document GOV/2004/62-GC(48)/13,<sup>2</sup> and on 24 September 2004 the General Conference, in resolution GC(48)/RES/10.D, welcomed the approval of the Guidance by the Board of Governors, endorsed the Guidance "while recognizing that it is not legally binding", and encouraged States to "act in accordance with the Guidance on a harmonized basis and to notify the Director General of their intention to do so as supplementary information to the Code of Conduct".
3. In May 2010, the Secretariat convened an open-ended meeting of technical and legal experts for information sharing on the implementation by States of the Code of Conduct and the Guidance. The meeting recommended that a process for the review and revision of the Guidance should be initiated, that such a process should include an initial consultancy meeting, and that the recommendations of that meeting should be submitted to an open-ended meeting in mid-2011 and eventually incorporated into the text of the Guidance by the Secretariat.<sup>3</sup>

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<sup>1</sup> The Secretariat subsequently issued the Code of Conduct as INFCIRC/663.

<sup>2</sup> The Secretariat subsequently issued the Guidance together with the Code of Conduct as INFIRC/663.

<sup>3</sup> The Chairman's Report of that meeting can be found in Secretariat Note 2010/Note 41 of 27 July 2010.

4. In January 2011, the Secretariat convened a consultancy meeting to produce a draft revised version of the Guidance which was subsequently circulated for comment to all Member States.

5. An open-ended meeting of technical and legal experts, attended by 155 experts from 82 Member States and three international organizations, was held from 30 May to 1 June 2011. At that meeting, the experts reached consensus on the draft revised Guidance, which is contained in Annex 1 of this document. It should be noted that in his report, which is contained in Annex 2 of this document, the Chairman of the open-ended meeting stated that the meeting was of the view that the amendments agreed to by the meeting, as reflected in para. 12 of the Chairman's report, were not so significant, either individually or in aggregate, as to necessitate a new political commitment by those States which had previously notified the Director General of that commitment. Accordingly, the meeting recommended that the IAEA policy-making organs endorse the amended Guidance without requiring a recommencement of the political commitment process. The meeting further suggested that the Director General submit the attached draft revised Guidance to the IAEA's policy-making organs for their approval, together with the advice contained above.

## **Guidance on the Import and Export of Radioactive Sources**

### **DRAFT REVISED TEXT**

#### **I. PREAMBLE**

During meetings on the development and approval of the non-legally binding *Code of Conduct on the Safety and Security of Radioactive Sources* (hereafter referred to as the Code), some Member States requested guidance on implementing the Code, particularly in relation to the import and export of radioactive sources. Therefore, this non-legally binding Guidance was developed in 2004 by Member States to support the import and export provisions of the Code, and was first published in 2005. As envisaged in its paragraph 20, the Guidance was reviewed and revised in 2011.

States recognize the importance of IAEA programmes designed to assist them in strengthening their national infrastructure for the control of radioactive sources. States further recognize that participation in these programmes contributes towards States following the provisions of the Code and this Guidance.

#### **II. OBJECTIVE**

[1]. The objective of this Guidance is to improve the safety and security of imports and exports of radioactive sources in accordance with the provisions laid down in paragraphs 23–29 of the Code. With this objective in mind, this Guidance is not intended to impede international cooperation or commerce, as long as these do not contribute to the use of such sources for purposes that threaten safety and security. Exporting and importing States should aim to follow this Guidance when deciding whether or not to authorize exports and imports of Category 1 and 2 sources. States should consider this Guidance in a manner consistent with their national legislation and relevant international commitments.

#### **III. SCOPE**

[2]. This Guidance applies to Category 1 and 2 sources within the scope of the import and export provisions of the Code. This Guidance does not apply to sources or programmes that are not covered by the Code, such as nuclear material, as described in its paragraph 3, or radioactive sources within military or defence programmes, as described in its paragraph 4.

#### **IV. DEFINITIONS**

[3]. The terms used in this Guidance have the same meanings as those terms defined in the Code, unless otherwise defined herein.

(a) “Category 1 source(s)” means radioactive sources in Category 1 of Table 1 of Annex 1 of the Code.

(b) “Category 2 source(s)” means radioactive sources in Category 2 of Table 1 of Annex 1 of the Code.

(c) “Code” means the IAEA *Code of Conduct on the Safety and Security of Radioactive Sources* (IAEA/CODEOC/2004).

(d) “Export” means the physical transfer, originating from an exporting State, into an importing State or to a recipient in an importing State, of one or more radioactive source(s) covered by this Guidance.

(e) “Exporting facility” means the natural or legal person in an exporting State, from which one or more radioactive source(s) are exported to an importing State or to a recipient in an importing State.

(f) “Exporting State” means the State of origin of an export of one or more radioactive source(s) to an importing State or a recipient in an importing State.

(g) “Import” means the physical transfer, into an importing State or to a recipient in an importing State, originating from an exporting State, of one or more radioactive source(s) covered by this Guidance.

(h) “Importing State” means the State of final destination for a physical transfer of one or more radioactive source(s) from an exporting State or an exporting facility.

(i) “Recipient” means the natural or legal person in an importing State that receives one or more radioactive source(s) exported by an exporting State or an exporting facility in the exporting State.

## **V. POINT OF CONTACT**

[4]. Each State should nominate a point of contact, which could be a person or a position, for the purpose of facilitating the export and/or import of radioactive sources in accordance with the Code and this Guidance. If more than one point of contact is designated by a State, the State should indicate which point of contact should be contacted under which circumstances. States should provide the details of these points of contact to the IAEA.

## **VI. APPLICATION OF THIS GUIDANCE**

[5]. This Guidance provides a common framework for the import and export of Category 1 and 2 sources. States may also apply this framework to other radioactive sources, or may apply conditions in addition to the provisions of this Guidance. States may also consider this Guidance in the context of an export or import of an aggregation of sources that may pose a risk similar to Category 1 or 2 sources (see paragraph 3.5 of *Categorization of Radioactive Sources*, IAEA Safety Guide No. RS-G-1.9, for additional information on aggregation of sources). This Guidance should not be construed to amend or supersede applicable guidance under other multilateral import and export arrangements, in particular those established by regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States. States should interpret this Guidance in accordance with other initiatives that promote non-proliferation, nuclear safety and security, and the prevention of malicious acts using radioactive sources. In the application of the Guidance, the establishment and use of bilateral arrangements between the exporting and importing States is encouraged.

## VII. EXPORT OF CATEGORY 1 SOURCES

[6]. Each State should establish procedures for the authorization and control of exports of Category 1 sources. These procedures should cover the evaluation by the exporting State of the application for an export authorization submitted by the exporting facility; obtaining the consent of the importing State prior to authorizing the export; and providing notification to the importing State prior to the specific shipments (see paragraphs 7 to 9). Each State should have appropriate measures in place for enforcing these procedures. In cases of exceptional circumstances, as described in paragraphs 15 and 16, these procedures should be followed to the fullest extent possible.

### Evaluation of applications for export authorization

[7]. In deciding whether to authorize an export of one or more Category 1 sources, the exporting State should:

(a) Satisfy itself, in so far as practicable, that the recipient is authorized by the importing State to receive and possess the source(s) in accordance with its laws and regulations. This review by the exporting State should be based on, but not limited to, a confirmation from the importing State that the recipient is authorized to receive and possess the source(s) to be exported, or a copy of the recipient authorization. If the latter, the exporting State should review the following information:

- name of the recipient,
- recipient location and legal address or principal place of business,
- relevant radionuclides and activity (in Bq),
- intended end-use of the source(s), and
- expiry date (if any) of the recipient authorization.

(b) Satisfy itself, in so far as practicable, that the importing State has the appropriate technical and administrative capability, resources and regulatory structure needed for the management of the source(s) in a manner consistent with the provisions of the Code. This review by the exporting State should be based on whether the importing State has established a regulatory framework covering at least Category 1 sources, which is in place and operational, by:

- (i) promulgating radiation protection legislation and regulations;
- (ii) designating and empowering a regulatory body;
- (iii) establishing a national register or inventory of radioactive sources; and
- (iv) establishing a system for the notification, authorization and control of radioactive sources.

In addition to the above, the exporting State may consider the following information, if provided to, and made available by, the IAEA with the consent of the importing State:

- the importing State's responses to the Importing and Exporting States Questionnaire (attached in Annex 1 and described in paragraph 18);

- whether the importing State has written to the Director General indicating that it is working towards following the guidance contained in the Code; and
- whether the importing State participates in IAEA programmes designed to assist States in strengthening their national infrastructure for the control of radioactive sources (see paragraph 19);

(c) Consider, on the basis of the available information:

- (i) whether the recipient has been engaged in clandestine or illegal procurement of radioactive sources;
- (ii) whether an import or export authorization for radioactive sources has been denied to the recipient or importing State, or whether the recipient or importing State has diverted for purposes inconsistent with the Code any import or export of radioactive sources previously authorized;
- (iii) the risk of diversion or malicious acts involving radioactive sources.

#### Request for consent

[8] In requesting consent from the importing State prior to the shipment of one or more Category 1 sources, the exporting State should provide to the importing State the following information in writing:

- name of the recipient,
- recipient location and legal address or principal place of business,
- intended end-use of the source(s),
- radionuclides and activity (in Bq) on a date specified by the exporting State,
- a unique identifier for the request for consent,
- a suggested timeframe for responding to the request for consent, and
- if available, the estimated time period of the export, the number and unique identifier(s) of the source(s).

#### Notification prior to shipment

[9]. If, after considering the information in paragraph 7, and receiving consent pursuant to paragraph 8, the exporting State decides to authorize the export, it should take appropriate steps to ensure that:

(a) the export of the source is conducted in a manner consistent with existing relevant international standards relating to the transport of radioactive materials; and

(b) the importing State is notified in advance of each shipment of the following information in writing:

- estimated date of export,
- name of the exporting facility,

- name of the recipient,
- radionuclides and activity (in Bq) on a date specified by the exporting State, and
- the number of radioactive sources, their aggregated activity and, if available, their unique identifiers.

This notification may originate from the exporting State or exporting facility. If the notification originates from the exporting facility, a copy should be provided to the exporting State. This notification should be accompanied by a copy of the consent provided under paragraph 14(b), if available, and should, to the extent practicable, take place at least seven calendar days in advance of shipment. Timelines for submission of notifications may be specified, including where appropriate in bilateral arrangements between the exporting and importing States.

## **VIII. EXPORT OF CATEGORY 2 SOURCES**

[10]. Each State should establish procedures for the authorization and control of exports of Category 2 sources. These procedures should cover the evaluation by the exporting State of the application for an export authorization submitted by the exporting facility; and providing notification to the importing State prior to the specific shipments (see paragraphs 11 to 12). Each State should have appropriate measures in place for enforcing these procedures. In cases of exceptional circumstances, as described in paragraphs 15 and 16, these procedures should be followed to the fullest extent possible.

### Evaluation of applications for export authorization

[11]. In deciding whether to authorize an export of one or more Category 2 sources, the exporting State should:

(a) Satisfy itself, in so far as practicable, that the recipient is authorized by the importing State to receive and possess the source(s) in accordance with its laws and regulations. This review by the exporting State should be based on, but not limited to, a confirmation from the importing State that the recipient is authorized to receive and possess the source(s) to be exported, or a copy of the recipient authorization. If the latter, the exporting State should review the following information:

- name of the recipient,
- recipient location and legal address or principal place of business,
- relevant radionuclides and activity (in Bq),
- intended end-use(s) of the source(s), and
- expiry date (if any) of the recipient authorization.

The exporting State may permit the exporting facility to conduct the review under this subparagraph instead of the exporting State.

(b) Satisfy itself, in so far as practicable, that the importing State has the appropriate technical and administrative capability, resources and regulatory structure needed for the management of the source(s) in a manner consistent with the provisions of the Code. This review by the

exporting State should be based on whether the importing State has established a regulatory framework covering at least Category 1 and 2 sources, which is in place and operational, by:

- (i) promulgating radiation protection legislation and regulations;
- (ii) designating and empowering a regulatory body;
- (iii) establishing a national register or inventory of radioactive sources; and
- (iv) establishing a system for the notification, authorization and control of radioactive sources.

In addition to the above, the exporting State may consider the following information, if provided to, and made available by, the IAEA with the consent of the importing State:

- the importing State's responses to the Importing and Exporting States Questionnaire (attached in Annex 1 and described in paragraph 18);
- whether the importing State has written to the Director General indicating that it is working towards following the guidance contained in the Code; and
- whether the importing State participates in IAEA programmes designed to assist States in strengthening their national infrastructure for the control of radioactive sources (see paragraph 19).

(c) Consider, on the basis of the available information:

- (i) whether the recipient has been engaged in clandestine or illegal procurement of radioactive sources;
- (ii) whether an import or export authorization for radioactive sources has been denied to the recipient or importing State, or whether the recipient or importing State has diverted for purposes inconsistent with the Code any import or export of radioactive sources previously authorized;
- (iii) the risk of diversion or malicious acts involving radioactive sources.

#### Notification prior to shipment

[12]. If, after considering the information in paragraph 11, the exporting State decides to authorize the export, it should take appropriate steps to ensure that:

- (a) the export of radioactive source(s) is conducted in a manner consistent with existing relevant international standards relating to the transport of radioactive materials; and
- (b) the importing State is notified in advance of each shipment with the following information in writing:
  - estimated date of export,
  - name of the exporting facility,
  - name of the recipient,

- radionuclides and activity (in Bq) on a date specified by the exporting State, and
- the number of radioactive sources, their aggregated activity and, if available, their unique identifiers.

This notification may originate from the exporting State or exporting facility. If the notification originates from the exporting facility, a copy should be provided to the exporting State. To the extent practicable, this notification should take place at least seven calendar days in advance of shipment. Timelines for submission of notifications may be specified, including where appropriate in bilateral arrangements between the exporting and importing States.

## **IX. IMPORT OF CATEGORY 1 AND CATEGORY 2 SOURCES**

[13]. Each State should establish procedures for the authorization and control of imports of Category 1 and 2 sources. Each State should have appropriate measures in place for enforcing these procedures. In deciding whether to authorize an import of such a source or sources, the importing State should:

(a) Only do so if the recipient is authorized to receive and possess the source(s) in accordance with the laws and regulations of the importing State;

(b) Satisfy itself that it has the appropriate technical and administrative capability, resources and regulatory structure needed for the management of the source(s) in a manner consistent with the provisions of the Code. This consideration should be based on whether the importing State has established a regulatory framework covering at least Category 1 and 2 sources, which is in place and operational, by:

- (i) promulgating radiation protection legislation and regulations;
- (ii) designating and empowering a regulatory body;
- (iii) establishing a national register or inventory of radioactive sources; and
- (iv) establishing a system for the notification, authorization and control of radioactive sources.

(c) Consider on the basis of the available information:

- (i) whether the recipient has been engaged in clandestine or illegal procurement of radioactive sources;
- (ii) whether an import or export authorization for radioactive sources has been denied to the recipient, or whether the recipient has diverted for purposes inconsistent with the Code any import or export of radioactive sources previously authorized;
- (iii) the risk of diversion or malicious acts involving radioactive sources.

[14]. If, after considering the information in paragraph 13, the importing State decides to authorize the import, it should take appropriate steps to ensure that:

- (a) A copy of the recipient authorization, or the importing State's confirmation that the recipient is authorized to receive and possess the source(s) to be exported, is provided to the exporting State or exporting facility in cases where it is requested (see paragraphs 7 and 11);
- (b) A response to the request for consent is provided to the exporting State in cases where it is requested (see paragraph 8); and
- (c) To the extent within the responsibility of the importing State, the import of radioactive sources is conducted in a manner consistent with existing relevant international standards relating to the transport of radioactive materials.

## **X. EXCEPTIONAL CIRCUMSTANCES**

[15]. If the provisions of paragraphs 24 and 25 of the Code (see paragraphs 6–14 above) cannot be followed with respect to a particular import or export, the States involved should consider whether the import or export may be authorized in exceptional circumstances. In doing so, those States may consider the risks and benefits of such an import or export. If it is decided that such “exceptional circumstances” do exist, the exporting State should obtain consent from the importing State, in accordance with paragraph 26 of the Code, and approval of such an export should otherwise satisfy the exporting State's authorization process, to the extent possible.

Exceptional circumstances should be considered as:

- (a) Cases of considerable health or medical need, as acknowledged by the importing State and by the exporting State. In such cases, the importing and exporting States should, to the extent practicable, make arrangements prior to the authorization of the export for the safe and secure management of the source(s) during and at the end of their useful life;
- (b) Cases where there is an imminent radiological hazard or security threat presented by one or more radioactive sources; or
- (c) Cases in which the exporting facility or exporting State maintains control of radioactive source(s) throughout the period that the source(s) are outside of the exporting State, and the exporting facility or exporting State removes the source(s) at the conclusion of this period.

### Request for consent

[16]. In requesting consent from the importing State prior to the shipment of one or more Category 1 or 2 sources under exceptional circumstances, the exporting State should provide to the importing State the following information in writing:

- name of the recipient,
- recipient location and legal address or principal place of business,
- intended end-use(s) of the source(s)
- radionuclides and activity (in Bq) on a date specified by the exporting State,
- a unique identifier for the request for consent,

- a suggested timeframe for a response on the request for consent, and
- if available, the estimated time period of the export, the number and unique identifier(s) of the source(s).

## **XI. TRANSIT AND TRANSSHIPMENT**

[17]. Although the transport of radioactive sources through the territory of a transit or transshipment State is not subject to the authorization procedures outlined in paragraphs 24 and 25 of the Code, and therefore not subject to the provisions of this Guidance, States should consider paragraph 29 of the Code, which states that the transport of radioactive sources through the territory of a transit or transshipment State should be conducted in a manner consistent with existing relevant international standards relating to the transport of radioactive materials, in particular paying careful attention to maintaining continuity of control during international transport.

## **XII. GENERAL**

[18]. To facilitate the timely review of export requests and to further harmonize the application of this Guidance, each State is urged to make available to the IAEA its responses to the Importing and Exporting States Questionnaire (see Annex 1) and an update of those responses if they change, as soon as practicable after such changes. Those responses should, with the consent of the State concerned, be made available to the points of contacts of other States.

[19]. The IAEA is requested to make available in a timely manner, subject to the consent of the States concerned, as appropriate and subject to the availability of funds:

- (a) a list of States' points of contact as described in paragraph 4;
- (b) the responses to the Importing and Exporting States Questionnaire (see Annex 1);
- (c) a list of States that have written to the Director General that they are working towards following the guidance contained in the Code; and
- (d) any additional information resulting from IAEA programmes designed to assist States in strengthening their national infrastructure for the control of radioactive sources which a particular State may wish to provide.

The IAEA should send periodic reminders requesting updates of the information specified in points (a) and (b) of this paragraph. The provisions of paragraph 17 of the Code concerning confidentiality should apply to States receiving this information. The IAEA is requested to protect the confidentiality of the responses to the Importing and Exporting States Questionnaire and any other information it receives in confidence pursuant to this Guidance by taking appropriate security measures, including the use of secure, password protected websites.

[20]. This Guidance should be reviewed and, if appropriate, revised by Member States every five years, or earlier if necessary. However, the absence of a review of or a revision to this Guidance should not be a basis for the authorization or denial of exports and imports of radioactive sources.

[21]. In furtherance of harmonized action under this Guidance, States should, as necessary and appropriate, exchange relevant information and consult with other States, including as part of bilateral arrangements. States understand that the provisions of paragraph 17 of the Code concerning confidentiality should apply where appropriate with respect to information provided or exchanged pursuant to this Guidance, including information made available to the IAEA that was provided to it in confidence by importing or exporting States.

[22]. In the interests of international safety and security, the cooperation of all States in following this Guidance would be welcome.

**ANNEX I: IMPORTING AND EXPORTING STATES QUESTIONNAIRE**

To facilitate the timely review of export authorizations and to further harmonize the application of this Guidance, States are requested to make available to the IAEA through official channels their responses to this questionnaire, as well as any updates of those responses to this Importing and Exporting State Questionnaire. Those responses should, with the consent of the State concerned, be made available to the points of contact of other States. Paragraph 17 of the Code concerning confidentiality should apply to States receiving this information.

States are requested to answer the following questions, and may also provide explanations for their responses.

(i) Has your State implemented the following essential elements of a national regulatory framework covering at least Category 1 and 2 sources?

Essential elements of the national regulatory framework	IMPLEMENTED		
	Fully	Partially	Not yet
1. Legislation addressing safety and security of sources, in a manner consistent with paragraphs 18 and 19 of the Code, is in place.			
2. Regulations addressing safety and security of sources, in a manner consistent with paragraphs 18 and 19 of the Code, are in place.			
3. A regulatory body that establishes regulations and issues guidance relating to the safety and security of radioactive sources, in a manner consistent with paragraphs 19(a) and 20 of the Code, is in place.			
4. The regulatory body has sufficient staffing and training to discharge its regulatory functions in a manner consistent with paragraph 21(a) of the Code.			
5. The regulatory body has sufficient resources to regulate the safety and security of radioactive sources in a manner consistent with paragraph 21(b) and (c) of the Code.			
6. A national registry or inventory of radioactive sources, in a manner consistent with paragraph 11 of the Code, has been established and is being maintained.			
7. An effective national legislative and regulatory system of control over the management and protection of radioactive sources, in a manner consistent with paragraphs 8 and 19(f) of the Code, is in place.			
8. A system for authorization including the export and import of radioactive sources, in a manner consistent with paragraphs 19(c), 20(d) and (e) and 22(a) of the Code, is in place.			
9. A system of inspection for the verification of compliance with regulatory requirements, in a manner consistent with paragraphs 20(h) and 22(i) of the Code, is in place.			
10. A system for the enforcement of regulatory requirements, in a manner consistent with paragraphs 20(i) and 22(j) of the Code, is in place.			

Essential elements of the national regulatory framework	IMPLEMENTED		
	Fully	Partially	Not yet
11. The regulatory body liaises and coordinates with other national bodies in all areas relating to the safety and security of radioactive sources, in a manner consistent with paragraph 20(m) of the Code.			
12. The regulatory body liaises with regulatory bodies of other countries and with international organizations dealing with the safety and security of radioactive sources, in a manner consistent with paragraph 20(n) of the Code.			
13. The regulatory body ensures that arrangements are made for the safe management and secure protection of radioactive sources, once they have become disused, in a manner consistent with paragraphs 20(e) (vii) and 22(b) of the Code.			

Please provide any additional comments or information to expand on your responses to one or more of the above questions.

(ii) Does your State consent to the release of the answers to this questionnaire to the points of contact of other States? YES/NO

Name, Signature, Position, Organization and Date.

## **Open-ended Meeting of Technical and Legal Experts on the Code of Conduct on the Safety and Security of Radioactive Sources: Review and Revision of the Guidance on the Import and Export of Radioactive Sources**

**Vienna, 30 May–1 June 2011**

### **Report of the Chairman**

1. An open-ended meeting of technical and legal experts to review and revise the Guidance on the Import and Export of Radioactive Sources (the Guidance) was held from 30 May to 1 June 2011 at the IAEA Headquarters in Vienna under the chairmanship of Mr Steven McIntosh (Australia).

2. The meeting was open to all States (IAEA Member States and non Member States) and was attended by 155 experts from 82 Member States of the IAEA (Albania, Algeria, Argentina, Armenia, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Chile, China, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Dominican Republic, Egypt, Ethiopia, Finland, France, Gabon, Georgia, Germany, Ghana, Haiti, Hungary, India, Indonesia, Iran, Italy, Japan, Jordan, Kazakhstan, Republic of Korea, Kuwait, Kyrgyzstan, Lebanon, Lithuania, Madagascar, Malaysia, Mali, Mexico, Montenegro, Morocco, Nigeria, Norway, Oman, Pakistan, Poland, Qatar, Republic of Moldova, Romania, Russian Federation, Senegal, Serbia, Sierra Leone, South Africa, Sudan, Sweden, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Vietnam, Yemen and Zimbabwe). The meeting was also attended by observers from the European Union (EU), the Organization for Security and Co-operation in Europe (OSCE) and the International Source Suppliers and Producers Association (ISSPA). The Scientific Secretaries for the meeting were Mr Hilaire Mansoux (Division of Radiation, Transport and Waste Safety) and Mr Wolfram Tonhauser (Office of Legal Affairs).

3. In May 2010, an open-ended meeting of technical and legal experts was held to exchange information and lessons learned, and to evaluate the progress made by States towards implementing the Code of Conduct on the Safety and Security of Radioactive Sources (the Code) and its associated Guidance on the Import and Export of Radioactive Sources (the Guidance). The Chairman's report of that meeting included a recommendation that a process for the review of the Guidance be put in place by the Secretariat, including an open-ended meeting to which all States would be invited.

4. The objective of this present meeting was therefore to discuss with all States the results of the review process and any proposals for revising the Guidance, with a view to improving its harmonized implementation.

5. The meeting was opened by Mr Pil-Soo Hahn, Director of the Division of Radiation, Transport and Waste Safety. In his opening remarks, Mr Hahn noted that to date 103 States have notified the Director General of their intention to act in accordance with the Code, and that 64 of those States have additionally notified the Director General of their intention to act in accordance with the Guidance. He invited the meeting to continue to optimize the balance between risks and benefits through the definition and implementation of a graded approach when discussing any possible changes to the Guidance.

6. Before the meeting started its work, the Secretariat gave an overview of the current status of the global political commitments to the Code and to the Guidance, and of the radiation safety infrastructure in Member States.

7. The meeting was reminded of the process through which the Guidance was initially drafted and published in 2004–2005. The meeting was also briefed on the previous steps of the process initiated on the recommendation of the 2010 Meeting, including a consultancy meeting held in January 2011 and the circulation of a number of draft documents prior to the present meeting: a draft revised Guidance; a draft revised Annex 1; and two new draft documents named “Annex 2” and “Frequently Asked Questions (FAQ)”. As it turned out, the meeting agreed that the latter two documents were of a lesser status, and would be addressed in a different way (see paragraph 10).

8. The participants of the meeting felt that the Guidance was useful, and that there was no indication that its basic principles and steps needed to be modified at this time. However, some information was out of date, and it was felt, on the basis of States’ experience in implementing the Guidance, that some editorial changes were desirable in order to improve its clarity. The meeting accepted as a guiding principle of its work that any changes made to the Guidance should not be so significant as to necessitate a new political commitment by those States which had previously notified the Director General of their intention to act in accordance with the Guidance.

9. The IAEA Office of Legal Affairs (OLA) advised that the question as to whether the revisions to the Guidance would necessitate a new political commitment process would ultimately be for the IAEA Policy-Making Organs to determine, as the Guidance was not a legally binding instrument. The views of this meeting in that regard would be an important factor in coming to such a decision. It was noted that the political nature of the commitment process meant that States were always free to withdraw their commitment at any stage.

10. Consequently, it was decided that the draft “Annex2” should not be incorporated as an annex to the Guidance, but rather as a possible additional clarifying text to be made available in future on the IAEA Code of Conduct web page, like the proposed “FAQ” document. Prior to such publication, revisions to the drafts would be needed. The Secretariat was encouraged to consult further on the drafts before finalizing the documents, which would be its responsibility.

11. The experts conducted a thorough review of the draft revised Guidance proposed by the consultancy meeting, and reached consensus on a final text to be considered by the IAEA Policy-Making Organs. During the discussions, the following points received particular attention:

- Management of disused sources;
- Role and responsibilities of the point of contact
- The important role which bilateral arrangements could play in the harmonized and efficient implementation of the Code;
- The possibility of including in the Guidance a provision for notification of receipt of a source or sources to the exporting State;
- The importance of applying as many of the standard processes as possible to the export of a source under the “exceptional circumstances” provision.
- The importance of expanding Annex 1 to the Guidance in order to make it a more useful tool for exporting States and to more closely align it with the current structure of IAEA programmes in the field of radiation safety;
- The importance of information security management in the sharing and transmission of details about radioactive sources, in a manner consistent with paragraph 17 of the Code.

12. A number of amendments to the Guidance were accepted, as reflected in the attached revised Guidance. Those amendments were undertaken to:

- Update obsolete references to IAEA projects and documents;
- Improve the clarity and distinction of the actions to be taken in controlling the export or import of one or more sources;
- Provide additional clarification and guidance on the implementation of the Guidance, based on the feedback from experience; and
- Improve the Questionnaire in Annex 1 in order to reflect changes in IAEA project structures, facilitate the timely review of export authorizations and further harmonize the application of the Guidance (one participant felt that this change was not necessary).

13. The long-term management of disused sources was a recurring theme during the discussions. It was recalled that a meeting on this specific subject had been held in mid-2009, and that the report of that meeting had identified a number of obstacles to the return of sources to a supplier and a number of other challenges in relation to the long-term management of disused sources. Although it was felt that the Guidance was generally not the appropriate vehicle to comprehensively address the management of disused sources, participants felt that further discussions on the subject were necessary. It was noted that there would be an IAEA Workshop on the Sustainable Management of Disused Sealed Radioactive Sources in Vienna in late October

2011, and the meeting requested that this workshop consider the full range of issues raised in the report of the 2009 meeting. The Secretariat was requested to ensure, to the maximum extent possible, the involvement of individuals who had been involved in the processes under the Code.

14. During the discussions, the issue of notification of denials of export authorization was raised. It was agreed that an amendment to the Guidance to cover this issue would not be consistent with the approach outlined in paragraph 8. It was also noted that there was nothing in the Guidance which would prevent States from exchanging such information.

15. The meeting discussed the possible inclusion in the Guidance of a provision for sending confirmation of receipt of a source or sources to the exporting State. It was accepted that an amendment to the Guidance to cover this issue would not be consistent with the approach outlined in paragraph 8. However, it was noted that it was open to States to include such a confirmation in their internal procedures and in any bilateral arrangements covering the import and export of radioactive sources.

16. In relation to the funding of the meetings organized in the framework of the Code, it was recalled that the Regular Budget of the IAEA does not contain the necessary funds. This year, specific donations by Australia, Canada and the United States of America had allowed the participation of experts from States who otherwise could not have attended.

17. The meeting was of the view that the amendments referred to in paragraph 12 were not so significant, either individually or in aggregate, as to necessitate a new political commitment by those States which had previously notified the Director General of that commitment. Given that, and the advice from OLA (see paragraph 9), the meeting recommended that the IAEA Policy-Making Organs endorse the amended Guidance without requiring a recommencement of the political commitment process.

18. The meeting suggested that the Director General submit this report and the attached revised Guidance to the IAEA Policy-Making Organs for their approval, together with the advice contained in paragraph 17 above.



Steven McIntosh

Chairman

1 June 2011