

JOINT CONVENTION ON THE SAFETY OF SPENT FUEL
AND RADIOACTIVE WASTE MANAGEMENT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MAN-
AGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MAN-
AGEMENT, DONE AT VIENNA ON SEPTEMBER 5, 1997



SEPTEMBER 13, 2000.—Convention was read the first time, and together
with the accompanying papers, referred to the Committee on Foreign
Relations and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 13, 2000.*

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, done at Vienna on September 5, 1997. Also transmitted for the information of the Senate is the report of the Department of State concerning the Convention.

This Convention was adopted by a Diplomatic Conference convened by the International Atomic Energy Agency (IAEA) in September 1997 and was opened for signature in Vienna on September 5, 1997, during the IAEA General Conference, on which date Secretary of Energy Federico Pena signed the Convention for the United States.

The Convention is an important part of the effort to raise the level of nuclear safety around the world. It is companion to and structured similarly to the Convention on Nuclear Safety (CNS), to which the Senate gave its advice and consent on March 25, 1999, and which entered into force for the United States on July 10, 1999. The Convention establishes a series of broad commitments with respect to the safe management of spent fuel and radioactive waste. The Convention does not delineate detailed mandatory standards the Parties must meet, but instead Parties are to take appropriate steps to bring their activities into compliance with the general obligations of the Convention.

The Convention includes safety requirements for spent fuel management when the spent fuel results from the operation of civilian nuclear reactors and radioactive waste management for wastes resulting from civilian applications.

The Convention does not apply to a Party's military radioactive waste or spent nuclear fuel unless the Party declares it as spent nuclear fuel or radioactive waste for the purposes of the Convention, or if and when such waste material is permanently transferred to and managed within exclusively civilian programs. The Convention contains provisions to ensure that national security is not compromised and that Parties have absolute discretion as to what information is reported on material from military sources.

The United States has initiated many steps to improve nuclear safety worldwide in accordance with its long-standing policy to make safety an absolute priority in the use of nuclear energy, and has supported the effort to develop both the CNS and this Convention. The Convention should encourage countries to improve the

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management of spent fuel and radioactive waste domestically and thus result in an increase in nuclear safety worldwide.

Consultations were held with representatives from States and the nuclear industry. There are no significant new burdens or unfunded mandates for the States or industry that should result from the Convention. Costs for implementation of the proposed Convention will be absorbed within the existing budgets of affected agencies.

I urge the Senate to act expeditiously in giving its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, July 13, 2000.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, done at Vienna on September 5, 1997. Accompanying this Report, for the information of the Senate, is an Article-by-Article analysis of the Convention. I recommend that this Convention be transmitted to the Senate for its advice and consent to ratification.

This Convention is an important part of the efforts to raise the level of nuclear safety around the world. The Convention on Nuclear Safety (CNS), to which the United States became a Party on July 10, 1999, applies only to civilian nuclear power installations. Other nuclear facilities, spent fuel, and fuel-cycle activities are not covered under the CNS. The Preamble of the CNS does, however, recognize the need to develop a waste convention and contains a preambulatory statement affirming a commitment by the Parties to develop a similar convention on the safe management of radioactive waste.

To this end, a Group of Experts was constituted from approximately 50 countries to prepare a draft convention on spent nuclear fuel and radioactive waste. From 1995 to 1997, the International Atomic Energy Agency convened seven meetings of the Group in which the United States participated. A draft text was completed in March 1997 and submitted for review by the Board of Governors at its June 1997 meeting. The Board subsequently authorized the Director-General to convene a Diplomatic Conference in Vienna. The Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management was adopted on September 5, 1997. Secretary of Energy Pena signed the Convention for the United States on that date.

The Convention will enter into force 90 days after 25 states have ratified the Convention, 15 of which must have one operational nuclear power plant. A Preparatory Meeting is to be held no later than six months after entry into force. The first Review Meeting is to be held no later than 30 months after entry into force. The interval between review meetings is not to exceed three years. To date, the Convention has been signed by 41 countries and ratified by 15 countries. Of these 15 countries, 10 are states with at least one operational nuclear power reactor.

Structured similarly to the CNS, the Convention establishes a series of broad commitments with respect to the safe management of spent fuel and radioactive waste. The Convention does not delineate mandatory standards the Parties must meet, but instead Parties are to take appropriate steps to bring their activities into compliance with the obligations of the Convention.

Under the Convention, Parties will submit periodic national reports on the steps that they are taking to implement the obligations of the Convention. These reports will be reviewed and discussed at Review Meetings of the Parties, at which each Party will have an opportunity to discuss and seek clarification of reports submitted by other Parties. Although not reflected in the Convention text, as currently proposed the Parties are to be organized into subgroups of five to seven countries. The United States will be assigned a group and will have the opportunity to review national reports of other countries assigned to this group. Parties also can comment on national reports of countries not in their review group.

The U.S. national report form and structure will be closely modeled after the national report submitted for the CNS. As required under the Convention, the report will include, *inter alia*, the U.S. legislative and regulatory framework, spent nuclear fuel and radioactive waste inventory data (from currently available Federal Government databases) and a listing of types of existing and proposed facilities, whether Federal, State, or private. The United States believes its management and safety practices meet all Convention commitments.

The Department of Energy is the lead agency for preparation of the report in coordination with the Nuclear Regulatory Commission, the Environmental Protection Agency, and the Department of State. An interagency working group was established for the purpose of coordinating Convention activities.

The scope of the Convention includes safety requirements for spent fuel management when the spent fuel results from the operation of civilian nuclear reactors; radioactive waste management resulting from civilian applications; disused sealed sources no longer needed; operational radiation protection; management of nuclear facilities; decommissioning; emergency preparedness; a legislative and regulatory framework; and transboundary movement. It does not include naturally occurring radioactive materials (NORM), unless a Party declares it as radioactive waste for the purposes of the Convention.

The scope of the Convention does not apply to a Party's military radioactive waste or spent nuclear fuel unless the Party declares it as spent nuclear fuel or radioactive waste for the purposes of the Convention.

The Convention would apply to military radioactive waste and spent nuclear fuel if and when such material is permanently transferred to and managed within exclusively civilian programs. The Convention contains provisions to ensure that national security is not compromised and that Parties have absolute discretion as to what information is reported on material from military sources. In the United States, all military radioactive waste and spent nuclear fuel is normally transferred to civilian programs for disposal. The Convention will not, therefore, affect ongoing U.S. military oper-

ations in any way, nor will classified information be covered in the U.S. national report.

As does the CNS, this Convention encourages broad participation through its elaboration as an incentive process, under which Parties take appropriate steps to bring their activities into compliance with the obligations of the Convention. The goal is that over time, through processes of self-improvement, acceptance of the obligations under the Convention, and periodic reviews of their Convention-related activities, all the Parties will attain a higher level of safety with the management of their spent fuel and radioactive waste.

As a Party to the Convention, one delegate and any other alternates, experts, or advisers as is deemed necessary may represent the U.S. Government. The U.S. Delegate will be a representative of the Department of State. U.S. Alternate Delegates will be representatives of the Department of Energy, the Nuclear Regulatory Commission, and the Environmental Protection Agency.

The Department of Energy estimates costs for preparing the U.S. national reports to be \$200,000 for fiscal year 2000 and \$200,000 incurred annually thereafter. Costs will be absorbed within the existing Department of Energy budget. The Nuclear Regulatory Commission costs are not expected to be substantial and can be absorbed within the existing budget. The Environmental Protection Agency expects costs to be minimal and can be absorbed within the existing budget.

Consultations were held with the representatives from States, industry, and the U.S. Congress. There are no significant new burdens or unfunded mandates for the States or industry that should result from the Convention.

No implementing legislation will be necessary for the United States to comply with its obligations under the Convention.

The Department of Energy, the Nuclear Regulatory Commission, and the Environmental Protection Agency join the Department of State in recommending that the Convention be transmitted to the Senate with a view to receiving its advice and consent to ratification at the earliest possible time.

Respectfully submitted,

ALAN LARSON.

Enclosure: As stated.

ARTICLE-BY-ARTICLE ANALYSIS
JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND
ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT

The Preamble describes the concerns underlying the Convention, recognizing that the operation of nuclear power plants generate spent fuel and radioactive waste, and that other applications of nuclear technology generate waste. Cognizant of the importance to the international community of ensuring well regulated and environmentally sound management practices for spent fuel and radioactive waste, the Parties acknowledge that the same safety objectives apply both to spent fuel and radioactive waste management and state their desire to promote an effective nuclear safety culture world wide. Recognizing that ultimate responsibility for defining its own fuel cycle policies rests with the state, Parties recognize that some states consider spent fuel a valuable resource that may be reprocessed, while others elect to dispose of it. The Preamble notes that the Parties are mindful of the needs of developing countries and states with economies in transition and the need to assist them, in the fulfillment of their rights and obligations set out in the Convention. The Parties also express the desirability of strengthening the international system of transboundary movement and affirm the importance of international cooperation for the enhancement of nuclear safety through bilateral and multilateral mechanisms and this incentive Convention.

Article 1 sets forth the objectives of the Convention, which are to: 1) 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 cooperation, including where appropriate, safety-related technical cooperation; 2) ensure that during all stages of spent fuel and radioactive waste management there are effective defenses against potential radiological hazards so that individuals, society, and the environment are protected from harmful effects of ionizing radiation, now and in the future; and 3) prevent accidents with radiological consequences, and mitigate such consequences should they occur during any stage of management.

Article 2 contains 21 definitions for the Convention. Particular attention is drawn to the following definitions: "discharges" means planned and controlled releases into the

environment, as a legitimate practice, within limits authorized by the regulatory body, of liquid or gaseous radioactive materials that originate from regulated nuclear facilities during normal operation; "disposal" means the emplacement of spent fuel or radioactive waste in an appropriate facility without the intention of retrieval; "licence" means any authorization, permission or certification granted by a regulatory body to carry out any activity related to the management of spent fuel or of radioactive waste; a "nuclear facility" means a civilian facility and its associated land, buildings and equipment in which radioactive materials are produced, processed, used, handled, stored, or disposed of on such a scale that consideration of safety is required; "radioactive waste" means radioactive material in gaseous, liquid or solid form for which no further use is foreseen by the Party or by a natural or legal person whose decision is accepted by the Party, and which is controlled as radioactive waste by a regulatory body under the legislative and regulatory framework of the Party; a "regulatory body" for each Party means any body or bodies given the legal authority by that Party to regulate any aspect of the safety of spent fuel or radioactive waste management including the granting of licenses; "sealed source" means radioactive material that is permanently sealed in a capsule or closely bonded and in a solid form, excluding reactor fuel elements; "spent fuel" means nuclear fuel that has been irradiated in and permanently removed from a reactor core; "state of destination" means a state to which a transboundary movement is planned or takes place; a "state of origin" means a state from which a transboundary movement is planned to be initiated or is initiated; a "state of transit" means any state, other than a state of origin or destination, through whose internal waters, inland waterways, or land territory a transboundary movement is planned or takes place.

Article 3 specifies that the Convention's scope is to apply to the safety of spent fuel management when the spent fuel results from the operation of civilian nuclear reactors. It also applies to the safety of radioactive waste management when radioactive waste results from civilian applications. Unless otherwise declared by the Party, military or defense program spent fuel or radioactive waste is not covered under the Convention, unless such materials are permanently transferred to and managed exclusively within civilian programs. Nor does it

apply to spent fuel held at reprocessing facilities as part of a reprocessing activity unless the Party declares reprocessing to be part of spent fuel management, or waste containing only naturally occurring radioactive materials that do not originate from the fuel cycle unless it constitutes a disused sealed source (understood to be sources (old or new) no longer in use or which are not intended to be used) or it is declared as radioactive waste for the purposes of this Convention by the Party. The Convention also applies to discharges as defined in Article 2 and as provided for in Articles 4, 7, 11, 14, 24, and 26.

Articles 4-10 address the safety of spent fuel. Article 4 requires each Party to take appropriate steps to ensure that at all stages of spent fuel management, individuals, society, and the environment are adequately protected against radiological hazards. Without identifying specific steps the Parties should take, and thus leaving such steps to each Party's discretion, the Convention enumerates seven goals of these steps:

- (i) ensure that criticality and removal of residual heat generated during spent fuel management are adequately addressed;
- (ii) ensure that the generation of radioactive waste associated with spent fuel management is kept to the minimum practicable consistent with the type of fuel cycle policy adopted;
- (iii) take into account interdependencies among the different steps in spent fuel management;
- (iv) provide for effective protection of individuals, society, and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;
- (v) take into account the biological, chemical and other hazards that may be associated with spent fuel management;
- (vi) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;

- (vii) aim to avoid imposing undue burdens on future generations.

Article 5 requires each Party to take the appropriate steps to review the safety of any existing spent fuel management facility and to ensure that, if necessary, all reasonably practicable improvements are made to upgrade facility safety.

Article 6 addresses the siting of spent fuel management facilities. Parties are required to take the appropriate steps to ensure that procedures are established and implemented for a proposed spent fuel management facility: to evaluate all relevant site-related factors likely to affect the safety of the facility during its operating lifetime; to evaluate the likely safety impact of a proposed facility on individuals, society and the environment; and to make such information public. Each Party must also take the steps to ensure that appropriate procedures are established and implemented, to consult Parties in the vicinity of a proposed facility likely to be affected by that facility and provide to them, upon request, general data to evaluate and assess the likely safety impact of the facility upon their own territory, and to ensure that these facilities do not have unacceptable effects on other Parties by following the general safety requirements of Article 4.

Article 7 sets forth obligations associated with the design and construction of a spent fuel management facility. Each Party is to take appropriate steps to ensure that the design and construction of a facility provides for suitable measures to limit possible radiation effects on individuals, society, and the environment, including those from discharges or uncontrolled releases. Each Party must also take the appropriate measures to ensure that experience, testing, or analysis support technologies incorporated in the design and construction of such a facility. Conceptual plans and, as necessary, technical provisions for decommissioning must be taken into account at the design stage.

Article 8 obligates each Party to take the appropriate steps to ensure that systematic safety and environmental assessments appropriate to the hazard presented by the facility and covering its operating lifetime are carried out before the construction of a spent fuel management

facility. These assessments must be documented and subsequently updated when deemed necessary before the operation of the facility.

Addressing the safety of operation of spent fuel management facilities, Article 9 requires each Party to take the appropriate steps to ensure that the license to operate a facility is based upon the assessments specified in Article 8 and is conditioned on a commissioning program demonstrating that the facility, as constructed, is consistent with design and safety requirements. Parties must also take appropriate measures to ensure that operational limits and conditions derived from the Article 8 safety assessments, tests and operational experience are defined, and revised as necessary. Operation, maintenance, monitoring, inspection and testing of spent fuel facilities are to be conducted in accordance with established procedures. Under subparagraphs (iv) and (v) of Article 9, Parties must also take appropriate steps to ensure that engineering and technical support is available in all safety-related fields throughout the operating lifetime of the facility, and that incidents significant to safety are reported to the regulatory body in a timely manner by the holder of the relevant license. Sub-paragraph (vi) obligates Parties to take appropriate steps to establish programs to collect and analyze relevant operating data. They must also ensure that conclusions of the analysis are acted upon where appropriate. Lastly, Parties are required under sub-paragraph (vii) to ensure decommissioning plans for a spent fuel management facility are prepared and updated, as necessary, using information obtained during the operating lifetime of the facility, and reviewed by the regulatory body.

Under Article 10, if a Party, pursuant to its own legislative and regulatory framework, has designated spent fuel for disposal, the disposal of such spent fuel must be in accordance with Convention obligations relating to the disposal of radioactive waste (Articles 11-17).

Articles 11-17 address the safety of radioactive waste management. Article 11 requires Parties to take the appropriate steps to ensure that at all stages of radioactive waste management individuals, society, and the environment are adequately protected against radiological and other hazards. These steps must:

- (i) ensure that criticality and removal of residual heat generated during radioactive waste management are adequately addressed;
- (ii) ensure that the generation of radioactive waste is kept to the minimum practicable;
- (iii) take into account interdependencies among the different steps in radioactive waste management;
- (iv) provide for effective protection of individuals, society and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;
- (v) take into account the biological, chemical and other hazards that may be associated with radioactive waste management;
- (v) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;
- (vi) aim to avoid imposing undue burdens on future generations.

Under Article 12, each Party is in due course to take the appropriate steps to review the safety of radioactive waste management facilities existing at the time the Convention enters into force for that Party. All reasonably practicable improvements are to be made to upgrade the safety of the facility. Article 12 also requires that the results of past practices be reviewed to determine whether any intervention is needed for reasons of radiation protection, bearing in mind that the reduction in detriment resulting from the reduction in dose should be sufficient to justify the harm and the costs, including the social costs, of the intervention.

Article 13 addresses the siting of radioactive waste management facilities. Parties are required to take the appropriate steps to ensure that procedures are established and implemented for a proposed management facility to evaluate (1) all relevant site-related factors likely to affect the safety of the facility during its operating lifetime as well as that of a disposal facility after closure, and (2) the likely safety impact of a proposed

facility on individuals, society and the environment, and to make information on the safety of such a facility public.

Each Party must also take the appropriate steps to ensure that procedures are established and implemented for consulting Parties in the vicinity of a proposed facility likely to be affected by that facility and providing to them, upon their request, general data to evaluate the likely safety impact of the facility upon their own territory. Parties must also take the appropriate steps to ensure that such facilities do not have unacceptable effects on other Parties by being sited in accordance with the general safety requirements of Article 11.

Article 14 addresses the design and construction of radioactive waste management facilities. This article obligates a Party to take appropriate steps to ensure that the design and construction of a facility provides for suitable measures to limit possible radiation impacts on individuals, society, and the environment, including discharges or uncontrolled releases. Conceptional plans and, as necessary, technical provisions for the decommissioning and closure of the facility must also be taken into account at the design stage. Each Party must also take appropriate steps to ensure that experience, testing or analysis supports technologies incorporated in the design stage and construction of a management facility.

Article 15 obligates each Party to take measures to ensure that systematic safety and environmental assessments, appropriate to the hazard presented by the radioactive waste management facility covering its lifetime, are carried out before the construction of the facility. Similar assessments must also be carried out before construction for the period following closure. In addition, the results of such assessments must be evaluated against criteria established by the appropriate regulatory body. Before the operation of a radioactive waste management facility, updated and detailed versions of the safety assessment and of the environmental assessment must be prepared when deemed necessary to complement the assessments referred to above.

Article 16 concerns the operational safety of radioactive waste management facilities. It requires each Party to take the appropriate steps to ensure that the

license to operate the facility is based upon the safety assessments specified in Article 15, conditioned on a commissioning program, that demonstrates the facility, as constructed, is consistent with design and safety requirements. Parties must also institute measures to ensure that operational limits and conditions derived from the Article 15 safety analysis, tests, and operational experience are defined, and revised as necessary, for identifying safe boundaries for operation. The operation, maintenance, monitoring, inspection, and testing of radioactive waste management facilities are to be conducted in accordance with approved procedures, and the results thus obtained used to verify and to review the validity of assumptions made and to update the assessments as specified in Article 15 for the period after closure.

Under subparagraphs of Article 16, Parties must also take appropriate steps to ensure that engineering and technical support is available in all safety-related fields throughout the operating lifetime of the facility, that incidents significant to safety are reported in a timely manner by the license holder to the regulatory body, and that procedures for characterization and segregation of radioactive waste are applied. Subparagraph (vii) obligates Parties to take appropriate steps to establish programs to collect and analyze relevant operating data and that they ensure that conclusions of the analysis are acted upon, where appropriate. Parties are required under subparagraphs (viii) and (ix), to ensure decommissioning and closure plans for radioactive management facilities and disposal facilities, respectively, are prepared and updated, as necessary, using information obtained during the operating lifetime of the facility. The regulatory body must also review these plans.

Article 17 sets forth the conditions for closure of a disposal facility, including record keeping (location, design, and inventory), and active or passive institutional controls. Parties are to take the appropriate steps to ensure that after closure, and during any period of active institutional controls, if an unplanned release of radioactive materials into the environment is detected, intervention measures are implemented, if necessary.

Articles 18-26 address the Convention's General Safety Provisions. Article 18 requires each Party to take, within the framework of its national law, the legislative,

regulatory and administrative measures, and other steps necessary, to implement its obligations under the Convention.

Under Article 19, each Party is obligated to establish and maintain a legislative and regulatory framework to govern the safety of spent fuel and radioactive waste management. The framework must provide for the establishment of applicable national safety requirements and regulations for radiation safety; a system of licensing; the prohibition of the operation of facilities without a license; a system of institutional control, regulatory inspection; documentation and reporting; the enforcement of regulations and the terms of licenses; and a clear allocation of responsibilities of bodies involved. When considering whether to regulate radioactive materials as radioactive waste, Parties must take due account of the objectives of the Convention.

Article 20 requires each Party to establish or designate a regulatory body entrusted with the implementation of the legislative and regulatory framework created under Article 19, to provide that body with adequate authority, competence, financial and human resources, and to ensure its effective independence in the performance of regulatory functions.

Under Article 21, each Party is obligated to ensure that the prime responsibility for the safety of spent fuel and radioactive waste management rests with the holder of the relevant license and to take the appropriate steps to ensure that each such license holder meets its responsibility. If there is no such license holder, the responsibility rests with the Party having jurisdiction over spent fuel or radioactive waste.

Article 22 requires each Party to take the appropriate steps to ensure that qualified staff are available, as needed, for safety-related activities during the operating lifetime of a spent fuel and a radioactive waste management facility. This Article also requires that appropriate steps be taken to ensure that adequate financial resources are available to support the safety of facilities during their operating lifetime, for decommissioning, and for institutional controls and monitoring arrangements following closure of a disposal facility for whatever period deemed necessary.

Under Article 23, each Party must take the appropriate steps to ensure that safety quality assurance programs are established and implemented.

Article 24 requires Parties to take the appropriate steps to ensure that during the operating lifetime of a spent fuel or radioactive waste management facility, the radiation exposure of the workers and the public caused by the facility shall be kept as low as reasonably achievable and that no individual shall be exposed in normal situations to radiation doses exceeding prescribed national dose limits with due regard to internationally endorsed standards on radiation protection. This Article also obligates each Party to take the appropriate steps to prevent unplanned or uncontrolled releases of radioactive material into the environment. Each Party must also take the appropriate steps to ensure that during the operating lifetime of a regulated nuclear facility, in the event that an unplanned or uncontrolled release of radioactive materials into the environment occurs, appropriate corrective measures are implemented to control the release and mitigate its effects.

Under Article 25, each Party must ensure that before and during operation of a spent fuel or radioactive waste management facility, there are appropriate on-site and, if necessary, off-site emergency plans covering the activities to be carried out in the event of an emergency. Emergency plans are to be routinely tested, and each Party must take appropriate steps for the preparation and testing of emergency plans for its territory insofar as it is likely to be affected in the event of a radiological emergency at a facility in the vicinity of its territory.

With respect to safe decommissioning, under Article 26, each Party is to take appropriate steps to ensure that qualified staff and adequate financial resources are available, the radiation protection principles in Article 24 are applied, emergency preparedness provisions in Article 25 are applied, and records important to decommissioning are kept.

Under Article 27, each Party involved in transboundary movement is to ensure that such movement is undertaken in a manner consistent with this Convention and relevant binding international instruments. In this connection, Parties undertake to take appropriate steps, to ensure authorized

transboundary movement only with prior notification and consent of the state of destination. Under international law, notification to or authorization of coastal states is not required for passage through territorial seas and exclusive economic zones (EEZs) as a result prior notification of a state of transit is not required. Movement through states of transit is subject to those international obligations, which are relevant to the particular modes of transport utilized (e.g. IAEA Standards on the Safety of the Transport of Radioactive materials). A Party which is a state of destination must consent to a transboundary movement only if it has the administrative and technical capacity, as well as the regulatory structure, needed to manage the spent fuel or the radioactive waste in a manner consistent with the Convention. A Party, which is a state of origin, must authorize a transboundary movement only if it can satisfy itself in accordance with the consent of the state of destination that the state of destination requirements are met prior to transboundary movement. A Party which is a state of origin must take the appropriate steps to permit re-entry into its territory, if a transboundary movement is not or cannot be completed in conformity with this Article, unless an alternative safe arrangement can be made.

Article 27 also prohibits Parties from licensing the shipment of spent fuel or radioactive waste to a destination south of latitude 60 degrees South (the Antarctic region) for storage or disposal. This Article further provides that nothing in the Convention prejudices or affects: (1) the exercise, by ships and aircraft of all states, of maritime, river and air navigation rights and freedoms, as provided for in international law; (2) rights of a Party to which radioactive waste is exported for processing to return, or provide for the return of, the radioactive waste and other products after treatment to the state of origin; (3) the right of a Party to export its spent fuel for reprocessing; and (4) rights of a Party to which spent fuel is exported for reprocessing to return, or provide for the return of, radioactive waste and other products resulting from reprocessing operations to the state of origin.

Article 28 requires that each Party, within the framework of its national law, take steps to ensure that the possession, remanufacturing or disposal of disused sealed sources takes place in a safe manner and to allow

for reentry for disposal, if in the framework of its national law, it has accepted that they be returned to a manufacturer qualified to receive and possess the disused sealed sources.

Articles 29, 30, and 31 establish timetables for meetings of the Parties. Article 29 provides for a Preparatory Meeting to be held not later than six months after the date of entry into force of this Convention. At that meeting, Contracting Parties will establish a date for the first Review Meeting, to be held not later than thirty months after the date of entry into force, and prepare and adopt Rules of Procedure and Financial Rules. Guidelines are to be established regarding the form and structure of the national reports, a date of submission of such reports, and the process for reviewing reports. Article 29 allows any state or regional organization of an integration or other nature which ratifies, accepts, approves, accedes to or confirms this convention and for which the Convention is not yet in force may attend the preparatory meeting as if it were a Party to the Convention.

Article 30 provides for Review Meetings of the Parties for the purpose of reviewing the national reports submitted pursuant to Article 32. At these meetings, each Party is to have a reasonable opportunity to discuss and seek clarification of the national reports submitted by others. At each Review Meeting, the Parties must also determine the date for the succeeding Review Meeting, at an interval of no more than three years and, if appropriate, amend by consensus the Rules of Procedure and the Financial Rules.

Article 31 specifies that Extraordinary Meetings of the Parties shall be held only if agreed to by a majority of the Parties present and voting at a meeting, or at the timely written request of a Party, to the other Parties and the Secretariat, which is supported by a majority of the Parties.

Article 32 obligates each Party to submit for review, prior to each Article 30 Review Meeting, a report on the measures it has taken to implement its obligations under the Convention. Reports must address or include the following:

- spent fuel management policy;
- spent fuel management practices;

- radioactive waste management policy;
- radioactive waste management practices;
- criteria used to define and categorize radioactive waste;
- a list of spent fuel management facilities subject to this Convention, their location, main purpose and essential features;
- an inventory of spent fuel that is subject to this Convention and that is being held in storage and of that which has been disposed of, including a description of the material and, if available, information on its mass and its total activity;
- a list of radioactive waste management facilities subject to this Convention, their location, main purpose and essential features;
- an inventory of radioactive waste subject to the description of the material and other appropriate a Convention that is being held in storage at radioactive waste management and nuclear fuel cycle facilities, has been disposed of, or has resulted from past practices, including available information such as volume or mass, activity and specific radionuclides;
- a list of nuclear facilities in the process of being decommissioned and the status of decommissioning activities at those facilities.

Article 33 provides that each Party must attend meetings of the Parties and be represented at such meetings by one delegate, and by alternates, experts and advisers as it deems necessary. Parties may, by consensus, invite intergovernmental organizations to attend, as observers, any meetings or specific sessions thereof, who are competent in matters relating to the Convention, provided they accept in writing the provisions of Article 36.

Under Article 34, summary reports addressing the issues discussed and conclusions reached during a meeting are to be adopted by the Parties by consensus and made available to the public.

Article 35 specifies that the languages of meetings of the Parties are Arabic, Chinese, English, French, Russian and Spanish, unless otherwise provided in the Rules of Procedure (Article 29). Reports may be prepared in the national language of the submitting Party, or in a single designated language agreed upon in the Rules of Procedure,

although in the former case the Party must also provide a translation into the designated language.

Article 36 provides that the Convention does not affect the rights and obligations of the Parties under their own laws to protect information from disclosure. Information is defined to include, *inter alia*, personal data, information protected by intellectual property rights or industrial or commercial confidentiality, and information relating to national security and physical protection of nuclear materials. When, in the context of the Convention, a Party provides information identified by it as protected, such information is to be used only for the purposes for which it has been provided and its confidentiality is to be respected. Similarly, the contents of discussions of national reports held at Review Meetings are to be kept confidential.

With respect to information relating to spent fuel or radioactive waste falling within the scope of this convention by virtue of paragraph 3 of Article 3, Article 36 provides for exclusive discretion of a concerned Party to decide: (1) whether such information is classified or otherwise controlled to preclude release; (2) whether to provide such information in the context of the Convention; and (3) what conditions of confidentiality are attached to such information if it is provided in the context of the Convention.

Under Article 37, the Secretariat functions for meetings of the Parties under the Convention are to be provided by the International Atomic Energy Agency (IAEA). The IAEA is to pay the costs of performing these functions out of its regular budget. The Secretariat's duties are to convene, prepare and service the meetings of the Parties, and transmit to the Parties information received or prepared under the Convention.

Article 38 addresses dispute resolution. In the event of a disagreement between Parties concerning the interpretation or application of the Convention, the Parties must consult within the framework of a meeting of the Parties with a view to resolving the disagreement by consensus. If these consultations do not resolve the disagreement, then Article 38 provides that recourse can be made to the mediation, conciliation and arbitration mechanisms provided for in international law, including the

rules and practices prevailing within the IAEA. During the Diplomatic Conference in 1997 that considered and adopted the Convention, it was made clear during the discussions leading to the adoption of the final text of Article 38 that the words "recourse can be made" were deliberately chosen to avoid any implication that the dispute resolution mechanisms referred to in the Article were mandatory. Thus, Article 38 does not commit the United States to binding mediation, conciliation or arbitration.

As provided in Article 39, the Convention was opened for signature by all states at the Headquarters of the IAEA in Vienna on September 29, 1997. After the Convention has entered into force, it is to be open for accession. Under this Article, regional organizations constituted by sovereign states and with competence in respect of negotiation, conclusion and application of international agreements in matters covered by this Convention may become Parties to the Convention. In matters within their competence, which shall be detailed in a declaration communicated to the Convention's depositary, such organizations may exercise the rights and fulfill the responsibilities of the Convention on their own behalf, but do not have any vote additional to those of their member states.

Article 40 provides that the Convention will enter into force on the ninetieth day after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen states each having an operational nuclear power plant. It will enter into force for each additional adhering state or regional organization on the ninetieth day after the date of deposit with the Depositary of the appropriate instrument by such a state or organization.

Procedures for amendment of the Convention are included in Article 41. Under Article 41, any Party may propose an amendment to this Convention. Proposed amendments must be considered at a Review Meeting or at an Extraordinary Meeting. The text of any proposed amendment must be communicated by the Depositary to the Parties at least ninety days before the meeting for which it is submitted for consideration. The Parties may adopt the proposed amendment by consensus, or, in the absence of consensus, provided that at least one half of the Parties

are present at the time of voting, may decide, by a two-thirds majority vote of the Parties present and voting, to submit the proposed amendment to a Diplomatic Conference. The Conference shall make every effort to ensure that amendments are adopted by consensus. However, should that not be possible, amendments are adopted by a two-thirds majority of all Parties. All amendments are subject to ratification, acceptance, approval or confirmation by the Parties and shall enter into force for those Parties having satisfied or otherwise accepted the amendment 90 days after two-thirds of the Parties have deposited instruments of acceptance. Amendments will only enter into force for other Parties 90 days after that Party has deposited its relevant instruments accepting the amendment.

Under Article 42, a Party may denounce the Convention by written notification to the Depositary, effective one year following the Depositary's receipt of the notification or at such later date as specified in the notification.

Under Article 43, the IAEA Director General is the Depositary of the Convention, charged with the duty of notifying all Parties of signatures and deposits of instruments in accordance with Article 39; the date on which the Convention enters into force; notifications of denunciation under Article 42; and proposed amendments under Article 41.

Under Article 44 the original of the Convention, of which the Arabic, Chinese, English, French, Russian, and Spanish texts are equally authentic, must be deposited with the Depositary.

**JOINT CONVENTION
ON THE SAFETY OF SPENT FUEL MANAGEMENT AND
ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

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