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International Atomic Energy Agency

Information Circular

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

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strengthen further international co-operation in the safe development and use of nuclear energy,

CONVINCED of the need for an international framework which will facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency to mitigate its consequences,

NOTING the usefulness of bilateral and multilateral arrangements on mutual assistance in this area,

NOTING the activities of the International Atomic Energy Agency in developing guidelines for mutual emergency assistance arrangements in connection with a nuclear accident or radiological emergency,

HAVE AGREED as follows:

Article 1

General provisions

1. The States Parties shall cooperate between themselves and with the International Atomic Energy Agency (hereinafter referred to as the "Agency") in accordance with the provisions of this Convention to facilitate prompt assistance in the event of a nuclear accident or radiological emergency to minimize its consequences and

to protect life, property and the environment from the effects of radioactive releases.

2. To facilitate such cooperation States Parties may agree on bilateral or multilateral arrangements or, where appropriate, a combination of these, for preventing or minimizing injury and damage which may result in the event of a nuclear accident or radiological emergency.
3. The States Parties request the Agency, acting within the framework of its Statute, to use its best endeavours in accordance with the provisions of this Convention to promote, facilitate and support the cooperation between States Parties provided for in this Convention.

Article 2

Provision of assistance

1. If a State Party needs assistance in the event of a nuclear accident or radiological emergency, whether or not such accident or emergency originates within its territory, jurisdiction or control, it may call for such assistance from any other State Party, directly or through the Agency, and from the Agency, or, where appropriate, from other international intergovernmental organizations (hereinafter referred to as "international organizations").
2. A State Party requesting assistance shall specify the scope and type of assistance required and, where practicable, provide the assisting party with such information as may be necessary for that party to determine the extent to which it is able to meet the request. In the event that it is not practicable for the requesting State Party to specify the scope and type of assistance required, the requesting State Party and the assisting party shall, in consultation, decide upon the scope and type of assistance required.
3. Each State Party to which a request for such assistance is directed shall promptly decide and notify the requesting State Party, directly or through the Agency, whether it is in a position to render the assistance requested, and the scope and terms of the assistance that might be rendered.
4. States Parties shall, within the limits of their capabilities, identify and notify the Agency of experts, equipment and materials which could be made available for the provision of assistance to other States Parties in the event of a nuclear accident or radiological emergency as well as the terms, especially financial, under which such assistance could be provided.
5. Any State Party may request assistance relating to medical treatment or temporary relocation into the territory of another State Party of people involved in a nuclear accident or radiological emergency.
6. The Agency shall respond, in accordance with its Statute and as provided for in this Convention, to a requesting State Party's or a Member State's request for assistance in the event of a nuclear accident or radiological emergency by:
 - a. making available appropriate resources allocated for this purpose;

- b. transmitting promptly the request to other States and international organizations which, according to the Agency's information, may possess the necessary resources; and
- c. if so requested by the requesting State, co-ordinating the assistance at the international level which may thus become available.

Article 3

Direction and control of assistance

Unless otherwise agreed:

- a. the overall direction, control, co-ordination and supervision of the assistance shall be the responsibility within its territory of the requesting State. The assisting party should, where the assistance involves personnel, designate in consultation with the requesting State, the person who should be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person should exercise such supervision in cooperation with the appropriate authorities of the requesting State;
- b. the requesting State shall provide, to the extent of its capabilities, local facilities and services for the proper and effective administration of the assistance. It shall also ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting party for such purpose;
- c. ownership of equipment and materials provided by either party during the periods of assistance shall be unaffected, and their return shall be ensured;
- d. a State Party providing assistance in response to a request under paragraph 5 of article 2 shall co-ordinate that assistance within its territory.

Article 4

Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact authorized to make and receive requests for and to accept offers of assistance. Such points of contact and a focal point within the Agency shall be available continuously.
2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.
3. The Agency shall regularly and expeditiously provide to States Parties, Member States and relevant international organizations the information referred to in paragraphs 1 and 2.

Article 5

Functions of the Agency

The States Parties request the Agency, in accordance with paragraph 3 of article 1 and without prejudice to other provisions of this Convention, to:

- a. collect and disseminate to States Parties and Member States information concerning:
 - i. experts, equipment and materials which could be made available in the event of nuclear accidents or radiological emergencies;
 - ii. methodologies, techniques and available results of research relating to response to nuclear accidents or radiological emergencies;
- b. assist a State Party or a Member State when requested in any of the following or other appropriate matters:
 - . preparing both emergency plans in the case of nuclear accidents and radiological emergencies and the appropriate legislation;
 - i. developing appropriate training programmes for personnel to deal with nuclear accidents and radiological emergencies;
 - ii. transmitting requests for assistance and relevant information in the event of a nuclear accident or radiological emergency;
 - iii. developing appropriate radiation monitoring programmes, procedures and standards;
 - iv. conducting investigations into the feasibility of establishing appropriate radiation monitoring systems;
- c. make available to a State Party or a Member State requesting assistance in the event of a nuclear accident or radiological emergency appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency;
- d. offer its good offices to the States Parties and Member States in the event of a nuclear accident or radiological emergency;
- e. establish and maintain liaison with relevant international organizations for the purposes of obtaining and exchanging relevant information and data, and make a list of such organizations available to States Parties, Member States and the aforementioned organizations.

Article 6

Confidentiality and public statements

1. The requesting State and the assisting party shall protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information shall be used exclusively for the purpose of the assistance agreed upon.

2. The assisting party shall make every effort to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a nuclear accident or radiological emergency.

Article 7

Reimbursement of costs

1. An assisting party may offer assistance without costs to the requesting State. When considering whether to offer assistance on such a basis, the assisting party shall take into account:
 - a. the nature of the nuclear accident or radiological emergency;
 - b. the place of origin of the nuclear accident or radiological emergency;
 - c. the needs of developing countries;
 - d. the particular needs of countries without nuclear facilities; and
 - e. any other relevant factors.
2. When assistance is provided wholly or partly on a reimbursement basis, the requesting State shall reimburse the assisting party for the costs incurred for the services rendered by persons or organizations acting on its behalf, and for all expenses in connection with the assistance to the extent that such expenses are not directly defrayed by the requesting State. Unless otherwise agreed, reimbursement shall be provided promptly after the assisting party has presented its request for reimbursement to the requesting State, and in respect of costs other than local costs, shall be freely transferrable.
3. Notwithstanding paragraph 2, the assisting party may at any time waive, or agree to the postponement of, the reimbursement in whole or in part. In considering such waiver or postponement, assisting parties shall give due consideration to the needs of developing countries.

Article 8

Privileges, immunities and facilities

1. The requesting State shall afford to personnel of the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions.
2. The requesting State shall afford the following privileges and immunities to personnel of the assisting party or personnel acting on its behalf who have been duly notified to and accepted by the requesting State:
 - a. immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction, of the requesting State, in respect of acts or omissions in the performance of their duties; and
 - b. exemption from taxation, duties or other charges, except those which are normally incorporated in the price of goods or paid for services rendered, in respect of the performance of their assistance functions.
3. The requesting State shall:

afford the assisting party exemption from taxation, duties or other charges on the equipment and property brought into the territory of the requesting State by the assisting party for the purpose of the assistance; and

a. provide immunity from seizure, attachment or requisition of such equipment and property.

4. The requesting State shall ensure the return of such equipment and property. If requested by the assisting party, the requesting State shall arrange, to the extent it is able to do so, for the necessary decontamination of recoverable equipment involved in the assistance before its return.
5. The requesting State shall facilitate the entry into, stay in and departure from its national territory of personnel notified pursuant to paragraph 2 and of equipment and property involved in the assistance.
6. Nothing in this article shall require the requesting State to provide its nationals or permanent residents with the privileges and immunities provided for in the foregoing paragraphs.
7. Without prejudice to the privileges and immunities, all beneficiaries enjoying such privileges and immunities under this article have a duty to respect the laws and regulations of the requesting State. They shall also have the duty not to interfere in the domestic affairs of the requesting State.
8. Nothing in this article shall prejudice rights and obligations with respect to privileges and immunities afforded pursuant to other international agreements or the rules of customary international law.
9. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound in whole or in part by paragraphs 2 and 3.
10. A State Party which has made a declaration in accordance with paragraph 9 may at any time withdraw it by notification to the depositary.

Article 9

Transit of personnel, equipment and property

Each State Party shall, at the request of the requesting State or the assisting party, seek to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting State.

Article 10

Claims and compensation

1. The States Parties shall closely cooperate in order to facilitate the settlement of legal proceedings and claims under this article.
2. Unless otherwise agreed, a requesting State shall in respect of death or of injury to persons, damage to or loss of property, or damage to the environment caused within its territory or other area under its jurisdiction or control in the course of providing the assistance requested:

- a. not bring any legal proceedings against the assisting party or persons or other legal entities acting on its behalf;
- b. assume responsibility for dealing with legal proceedings and claims brought by third parties against the assisting party or against persons or other legal entities acting on its behalf;
- c. hold the assisting party or persons or other legal entities acting on its behalf harmless in respect of legal proceedings and claims referred to in sub-paragraph (b); and
- d. compensate the assisting party or persons or other legal entities acting on its behalf for:
 - i. death of or injury to personnel of the assisting party or persons acting on its behalf;
 - ii. loss of or damage to non-consumable equipment or materials related to the assistance;

except in cases of wilful misconduct by the individuals who caused the death, injury, loss or damage.

3. This article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any State.
4. Nothing in this article shall require the requesting State to apply paragraph 2 in whole or in part to its nationals or permanent residents.
5. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare:
 - that it does not consider itself bound in whole or in part by paragraph 2;
 - a. that it will not apply paragraph 2 in whole or in part in cases of gross negligence by the individuals who caused the death, injury, loss or damage.
6. A State Party which has made a declaration in accordance with paragraph 5 may at any time withdraw it by notification to the depositary.

Article 11

Termination of assistance

The requesting State or the assisting party may at any time, after appropriate consultations and by notification in writing, request the termination of assistance received or provided under this Convention. Once such a request has been made, the parties involved shall consult with each other to make arrangements for the proper conclusion of the assistance.

Article 12

Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this

Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

Article 13

Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.
2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of The International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.
3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.
4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

Article 14

Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.
2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.
4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.
5.
 - a. This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.
 - b. In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.
 - c. When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.
 - d. Such an organization shall not hold any vote additional to those of its Member States.

Article 15

Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

Article 16

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.
2. If a majority of the States Parties requests the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.
3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 17

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 18

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.
2. The Director General of the Agency shall promptly notify States Parties and all other States of:
 - a. each signature of this Convention or any protocol of amendment;
 - b. each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;
 - c. any declaration or withdrawal thereof in accordance with articles 8, 10 and 13;
 - d. any declaration of provisional application of this Convention in accordance with article 15;
 - e. the entry into force of this Convention and of any amendment thereto; and
 - f. any denunciation made under article 17.

Article 19

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 14.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.

*/ The date of entry into force will be announced in an Addendum to this document.

MEMORANDUM TO PARLIAMENT

BY

DR. JOE OTENG-ADJEI

**MINISTER FOR ENVIRONMENT,
SCIENCE, TECHNOLOGY & INNOVATION**

ON

**RATIFICATION OF THE CONVENTION
ON ASSISTANCE IN CASE OF NUCLEAR
ACCIDENT OR RADIOLOGICAL
EMERGENCY (1986)**

17TH DECEMBER, 2013

1. ACTION REQUESTED

I respectfully invite Parliament to consider and ratify the Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency (Assistance Convention).

2. BACKGROUND

The Assistance Convention is one of the immediate post Chernobyl Conventions. It was opened for signature in Vienna on 26th September 1986 and entered into force on 26th February 1987. It provides an intentional framework to facilitate prompt requests for and provision of assistance in the event of a nuclear accident or a radiological emergency. It also promotes, facilitates and supports cooperation between state parties in time of need.

The convention is an 'incentive convention' in the sense that, it only facilitates prompt international assistance and support in the event of nuclear accidents or radiological emergencies. It aims at ensuring safety of the public and of the environment and thus encourages States to seek expert help to deal with radiological emergencies whether it has transboundary effect or not to.

Among others, it requires States to notify the IAEA of their available experts, equipment, and other materials for providing assistance. In case of a request, each State Party decides whether it can render the requested assistance as well as its scope and terms. Assistance may be offered without costs taking into account the needs of developing countries and the particular needs of countries without nuclear facilities.

The Convention has the following objectives:

- To prevent nuclear and radiological accidents and to minimize the consequences of any such accident, should it occur.
- To strengthen further international co-operation in the safe development and use of nuclear energy, and for an international network.
- To facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency; and,
- To mitigate its consequences by facilitating prompt bilateral and multi-lateral assistance and support when requested.

The Director General of the International Atomic Energy Agency (IAEA) is the depositary of the Convention. The IAEA serves as the focal point for such cooperation by channeling information, supporting efforts, and providing its available services. There are to date, 111 States and International Organizations who are Party to the Convention and 68 signatory states. The Convention went into force in October 1986.

3. OBLIGATIONS OF GOVERNMENT AND HOW THESE ARE TO BE ADDRESSED

The ratification of the Convention does not involve any financial obligation on the part of Ghana or any other obligation apart from the following commitments:

- (1) A focal person is to be nominated and his/her contact shall be with the IAEA.

- (2) In case of a request, each State Party decides whether it can render the requested assistance. So Ghana will not be under obligation to assist if does not have what it takes to offer assistance. However, if Ghana chooses to assist, the requesting party must be prepared to pay for the cost of assistance offered by Ghana.
- (3) The Convention also provides for privileges, immunities and facilities to the personnel of the assisting party for the performance of their functions. The immunity includes freedom from arrest, detention and legal processes in respect of acts or omissions in the performance of their duties.
- (4) Assistance is also exempted from taxation both on income, equipment and property brought into the country. Claims and compensation due to or brought against personnel from the assisting state are borne by the requesting state. The assistance may be terminated by a mutual agreement initiated by either party.
- (5) The requesting state is also expected to indemnify the personnel and the assisting States from prosecution and litigation for damages that might arise in the cause of offering assistance to the requesting state.

4. BENEFITS TO BE DERIVED FROM RATIFICATION OF THE CONVENTION

The Convention strengthens the international response to a nuclear accident or radiological emergency, including a terrorist or other malicious attack. It provides for mutual assistance mechanism with a view to minimising the consequences of such accidents or emergencies to protect life, property and the environment against the effect of radioactive releases. Assistance may also be offered without costs taking into account the needs of developing countries particularly if it does not have nuclear facilities.

Secondly, the Convention serves as the focal point for cooperation by channeling information, supporting efforts, and providing its available services. It requires IAEA to collect and disseminate information to State Parties who will in turn notify the IAEA of their available experts, equipment, and other materials for providing assistance.

The records show that it has been invoked by some states and nobody knows what would have happened if the assistance was not available, although none of the major nuclear power states has invoked it before.

The provisions of the Convention are also flexible enough to enable neighboring State Parties balance the interest of seeking protection and also to maintain confidentiality and immunity from legal actions. It also provides dispute settlement mechanisms and enhanced the role of the IAEA as a facilitator.

5. NEED FOR RESERVATION

The Convention does not provide for reservations but Article 8.1 makes provisions for the requesting State to extent to the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions.

It also makes provisions for compensation for injury suffered in the cause of assistance, reimbursement of costs incurred to the assisting states (Article 7) and for the settlement of disputes arising out of such emergencies.

The requesting State and the assisting party are obliged to protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information if necessary shall be used exclusively for the purpose of the assistance agreed upon.

The requesting State or the assisting party may at any time, after appropriate consultations and by notification in writing, request the termination of assistance received or provided under this Convention.

A State Party may also denounce the Convention by a written notification to the depositary.

6. INTER-MINISTERIAL CONSULTATION

There is an ongoing Africa Regional Cooperation Agreement for Research, Development and Training related to Nuclear Science and Technology (AFRA) Project between the Atomic Energy Commission and the International Atomic Energy Agency (IAEA) for: *'Establishing a Legal Framework for the Safe, Secure and Peaceful Uses of Nuclear Energy.'* The main thrust of the project is among others to enable Ghana establish a proper legislation in the areas of emergency preparedness, nuclear safety and security, including safe transportation of radioactive material, radioactive waste management, safeguards and physical protection of nuclear materials and compensation for nuclear liability, for the peaceful application of nuclear technology in Ghana.

The project is being coordinated by the Principal Legal officer of Ghana Atomic Energy Commission. The project team consists of two representatives from the Attorneys General Department; a Chief State Attorney and a State Attorney, Civil and the Drafting Divisions respectively. The other members are the Executive Secretary and the Director of Policy of the Energy Commission, Legal Officers from the Ministry of Environment Science and Technology, Council for Scientific and Industrial Research, Standards Board, and the Water Resources Commission. The Director of the Radiation Protection Board of the Atomic Energy Commission is also a member of the team.

The Team has discussed the ratification of some international legal instruments including the Convention on Assistance in case of Nuclear Accidents or Radiological Emergency.

7. FINANCIAL IMPACT

The ratification of the Convention does not involve any financial obligation on the part of Ghana.

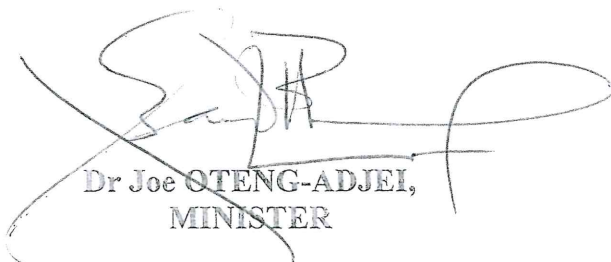
8. CABINET APPROVAL

This Convention received Cabinet approval for ratification by Parliament but it was not laid before Parliament until its last recess in 2012. A copy of the Cabinet approval letter granted at its 19th Meeting held on 14th, 19th and 20th October 2010 is attached for your information.

At its thirteen meeting, held on Thursday, 5th December 2013, Cabinet approved Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency (Assistance Convention). A copy of the letter-referenced OP/CA.1 v 2 and dated 5th December 2013 is attached for your perusal and action.

9. RECOMMENDED ACTION

In view of the importance of the Convention and benefits associated with our membership, I respectfully invite Parliament to approve and ratify the Convention.



Dr Joe OTENG-ADJEL,
MINISTER
17TH DECEMBER, 2013