

Legal and Regulatory Infrastructure for Nuclear Power Development: *Key Issues and Lessons Learned*

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50 years advising the nuclear industry. 20+ dedicated nuclear lawyers. 360° advice on nuclear projects.

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Importance of Legal and Regulatory Infrastructure

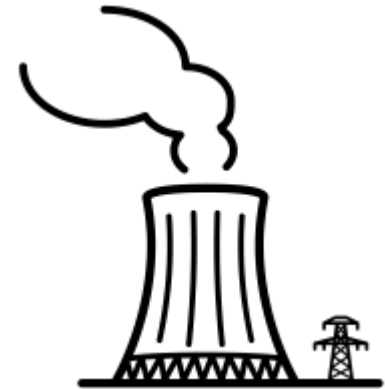
Successful nuclear programs rely on well-planned, integrated legal and regulatory infrastructure that:



Allows the host government and national stakeholders to meet international obligations



Ensures adherence to high nuclear safety and security standards



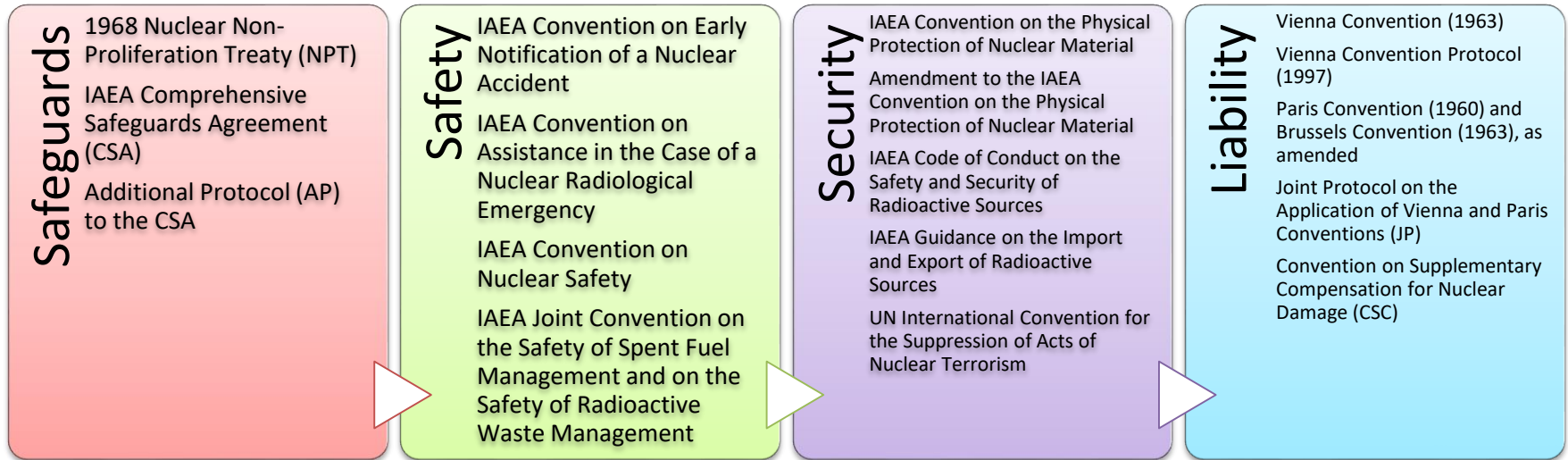
Facilitates the implementation of commercial projects

Implementation of nuclear infrastructure for a civil nuclear program requires:



- ✓ Overall strategy governing legal and regulatory infrastructure development
- ✓ Development of a legal and regulatory roadmap with strict timelines
- ✓ Implementation of each segment of the roadmap in parallel and in coordination with other segments

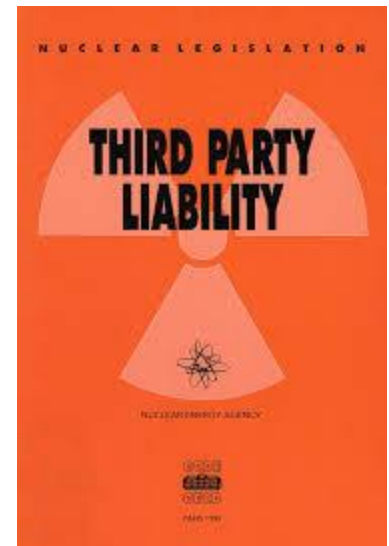
Multilateral Treaties



1. **Understand the scope of each treaty, benefits + requirements of joining**
2. **Make a decision on treaty adherence**
 - Take into account national policy goals + commercial objectives
3. **Create roadmap for adherence, taking into account:**
 - Process required by domestic laws for treaty execution & ratification
 - Government obligations (new/amended laws and regulations)
 - Stakeholder obligations (procedures)
 - Communications and outreach
4. **Implement roadmap**

Multilateral Treaties

- **Example:** Adherence to a nuclear liability regime
 - Potential options: Vienna ('63 or '97?), Vienna + JP, Vienna + JP + CSC
 - Understand geographic scope, insurance requirements
 - Draft liability law?
 - Understand:
 - impact on procurement – supplier interest
 - Impact on ability to attract financing
 - **Case study:** India's Civil Liability for Nuclear Damage Act, 2010



Bilateral Treaties



Nuclear Cooperation Agreements (NCAs)

- Establish civil nuclear cooperation between States, but can also serve as part and parcel of the international non-proliferation and export control regime
- Required in some supplier States by legislation or policy as prerequisite for nuclear trade
- Can shape a civil nuclear program for decades due to retransfer and/or fuel cycle restrictions – host government must understand obligations, advance consents

Intergovernmental Agreements (IGAs)

- Project agreements setting out high level obligations for vendor and host country governments
- Increasingly used in nuclear projects, especially in cases of investment by a vendor country
- Should contain obligations regarding the development of NI

Bilateral Investment Treaties (BITs)

- Seek to protect investment in countries where investor rights are not already protected through existing agreements (e.g., free trade agreements)
- Important to nuclear projects involving investment; if a BIT is not in place, one may need to be negotiated.

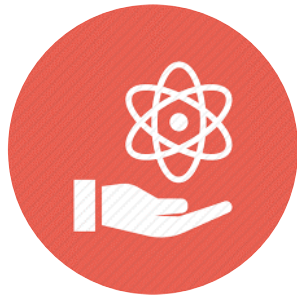
Since treaties may take months / years to negotiate, planning ahead is key

Nuclear Legislation and Regulations



Three keys pillars of national nuclear legal frameworks:

Comprehensive Nuclear Law



Establishes scope of nuclear power activities and specifies the tasks and decision-making authority of the nuclear regulatory body

Nuclear Liability Law



Establishes regime for third party nuclear liability and insurance, usually in line with an international nuclear liability regime

Nuclear Regulations



Promulgated by the nuclear regulatory body, govern use of nuclear energy and/or radioactive materials

Nuclear Legislation and Regulations: Some Key Issues



Licensing Strategy

- Prescriptive v. goal-oriented
- One, two, multiple step process?
- Reliance on country of origin design certification, regulatory guidance, industry standards, QA requirements
- Requirement for owner to be operator of plant – affects financing

Public Participation

- Access to information, participation in licensing process
- Must be in line with public engagement policy and reflected in legislation and/or regulations
- Balance between engagement and efficiency in licensing
- Integrated with obligations under national environmental laws and relevant conventions (Aarhus, Espoo)

Environmental Impact Assessments (EIAs)

- Roles and responsibilities (nuclear v. environmental regulator)
- Amendments to existing laws / regulations governing EIAs
- Consistency of information in EIS and Safety Analysis Reports (SARs), avoid duplication
- Should EIAs meet financial institution requirements?

Export / Import Control

- Can have immense impact on nuclear program, governing transfers of technology, movement of personnel, ability to import key equipment, component and materials
- Compliance with international standards (e.g., Nuclear Suppliers Group Guidelines)
- Interface with other export control agencies; interface with foreign export control laws / regulations

Nuclear Legislation and Regulations



- NI development plan must include review of existing laws and regulations that may affect civil nuclear development
- Necessary amendments can be addressed through comprehensive laws

Legal requirements pertaining to siting



- Environmental
- Property use
- Zoning – federal and state (especially military, coastal)
- National security

Legal requirements affecting procurement



- Multilateral procurement directives (EU public procurement, State aid rules)
- Procurement laws / regs
- Competition laws / regs
- Foreign investment laws
- Laws / regs pertaining to EPC contracts
- Investment incentives

Legal requirements affecting project implementation



- State, local construction licensing requirements
- Energy market laws
- Interconnection laws
- Corporate laws
- Insurance requirements
- Labor laws, localization requirements

Case Study: Akkuyu NPP in Turkey



- **Local Laws** posed obstacles to the project:
 - **Law N 3621 on Coasts**
 - Forbid construction of any electricity facility on shore strips
 - **Law N 3573 on Reclamation of Olive Cultivation and Fertilization of the Wild Olive Growths**
 - Prohibits construction and operation of industrial facilities within 3 km from olive tree fields
 - **Decree on State Incentives in Investments N 2012/3305**
 - Project Company not eligible to benefit from regional or large-scale investment incentive schemes, incentives not applicable to generation of electricity or any other sector related to Project
 - **Electricity Market Law N 6446**
 - Restricted direct or indirect transfer of shares during pre-licence period



Case Study: Akkuyu NPP in Turkey



- **Amendment Law (2016)** – amended articles of the Electricity Market Law, introduced significant changes related to NPP development
 - **Shore Strips:**
 - Facilities to be constructed within military security zones are exempted from requirements of Law on Coasts
 - Nuclear power plant sites in Turkey announced as military security zones
 - **Olive Grows:**
 - Removes restriction for nuclear power plant projects
 - **Electricity Market Law**
 - EDPK can provide exceptions to share transfer restriction
 - **Construction Permit Requirements**
 - TAEK can issue construction permit under a separate regulation, instead of the local municipalities
- **Draft Law on Amending Tax Laws (2 February 2018)**
 - Akkuyu Project shall benefit from investment incentives

Key Takeaways

- Legal and regulatory infrastructure has a huge impact on program / project development
- Almost every aspect of national infrastructure must be considered
- Approach planning and execution in a comprehensive and well-planned manner
- Roadmap for NI development tailored to each state, but many lessons learned from other programs
- Enlist experts to help



Thank you for your attention!

Спасибо за внимание!

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