
Regulation

Regulation on the Export and Import Control of Nuclear Material, Nuclear Related Items and Nuclear Related Dual- Use Items (FANR-REG-09)

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Preamble

This regulation is issued by the Federal Authority for Nuclear Regulation pursuant to the powers conferred to its Board of Management in Article 11(4) and Article 38(1) of the Federal Law by Decree No. 6 of 2009 Concerning the Peaceful Uses of Nuclear Energy (the Law).

Definitions

Article (1)

For the purpose of this regulation, the following terms shall have the meanings set forth below. Other capitalised terms used but not defined herein shall have the meanings ascribed to them in Article 1 of the Law.

End-user Declaration

A written undertaking from the end-user of Nuclear Related Dual-use Items stating that the said end-user will not use the said Nuclear Related Dual-use Items in any nuclear explosive activity or unsafeguarded nuclear activity.

Export

The action of taking, transmitting, or otherwise transferring out of the State and its free zones and/ or special zones through air, land or sea any Nuclear Material and/ or Regulated Items originating in the State including those originating in the State's free zones and/ or special zones.

Government-to-Government Assurance

A written document prepared by a competent authority of the state of the recipient of Nuclear Material and/ or Nuclear Related Items and formally submitted to a competent authority of the state of the supplier of Nuclear Material and/ or Nuclear Related Items including an undertaking of the government of the recipient that the Nuclear Material and/ or Nuclear Related Items subject to a Transfer will meet the Nuclear Suppliers Group's conditions of supply and will be used exclusively for peaceful purposes.

Harmonised System Codes

Nomenclature for the classification of products by codes. It allows participating countries to classify traded goods on a common basis for customs and other purposes.

Import

The action of bringing, transmitting, or otherwise transferring into the State including its free zones and/ or special zones by air, land or sea any Nuclear Material and/ or Regulated Items for use within the State including its free zones and/ or special zones.



INFCIRC/254/ Part 1

The International Atomic Energy Agency's (IAEA's) information circular reproducing the Nuclear Suppliers Group's guidelines for the Export of Nuclear Material, equipment and Technology, as amended.

INFCIRC/254/ Part 2

The IAEA's information circular reproducing the Nuclear Suppliers Group's guidelines for Transfers of Nuclear-related Dual-use Equipment, materials, Software and related Technology, as amended.

Involved Parties

All Persons, including shipping and clearing agents, under the jurisdiction of the State involved in the Transfer of Nuclear Material and/ or Regulated Items who are not Licensees.

Nuclear Material

For the purpose of this regulation, Nuclear Material means Source Material or Special Fissionable Material.

Nuclear Related Items

Equipment, non-Nuclear Material, Software and Technology specified in INFCIRC/ 254/ Part 1 including components thereof, which have been especially designed or prepared for the processing, use or production of Special Fissionable Material and are also known as 'trigger list items' in the Nuclear Suppliers Group's guidelines.

Nuclear Related Dual-use Items

Equipment, materials, Software and related Technology specified in INFCIRC/ 254/ Part 2, including components thereof, which can be used for both civil and military purposes.

Re-export

The action of exporting Nuclear Material and/ or Regulated Items previously imported through the State's customs ports and/ or the State's free zones and/ or special zones.

Regulated Items

Nuclear Related Items and Nuclear Related Dual-use Items.

Software

A collection of one or more "programs" or "microprograms" fixed in any tangible medium of expression"

Source Material

Uranium containing the mixture of isotopes occurring in nature; uranium depleted in the isotope 235; thorium; any of the foregoing in the form of metal, alloy, chemical compound, or concentrate; any other material containing one or more of the foregoing in such concentration as the Authority shall from time to time determine, based on the



decision of the IAEA Board of Governors; and such other material as the Authority shall from time to time determine based on the decision of the IAEA Board of Governors.

The term Source Material shall not be interpreted as applying to ore or ore residue.

Special Fissionable Material

Plutonium-239; uranium-233; uranium enriched in the isotopes 235 or 233; any material containing one or more of the foregoing; and such other fissionable material as the Authority shall from time to time determine based on the decision of the IAEA Board of Governors; but the term 'Special Fissionable Material' does not include Source Material.

Technology

Specific information required for the development, production, or use of Nuclear Material and/ or Regulated Items. This information may take the form of technical data, or technical assistance.

Transfer

The Import, Export, Re-export, Transit or Trans-shipment of Nuclear Material and Regulated Items.

Transit

The crossing through the State including its free zones and/ or special zones of Nuclear Material and/ or Regulated Items that are loaded onto a means of transport before entering the State and then taken out of the State without unloading the said material and/ or items from the means of transport, whilst being monitored by the customs and/ or the security officials of the State as the case may require.

Trans-shipment

The unloading of Nuclear Material and/ or Regulated Items from the means of transport that brought the said material and/ or items into the State including its free zones and/ or special zones, and their re-loading onto the same or another means of transport with the purpose of taking the said material and/ or items out of the State, and where Nuclear Material and Regulated Items do not leave airside or portside.

Scope

Article (2)

1. This regulation shall apply to any Licensee, other Person and Involved Party in the State including its free zones and/ or special zones who engages in the Transfer of Nuclear Material and/ or Regulated Items.
2. This regulation defines the respective obligations of the Licensees, other Persons and Involved Parties and establishes the requirements for licensing, approvals, consent, notifications, record-keeping, reporting and Inspections related to the Transfer of Nuclear Material and Regulated Items to ensure their exclusively peaceful use. This regulation also specifies the end-user's obligations as regards the transmission of Regulated Items within the State.

Objectives

Article (3)

1. Pursuant to Article 25(15) of the Law, the following shall be designated as Regulated Activities involving Nuclear Material and Regulated Items:
 - a) Import of Nuclear Material and/ or Regulated Items.
 - b) Export of Nuclear Material and/ or Regulated Items.
 - c) Re-export of Nuclear Material and/ or Regulated Items.
2. The regulation stipulates the Authority's requirements on the Transfer of Nuclear Material and Regulated Items to ensure their exclusively peaceful use and to implement:
 - a) The provisions of the Law.
 - b) The State's obligations and applicable legislation on nuclear non-proliferation, safeguards and the Transfer of Nuclear Material and Regulated Items.

Prohibitions

Article (4)

1. It is prohibited for any Person to -:
 - a) Conduct any of the Regulated Activities designated in this regulation in the State including its free zones and/or special zones unless licensed to do so by the Authority or having been granted the Authority's consent as specified in Article 5 of this regulation.
 - b) Transfer Nuclear Material and/ or Regulated Items associated with the proliferation of nuclear weapons or other nuclear explosive devices; or the

financing of the afore-mentioned activities in violation of international agreements to which the State is a party and/ or relevant binding resolutions of the Security Council of the United Nations; or compromising the security of the State.

- c) Transfer items including equipment, materials, software and related technology not listed in INFCIRC/254/Part 1 and Part 2, if the Involved Parties know or are informed by the Authority that the items are or may be intended in their entirety or in part for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of nuclear weapons or other nuclear explosive devices; or if the purchasing country or the country of destination is subject to sanctions imposed by a binding resolution of the Security Council of the United Nations or to sanctions imposed by the country of origin of such equipment, materials, non-nuclear material, software and related technology.

Requirements for Consent and a Licence

Article (5)

1. The following Regulated Activities shall require a Licence from the Authority:
 - a) The Import, Export or Re-export of Nuclear Material and/ or Regulated Items.
 - b) The Import of Nuclear Material and/ or Regulated Items exclusively for the purpose of Re-export.
2. The following activities will require notification to the Authority at least five (5) working days prior to the planned date and prior written consent by the Authority:
 - a) Transit and Trans-shipment of Nuclear Material and Regulated Items.
 - b) Removal of Regulated Items from Regulatory Control subject to the requirements of other relevant regulations issued by the Authority, as may be applicable.
3. All Persons asking for consent or applying for a Licence shall complete the relevant Licence or consent application process required by the Authority. Such Persons shall submit to the Authority the required information and documentation including (but not limited to) the designation and quantity of Regulated Items involved, the type and date of the Transfer, and the origin/ destination of the Regulated Items, declared location, the end-user and purpose of end-use of Nuclear Material and/ or Regulated Items, and any other information and documentation that the Authority determines necessary to decide whether to grant the Licence or to give its consent.

4. The Regulated Activities or other activities specified in the application for a Licence or request for prior consent shall be consistent with the applicant's respective trade/ commercial or industry licence or, as the case may be, with the legislation on the applicant's operations.
5. Any Person intending to Import, Export or Re-export Nuclear Material and/ or Regulated Items shall submit an application for a Licence to the Authority before a related customs process in the State has been completed.

Notifications and Approvals

Article (6)

1. The Licensee shall notify the Authority in writing and via the communication means and channels agreed with the Authority before the expected date of the Import or Export/ Re-export in accordance with the following timelines:
 - a) For Nuclear Material, at least five (5) working days prior to the date of the Import or Export/ Re-export, without prejudice to the requirements set forth in the Regulation for the System of Accounting for and Control of Nuclear Material and Application of Additional Protocol (FANR-REG-10).
 - b) For Nuclear Related Items, at least five (5) working days prior to the date of the Import or Export/ Re-export subject to Article 6(2) of this regulation.
 - c) For Nuclear Related Dual-use Items, at least five (5) working days prior to the date of the Import or Export/ Re-export, subject to Article 6(2) of this regulation.
2. The notification requirements of Article 6(1) (b) and Article 6(1)(c) of this regulation shall not apply to Transfers of Technology. Notifications of such Transfers shall be defined by the Licence conditions, as required.
3. The Licensee shall obtain written approval from the Authority before the Import or Export/ Re-export notified in accordance with Article 6(1) of this regulation is carried out.
4. In addition, the Licensee shall submit to the Authority notifications for Nuclear Related Items in accordance with the following timelines:
 - a) Arrival in or departure from the State including its free zones and/ or special zones within three (3) working days from the date of the Import or Export/ Re-export.
 - b) Arrival at the Facility within three (3) working days from the arrival date of the Import at the Facility.
5. At the time of the notification as stipulated in Article 6(1) of this regulation, the Licensee shall submit to the Authority all relevant supporting documentation requested by the Authority.

6. The Licensee shall notify the Authority in writing of any changes to information previously submitted pursuant to this regulation, including changes to the previously declared location, the end-user or purpose of end-use of Nuclear Material and/ or Regulated Items. Such notifications shall be submitted to the Authority within five (5) working days following the day on which the change becomes known to the Licensee.
7. The notification requirements of Article 6 of this regulation shall supersede the notification requirements related to the Import, Export and Re-export of Nuclear Material and Regulated Items specified in the Licence(s) issued by the Authority prior to the date of entry into force of this regulation.

Licensing Criteria

Article (7)

1. All Persons applying for a Licence shall demonstrate to the Authority that the following criteria are met:
 - a) The Import, Export or Re-export will be exclusively for peaceful purposes and will not contribute in any way towards the proliferation of nuclear weapons or other nuclear explosive devices.
 - b) The imported, exported or re-exported Nuclear Material and Regulated Items will not be used in contravention to the State's national and international obligations and applicable national legislation.
 - c) The end-user is authorised by the relevant authority of the recipient country to receive re-exported Nuclear Material and/ or Nuclear Related Items in accordance with the laws and regulations of the recipient country, and based on a Government-to-Government Assurance.
 - d) The End-user Declaration for the Import, Export or Re-export of Nuclear Related Dual-use Items has been submitted to the Authority.
2. The Authority reserves the right to verify and validate the correctness and completeness of the information submitted in End-user Declarations, and any additional information requested by the Authority on a case-by-case basis.

Licensee's and Involved Parties' Obligations

Article (8)

1. The Licensee shall conduct the Regulated Activities defined in Article 3(1) of this regulation involving Nuclear Material and/ or Nuclear Related Items only if those are referred to in a valid Government-to-Government Assurance with the supplier country unless the Regulated Activities defined in Article 3(1) (c) of this regulation are destined exclusively for the supplier country.
2. The Licensee or Involved Party (if they are not the end-user) shall state to the end-user in writing that the use of the Regulated Items shall comply with the conditions of the Licence and the relevant provisions of this regulation, and shall notify the Authority before any subsequent transmittal of the Regulated Items is initiated.
3. Before transmitting Nuclear Related Dual-use Items to any other Person and carrying out any movement of such Nuclear Related Dual-use Items within the State including its free zones and/ or special zones, the end-user shall:
 - a) State in writing to the Person who is a subsequent end-user that the transmitted Nuclear Related Dual-use Items are subject to this regulation.
 - b) Submit a notification together with an End-user Declaration to the Authority.
4. Shipping and clearing agents under the jurisdiction of the State shall:
 - a) Only accept Nuclear Material and/ or Regulated Items for Transfer for which the Authority has issued a Licence or to which the Authority has given its consent.
 - b) Maintain client profiles of companies engaged in the Transfer of Nuclear Material and/ or Regulated Items and share such profiles with the Authority upon request.
 - c) Comply with the provisions of Article 8(8) of this regulation.
5. Licences issued under this regulation do not relieve Licensees and Involved Parties from complying with any other applicable laws or regulations in the State.
6. The Licensees and Involved Parties shall be liable for any violations related to Transfers without a Licence or consent from the Authority.
7. The Involved Parties shall be liable for and cover any expenses related to the transport or storage of Nuclear Material and/ or Regulated Items by third parties, the State authorities, and the Authority, as applicable, if the transport and/or storage of the said Nuclear Material or Regulated Items is suspended and/ or prohibited because the Involved Parties do not have the required Licence or consent from the Authority.

8. The Licensees and Involved Parties shall maintain an effective Import-Export compliance programme, which is operated by suitably qualified and experienced staff. The Import-Export compliance programme shall ensure that the Involved Parties have effective methods for complying with this regulation. Involved Parties must demonstrate their due diligence by engaging in end-user verifications. The Import-Export compliance programme together with its associated procedures, instructions and information shall be provided to the Authority upon request and available for Inspection by the Authority at any time.
9. The Licensee shall develop and implement measures to adequately protect information related to Nuclear Material and Regulated Items and to ensure that the integrity, confidentiality and availability of such information is maintained during its storage and Transfer. The measures shall also be implemented to provide high assurance that digital computers, networks and communication systems are adequately protected against cyberattacks.
10. Involved Parties who have been reported on the lists of international entities and/ or foreign governments as entities supporting nuclear weapons-related activities shall exercise their best efforts to resolve their status so as to have their name removed from such lists. They shall provide the Authority with any additional information requested by the Authority and any Transfer of Nuclear Material and/ or Regulated Items by such Involved Parties shall require a Licence by the Authority.

Records

Article (9)

1. The Licensee and Involved Parties shall maintain a comprehensive records system of all Transfers of Nuclear Material and/ or Regulated Items, and shall retain records in the system for at least five (5) years after the Transfer of Nuclear Material and/ or Regulated Items has been completed.
2. The Licensee and Involved Parties shall maintain adequate security measures as applicable to prevent the tampering and loss of records.
3. The Licensee and Involved Parties are responsible for the correctness and completeness of all records related to the Transfer of Nuclear Material and Regulated Items.
4. The Licensee and Involved Parties shall allow unfettered access by the Authority to all records related to the Transfer of Nuclear Material and Regulated Items.
5. Upon request by the Authority, the Licensee and Involved Parties shall provide to the Authority copies of all records relating to the Transfer of Nuclear Material and/ or Regulated Items.

Reports

Article (10)

1. The Licensee shall provide quarterly reports to the Authority on all Imports, Exports and Re-exports of Regulated Items through an official letter or by other means agreed in writing with the Authority. Such reports shall include (but not be limited to) the relevant Licence number, the designation and quantity of Regulated Items involved, the type and date of the Transfer, and the origin/ destination of the Regulated Items, and shall be provided within twelve (12) working days after the end of each calendar quarter.
2. The Licensee is responsible for the correctness and completeness of all reports submitted to the Authority.
3. Upon request by the Authority, the Licensee shall provide the Authority with any clarifications and/ or corrections concerning any reports provided pursuant to Article 10(1) of this regulation.
4. Without prejudice to the provisions of Article 10(1) of this regulation, the Licensee shall provide any other reports to the Authority upon request and within a period specified by the Authority.

Provision of Information

Article (11)

1. All information and documentation submitted to the Authority shall be correct and complete.
2. The Licensee or Involved Parties including shipping and clearing agents subject to the jurisdiction of the State shall provide to the Authority any information and documentation related to the Transfer of Nuclear Material and/ or Regulated Items requested to support the Authority's regulatory activities including its Inspections within ten (10) working days of the Authority's request unless otherwise agreed with the Authority.
3. Any Person aware of any Transfer(s) of Nuclear Material and/ or Regulated Items conducted without a Licence or consent from the Authority shall immediately notify the Authority. Such notification shall be made using any of the communication channels identified on the Authority's website.

4. The Authority encourages voluntary self-disclosure by the Licensee or Involved Parties of any actual or potential violations of any provisions of this regulation, the Law or the Licence conditions, as appropriate, through notification to the Authority.

Inspections

Article (12)

1. The Licensee and Involved Parties shall provide prompt and unfettered access to the Authority to conduct Inspections related to the Transfer of Nuclear Material and/ or Regulated Items to verify compliance with the requirements of the Law, this regulation and relevant Licence conditions including the correctness and completeness of the information previously provided to the Authority.
2. The Licensee and Involved Parties subject to Inspection by the Authority shall confirm receipt of the Authority's Inspection notification and nominate representatives who have the knowledge and authority to comply with the Authority's requirements to be present during the Inspection.
3. The Authority's inspectors shall have access to any locations in the State where transferred Nuclear Material and/ or Regulated Items are located including (but not limited to) the State's free zones and/ or special zones in order to verify that:
 - a) Such Nuclear Material and/ or Regulated Items are used solely for peaceful and declared purposes.
 - b) The Transfer and end-use of such Nuclear Material and/ or Regulated Items are consistent with the requirements of the Law, this regulation and Licence conditions, as appropriate.
 - c) The actual technical features of such Nuclear Material and Regulated Items are consistent with the information provided to the Authority including the relevant technical documents.
 - d) The Nuclear Material and Regulated Items are transmitted only to the declared end-users.
4. The Licensee and Involved Parties shall allow the Authority's inspectors to carry out the following:
 - a) Examine records related to Transfers and any other relevant information.
 - b) Reconcile records as maintained in accordance with Article 9 of this regulation with reports submitted to the Authority in accordance with Article 10 of this regulation and/ or with any other relevant information available to the Authority.

- c) Verify the location, identity and quantity of transferred Nuclear Material and/ or Regulated Items.
 - d) Use radiation detection equipment and other measurement devices.
 - e) Take samples.
 - f) Take photographs.
 - g) Take other actions authorised by the Law and this regulation to meet the Inspection goals.
5. The Licensee and Involved Parties subject to Inspection shall provide the Authority's inspectors with the requested information about the Transfer during the Inspection or no later than ten (10) working days after the Inspection unless otherwise agreed with the Authority.
6. The Licensee and Involved Parties shall complete all actions required by the Authority further to the Inspection within the period set by the Authority.
7. The Authority has the right to seize:
- a) Nuclear Material and/ or Regulated Items transferred without a Licence or consent by the Authority required by the Law or this regulation.
 - b) Any other items the Transfer of which is prohibited pursuant to Article 4(1) (c) of this regulation.

Cooperation with other Entities

Article (13)

1. The Authority monitors items classified under certain Harmonised System Codes, as published on the Authority's website and submitted by the State's customs authorities, in order to determine through a technical review whether such items are subject to the provisions of this regulation. Only those items not subject to this regulation as confirmed by the Authority may be released by the Customs Authorities.
2. The Authority shall support and cooperate with other relevant State authorities, in particular in the exchange of relevant information and in the conduct of joint inspections. Coordination mechanisms may be established with such entities, as needed.



Entry into Force

Article (14)

This regulation shall be published in the Official Gazette and shall enter into force one (1) month following the date of its publication in the Official Gazette.