

MEMORANDUM TO PARLIAMENT

BY

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

ON

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

28TH APRIL, 2013

ACC NO: 3532

CLASS NO: CR/NARE/13

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 a by 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 Generals 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.

SECRET

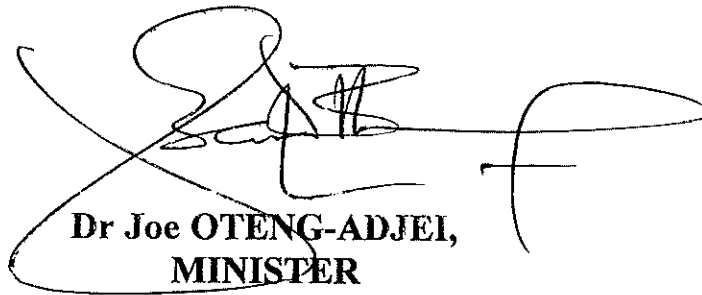
8. CABINET APPROVAL

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 again approved the 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**

28TH APRIL, 2014