

## **Regulation**

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

## **Version 0**

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## Article (1)

For purposes of this regulation, the following terms shall have the meanings set forth below. Other capitalised terms used but not defined herein shall have the meaning ascribed to them in Article 1 of the Federal Law by Decree No. 6 of 2009 Concerning the Peaceful Uses of Nuclear Energy (the Law):

<b>Additional Protocol (AP)</b>	The Protocol Additional to the Safeguards Agreement. The Additional Protocol was ratified by Federal Decree No. 63 of 2010 and entered into force on 20 December 2010 and reproduced in the IAEA Information Circular INFCIRC/622/Add.1.
<b>Beneficiary Parties</b>	All parties involved in the Transfer of Regulated Items who are required to be licensed or authorised by the relevant authority, or their representatives in the State or abroad including parties located in free zones and/or special zones.
<b>End-user Declaration</b>	A written confirmation from the end-user of the Regulated Items stating that Regulated Items will only be used for peaceful purposes.
<b>Export</b>	Taking outside the State the Regulated Items of national origin including Regulated Items produced in the free zones and/or special zones through land, sea or air customs.
<b>General Licence</b>	A licence issued by the Authority for multiple Import of Regulated Items or for multiple Export of Nuclear Related Dual-Use Items to specified destinations that meet the State obligations specified in the Safeguards Agreement and Additional Protocol and conditions of supply as defined by the International Nuclear Export Control Regime Guidelines in INFCIRC/254/Part 1 and Part 2. The Licensee shall follow the special set of conditions defined by the General Licence for each Import of concerned Regulated Items or Export of concerned Nuclear Related Dual-Use Items.
<b>Government-to Government-Assurance</b>	Assurance requested by a government authority of the supplier from a government authority of the recipient to confirm for each import of Nuclear Material and Nuclear Related Items a set of “conditions of supply” as defined in INFCIRC/254/Part 1 in order to authorise the supplier to Export or Re-export Nuclear Material or Nuclear Related Items. The main purpose of Government-to-Government Assurance is to assure the international community that the licensed supply will meet all obligations of international nuclear export control regimes and the supplied items will not be mis-used for any undeclared nuclear activities or non-peaceful nuclear activities.

<b>Harmonised System (HS)</b>	Nomenclature comprising the headings and sub-headings and their related numerical codes, the Section, Chapter and Subheading Notes and the General Rules for the Interpretation of the Harmonized System set out in the Annex to the World Customs Organization (WCO) International Convention on the Harmonized Commodity Description and Coding System.
<b>Import</b>	Entering into the State of the Regulated Items through customs ports and/or free zones and/or special zones.
<b>INFCIRC/254/Part 1 and INFCIRC/254/Part 2</b>	Information circulars of IAEA related to nuclear transfer control. INFCIRC/254/Part 1, as amended, contains guidelines for the transfer of Nuclear Material, equipment, non-Nuclear Material and technology, listed in its annexes. INFCIRC/254/Part 2, as amended, contains guidelines for the transfer of nuclear-related dual-use equipment, materials, software and related technology, listed in its annexes.
<b>Nuclear Related Items</b>	Equipment, non-Nuclear Material and technology designed or prepared for use in the Nuclear Sector as specified in INFCIRC/254/Part 1.
<b>Nuclear Related Dual-Use Items</b>	Nuclear related dual-use equipment, materials, software and related technology not designed or prepared for use in the Nuclear Sector as specified in INFCIRC/254/Part 2.
<b>Re-export</b>	Export of Regulated Items previously imported through the State's customs ports and/or free zones and/or special zones, including but not limited to, the Export of Regulated Items to their country of origin.
<b>Regulated Items</b>	Nuclear Material as defined by the Safeguards Agreement or Nuclear Related Items and Nuclear Related Dual-Use Items.
<b>Safeguards Agreement</b>	Agreement between the United Arab Emirates (UAE) and the IAEA for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The Safeguards Agreement was ratified by Federal Decree No. 46 of 2003 and entered into force on 9 October 2003 and reproduced in the IAEA Information Circular INFCIRC/622.
<b>Temporary Admission</b>	A customs declaration, which is processed only when Regulated Items are imported for a limited defined period of time through the State customs ports and/or free zones and/or special zones and which must be returned in the same condition in which they were imported.
<b>Transfer</b>	The Import, Export, Re-export, Transit and Trans-shipment of Regulated Items including transfer of technology.

**Trans-shipment**

Moving Regulated Items from the means of transport that brought them into the State and re-loading them onto the same or another means of transport with the purpose of shipping them out of the State. The Regulated Items do not leave airside or portside, i.e. they do not enter the customs territory of the State.

**Transit**

The crossing of Regulated Items through territory of the State that are loaded onto a means of transportation before a customs passage in the State, and then taken out again without being unloaded from the means of transport, while being monitored by the customs and/or the security officials, as the case may require.

**Scope****Article (2)**

1. This regulation establishes licensing and reporting requirements for the Transfer of Regulated Items.
2. This regulation applies to any person or entity within the State (including free zones and special zones), which engages in Transfer of Regulated Items.

**Objectives****Article (3)**

The objectives of this regulation are to implement provisions of the Law and the requirements of the Policy of the United Arab Emirates on the Evaluation and Potential Development of Peaceful Nuclear Energy, which stipulates the State's commitments to implementing export and import control rules for Regulated Items in accordance with the Nuclear Supplier's Group (NSG) guidelines for nuclear Transfer as set forth in INFCIRC/254/Part 1 and INFCIRC/254/Part 2.

**Prohibition****Article (4)**

The following are prohibited by this regulation:

1. The Transfer of Regulated Items without a Licence or prior written authorisation by the Authority.
2. The Transit and Trans-shipment of Nuclear Related Dual-Use Items without a prior written Transit and Trans-shipment declaration to the Authority.
3. Import of any Regulated Items specially designed or prepared for the purpose of Design, Construction or the development or Operation of a Facility related to Enrichment or Re-processing within the State.
4. Transfer of any Regulated Items associated with the proliferation of any weapon of mass destruction (WMD) in violation of international agreements ratified by the State and the United Nations Security Council resolutions.
5. Transfer of any Regulated Items for non-peaceful purposes.

## **Licence Applications and Authorisation**

### **Article (5)**

1. All persons and entities shall be licensed by the Authority before carrying out a Transfer of Nuclear Material, Nuclear Related Items or Import, Export or Re-export of Nuclear Related Dual-Use Items.
2. All persons and entities require written authorisation from the Authority before carrying out a Trans-shipment or Transit of Nuclear Related Dual-Use Items at least fifteen working days prior to the date of Trans-shipment or Transit.
3. Applying for a Licence or requesting authorisation from the Authority to Transfer Regulated Items as identified in Article (5)1 and 2 of this regulation shall include details of the following:
  - a. Country of origin for Import or Re-Export
  - b. Country(ies) of destination for Export or Re-Export
  - c. Identification of supplier
  - d. Identification of end-user
  - e. Purpose of use
  - f. Identification of contract (contract number, involved parties, date of entry into force, expiry date, etc.)
  - g. Multiple, single or per parts Transfer
  - h. Mode of transport (land, air, sea)
  - i. Specification of how Regulated Items shall be numbered in accordance with INFCIRC/254/Part 1 and Part 2
  - j. Detailed description of Regulated Items in accordance with the descriptions in INFCIRC/254/Part 1 and Part 2

- k. Quantity of Regulated Items
  - l. Harmonised System codes
  - m. Information required for Government-to-Government Assurance where a Licence is requested for Import, Export or Re-Export of Nuclear Material or Nuclear Related Items
  - n. Copy of the Government-to-Government Assurance in case of Transit/Trans-shipment of the Nuclear Related Items
  - o. End-user Declaration for the Transfer of Nuclear Related Dual-Use Items
  - p. Any other relevant information or declaration requested by the Authority
4. Temporary admission of Regulated Items shall be licensed according to the Transfer licensing requirements as per the provisions of this regulation.
  5. The Licence application for Transfer of Regulated Items shall comply with the trade, industrial or other licences issued by any other government entity within the State.
  6. Appeals of the Authority's decisions concerning Licence applications may be submitted to the Board of Management of the Authority in accordance with Article (28) 5 of the Law and the Authority's requirements.
  7. The holder of a General Licence shall use the relevant End-user Declaration form to notify the Authority of the Import of any Regulated Item at least twenty working days prior to its date of entry into the State.
  8. The holder of a General Licence shall use the relevant End-user Declaration form to notify the Authority of the Export or Re-Export of any Nuclear Related Dual Use Item at least five working days before its date of exit out of the State.

## **Licensing Criteria**

### **Article (6)**

1. The Authority's decision to issue a Licence for Transfer of Regulated Items is governed by INFCIRC/254/Part 1 and INFCIRC/254/Part 2. The Licence applicant must demonstrate that the following criteria are met:
  - a. The Transfer will not compromise the security of the State.
  - b. The Transfer does not pose any threat to Nuclear Non-Proliferation as defined by the Treaty on the Non-Proliferation of Nuclear Weapons.
  - c. The end user is authorised by the relevant authority of the recipient country to receive the Regulated Items in accordance with its laws and regulations.
  - d. Available official information does not indicate that the Regulated Items could be mis-used or used for a malicious act.
  - e. Transferred Regulated Items will not be used for any Nuclear Fuel cycle activities which are out of the scope of IAEA safeguards.

- f. Upon the request of the Authority, the Beneficiary Parties shall provide information about their counterpart or a copy of the counterpart's relevant licence.

## **Licensee and Relevant Parties' Obligations**

### **Article (7)**

1. The Licensee shall provide written advance notification to the Authority at least fifteen working days prior to the date of entry into or exit from the State of any Transfer of Nuclear Material, Nuclear Related Items and any Import, Export and Re-Export of Nuclear Related Dual Use Items.
2. The Licensee shall notify the Authority in writing of the entry into or exit from the State of the Regulated Items, at least by the end of the working day following the day of entry or exit.
3. Article (7)1 and 2 of this regulation shall not apply to transfers of technology. Notifications for such transfers will be defined by Licence conditions on a case-by-case basis.
4. The Licensee shall Transfer the Nuclear Material and Nuclear Related Items in accordance with all requirements of INFCIRC/254/Part1.
5. The Licensee and any entity permitted to be involved in the Transit or Trans-shipment of Regulated Items including shipping and clearance agents shall provide the Authority with any information related to the Transfer of Regulated Items if requested by the Authority. Shipping and clearance agents shall not accept any unlicensed or any unauthorised shipments of Regulated Items.
6. The Licensee shall provide the Authority with an official copy of the invoice of the Regulated Items along with other Transfer relevant documents upon the entry or exit of Regulated Items to or from the State.
7. The Licensee shall notify the end users in writing that the use of licensed Regulated Items shall comply with the issued Licence and shall provide a copy of the notification to the Authority before the Transfer is carried out.
8. The end user shall notify any subsequent end user in writing that the Regulated Items comply with this regulation and shall provide a copy of the notification to the Authority before the Transfer is carried out.
9. Any subsequent end user shall confirm to the Authority in writing the receipt of the notifications listed in Article (7) 7 and 8 of this regulation.
10. Information required by the Law or this regulation, which is provided to the Authority by the Beneficiary Parties in order to obtain a Licence, shall be correct and complete.
11. Licences issued under this regulation do not relieve Licensees from complying with any other applicable laws or regulations, or any related agreements assented or acceded by the State.



12. The Beneficiary Parties shall be liable for any damage, leak, failure or loss caused by the Transfer of any Regulated Items without a Licence. The Beneficiary Parties shall also be held responsible for any violations and remain liable for claims made by a third party.
13. The Beneficiary Parties shall be liable for any expenses related to transportation, storage or Inspection of Regulated Items if the transport has been suspended or prohibited as a result of information of its existence in the State without a Licence or permit from the relevant authorities.

### **Revoking, Suspending, Amending and/or Renewing a Licence**

#### **Article (8)**

1. The Licence may be amended and/or renewed, revoked or suspended in accordance with the Law or conditions of the Licence.

#### **Records**

#### **Article (9)**

1. Each Licensee shall have a comprehensive records system, which is able to satisfy the Authority's audit or Inspection requirements.
2. The Licensee shall maintain records concerning the Transfer of Regulated Items pursuant to the conditions of the Licence issued by the Authority. The Licensee shall retain these records for at least five years after relinquishing the ownership of the Regulated Items.
3. The Licensee shall maintain adequate security measures to prevent tampering and loss of records.
4. The Licensee is responsible for the correctness and completeness of all records related to the Transfer of Regulated Items.
5. The Licensee shall permit the Authority to inspect its records to fulfil the requirements of the Law and all other related applicable legislation of the State.
6. Upon request by the Authority, the Licensee shall provide copies of any records concerning the Transfer of Regulated Items.

#### **Reports**

### **Article (10)**

1. The entry into or exit from the State of Nuclear Material and Nuclear Related Items shall be communicated immediately to the Authority by the Licensee using a communication method agreed by the Authority and confirmed in writing within 24 hours.
2. The Licensee shall provide quarterly reports to the Authority on any Transfer of Regulated Items using a method approved by the Authority. These reports shall be provided within ten working days after the end of each quarter of the year.
3. Without prejudice to provisions of Article (10)2 of this regulation, the Authority has the right to request specific reports on the Transfer of Regulated Items and the Licensee shall provide such reports to the Authority within the period determined in its request.
4. Upon request by the Authority, Beneficiary Parties shall justify, clarify or reconcile any inconsistency in reports provided pursuant to Article (10) of this regulation.

### **Provision of Information**

#### **Article (11)**

1. Except where otherwise specified in this Regulation, all communications pertaining to Regulated Items including Licence applications and reports required by this regulation, shall be addressed to the Safeguards Department of the Authority.
2. The Authority may provide information on any Licensee to any State or international entity for security or statistics related reasons or any other purpose following an official request from any such entity through diplomatic channels.
3. The Authority, in cooperation with other relevant entities, shall verify any information declared by the Beneficiary Parties regarding the foreign end users receiving Nuclear Material or Nuclear Related Items.
4. The Licensee shall provide the Authority, as early as possible but no later than two working days before the entry into or exit from the State of the Regulated Items, information and supporting documents, which shall include but not be limited to the following:
  - a. Specifications of each Regulated Item;
  - b. Quantity of Regulated Items;
  - c. Scheduled date of entry into or exit from the State;
  - d. Carrier name and its licence;
  - e. Means of transport (aircraft, vessel, truck, train or any other);
  - f. Number of containers and packages and shipping dates;

- g. Registration numbers of containers and packages;
  - h. Custom seal number or any other official seal number;
  - i. Details of shipping company; and
  - j. A table specifying the content of each container.
5. The Licensee shall, without any delay, provide written confirmation of delivery of Regulated Items to the Authority and inform the Authority in writing of any changes to information previously declared to the Authority pursuant to this regulation.

## **Inspection and Verification Activities**

### **Article (12)**

1. The Licensee shall allow access, without any delay, to the Authority to conduct an Inspection, which the Authority deems to be related to the Transfer of Regulated Items, to verify the correctness and the completeness of the information provided and in compliance with the requirements of the Law, this regulation and with conditions of the relevant licences.
2. The Authority's inspectors are authorised to inspect industrial sites, stores or any other sites or locations in the State where Regulated Items are declared to be located including, but not limited to, special and free zones in order to:
  - a) Ensure that such items are used for peaceful purposes in accordance with the obligations of the Treaty on the Non-Proliferation of Nuclear Weapons.
  - b) Investigate any suspicion that the Transfer or end use of Regulated Items is unlicensed or unauthorised.
  - c) Verify that the Regulated Items are consistent with the information provided and the relevant technical documents.
  - d) Ensure that the Regulated Items are only forwarded to declared end users.
  - e) Satisfy requests for information by governmental or international organisations.
3. In accordance with Article (30) of the Regulation for the System of Accounting for and Control of Nuclear Material and Application of Additional Protocol (FANR-REG-10) and Article (5) of the Additional Protocol, the Licensee and Beneficiary Parties shall allow complementary access to the IAEA inspectors accompanied by the Authority's inspectors.
4. The Authority will notify in writing the Licensee or its legal representatives through their declared official point of contact of the time and date of the Inspection. The Licensee shall confirm the receipt of the aforementioned notification and nominate the

representatives who will have the delegation of authority to follow the requirements of inspectors.

5. The Authority's inspectors are authorised to request any additional information during the Inspection, either as hard or soft copies, and to take photographs whenever required.
6. Any non-compliance with the requirements of this regulation identified during the Authority's Inspection shall be recorded in writing and the record shall be signed both by the Beneficiary Party or the Licensee and the Authority's inspector.
7. If the Authority finds any unlicensed or unauthorised Transfer of the Regulated Items during the course of the Inspection, the Authority may make a request to the relevant authorities to suspend, cancel or deny any Regulated Activities related to Regulated Items and may confiscate the Regulated Items.