

NATIONAL IMPLEMENTATION MEASURES FOR THE 1980 CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL (CPPNM)

FACTS ABOUT THE TREATY

The 1980 Convention on the Physical Protection of Nuclear Material (CPPNM) was signed on 3 March 1980 and entered into force on 8 February 1987.

The treaty has over 150 States Parties (as at October 2014). The treaty depositary is the Director General of the International Atomic Energy Agency (IAEA).



Packaging to contain radioactive materials, such as these boxes, is stress tested during development. IAEA.org Image Bank

IS MY STATE UNDER AN OBLIGATION TO IMPLEMENT THE CPPNM?

Yes, if your State has ratified or acceded to the treaty. The Convention calls for a set of rules to be implemented in your legal system. For instance:

- Article 7 defines a number of acts or attempted acts, which should be criminalized;
- Article 8 requires your State to establish jurisdiction over the offences listed in Article 7, which should, among other things, give your courts the authority to try individuals suspected of committing prohibited acts; and
- Articles 10 and 11 set out criteria for the expediency of trials and extraditions and Article 13 calls for international assistance in connection with criminal proceedings (for instance by facilitating the transfer of evidence between States).

The IAEA has agreed a set of physical protection objectives that could be reflected in the national legal order. Your State should, according to these objectives, establish and maintain conditions to:

- protect against the unauthorized removal of nuclear material in use and storage, and during transport;
- ensure the implementation of rapid and comprehensive measures by the State to locate and recover missing or stolen nuclear material;
- protect against sabotage of nuclear facilities and sabotage of nuclear material in use and storage and during transport; and
- mitigate or minimize the radiological consequences of sabotage.

The Convention recognizes that physical protection is the responsibility of sovereign States. Your government is required only to implement a selection of measures according to your national requirements.

WHAT FORMS OF LEGISLATION SHOULD MY STATE CONSIDER?

The CPPNM calls for your State to **criminalize** certain acts, including:

- An act or attempted act undertaken without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
- The theft or robbery (or attempts thereof) of nuclear material;
- Obtaining or attempting to obtain nuclear material through embezzlement or fraud;
- An act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- A threat to use nuclear material to cause death or serious injury to any person or substantial property damage, or to commit such an offence in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
- Changes in *criminal procedural law* may be necessary to establish jurisdiction for your courts. Further *procedural provisions* are required to deal with matters relating to the extradition of suspects. The Convention requires your State to guarantee fair treatment to any person charged with treaty-specified crimes.
- Legislation should also guarantee specific *protection levels* for international transport of nuclear materials. Minimum protection levels are set out in Annex I of the Convention. Further guidance is provided by non-binding but authoritative recommendations developed by the IAEA.
- As outlined by the IAEA, an effective physical protection regime would benefit from a *system of evaluation and licensing or other*

procedures to grant authorization for individuals wishing to handle controlled materials. This may require your State to task a *national authority* to administer licenses.

- A licensing regime would benefit from a national *system of inspections to verify compliance* with the license requirements and conditions.
- The licensing regime should include provisions to *enforce applicable requirements and conditions*, including effective sanctions.

ARE THERE OTHER RELEVANT INTERNATIONAL AGREEMENTS RELATING TO PHYSICAL SECURITY?

Yes. On 8 July 2005, the States Parties adopted an amendment to the treaty. States Parties to the amended treaty are required to protect nuclear facilities and material in peaceful domestic use, in storage as well as in transport. The amended treaty also provides for expanded co-operation between and among States regarding:

- rapid measures to locate and recover stolen or smuggled nuclear material;
- mitigating any radiological consequences of sabotage; and
- preventing and combating related offences.

The amended treaty will enter into force 30 days after the date on which two-thirds of the States Parties to the CPPNM have deposited an instrument of ratification, acceptance or approval with the IAEA. As at October 2014, the amended treaty has over 80 contracting States.

WHERE SHOULD MY STATE'S LEGISLATIVE DRAFTERS TURN FOR ASSISTANCE?

- The IAEA has a legislative assistance programme. The Agency supports States to develop comprehensive nuclear law governing radiation protection, nuclear and radiation safety, nuclear liability, safeguards, and physical protection.
- The Agency provides legislative assistance advice to States on drafting specific legal provisions that meet their international commitments and obligations in the nuclear field.
- Specific guidance may be found in the following documents:
 - The Physical Protection of Nuclear Material and Nuclear Facilities, INFCIRC/225/Rev.4 (corrected), IAEA, Vienna (1999);
 - Measures to Improve the Security of Nuclear Materials and Other Radioactive Materials, GC(45)/INF/14, IAEA, Vienna (2001);
 - Physical Protection of Nuclear Materials: Experience in Regulation, Implementation and Operations (proceedings of an international conference), IAEA, Vienna (1998);
 - Final Report of the Informal Open-Ended Meeting to Discuss Whether there is a Need to Revise the Convention on the Physical Protection of Nuclear Material, IAEA, Vienna (2001); and
 - Nuclear Verification and Security of Material—Physical Protection Objectives and Fundamental Principles, GOV/2001/41, IAEA, Vienna (2001).
- VERTIC has expanded its National Implementation Measures Programme to assist States in implementing UN Security Council Resolution 1540, including related obligations under the biological, chemical and nuclear weapons treaty regimes.

HOW CAN MY STATE CONTACT THE IAEA?

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