

# **A framework for the secure development of nuclear energy: obligations and challenges**

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# Introduction

- Article IV of the NPT
- Exercise in conformity with articles II and III: non-proliferation of nuclear weapons and safeguards
- Additional risks have emerged: criminal or intentional unauthorized acts involving or directed at nuclear material, other radioactive material, associated facilities, or associated activities
- Nuclear security
- “Development of nuclear energy in a framework that reduces proliferation risk and *adheres to the highest standards for (...) security.*”

# Outline

- What are the current obligations and standards?
- What are the challenges?
- Possible solutions: the example of VERTIC's NIM Programme
- Thoughts on a convention on nuclear security



# The international framework for nuclear security

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- The responsibility for nuclear security within a State rests entirely with the State
- “Nuclear security in one State might depend on the effectiveness of the nuclear security regimes in other States. There is an increasing need for appropriate international cooperation to enhance nuclear security worldwide” (IAEA NSS 20)
- “When developing nuclear energy, including nuclear power, the use of nuclear energy must be accompanied by appropriate and effective levels of nuclear security, *consistent with* States’ national legislation and *respective international obligations*” (NPT/CONF.2015/WP.58)
  - ➔ Where are those obligations? What are they?

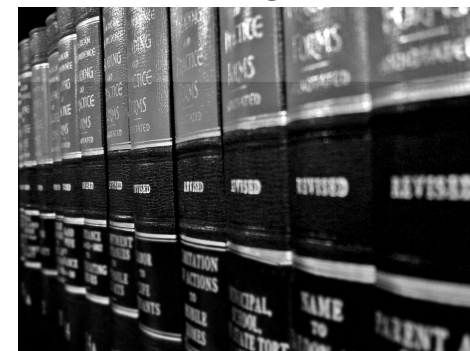
# The international framework for nuclear security

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## Binding treaties

- Convention on the Physical Protection of Nuclear Material and Amendment (CPPNM; CPPNM/A)
- International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT)
- International Convention for the Suppression of Terrorist Bombings
- Maritime Conventions
- Civil Aviation Convention
- UN Security Council Resolutions



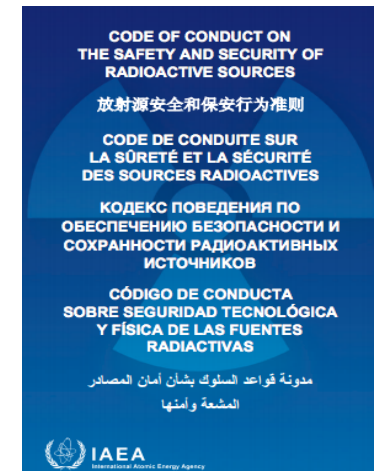
# The international framework for nuclear security

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## Non binding instruments

- Code of Conduct on the Safety and Security of Radioactive Sources
- Guidance on the Import and Export of Radioactive Sources
- IAEA Nuclear Security Series
  - What are they?
  - How are they prepared?
  - Joint Statement on Strengthening Nuclear Security Implementation (in INFCIRC/869)



# The international framework for nuclear security

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## The content of the obligations and standards

- Criminalization of offences against nuclear security
- Criminal proceedings
- Measures to physically protect and secure nuclear and other radioactive material; measures to prevent criminal or other unauthorized acts
- Transfer controls
- Regulatory body
- International cooperation and assistance

# The international framework for nuclear security

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## The nuclear security obligations and the right to peaceful uses

- The instruments for nuclear security recognize and protect the right to peaceful uses.
- A strong nuclear security framework facilitates the development of nuclear energy for peaceful purposes.



# The challenges

1 of 3

## Complexity of the international legal framework for nuclear security

- Multiple instruments covering various areas of international law and developed within different forums
- Conflicting obligations
- Unclear obligations
- Gaps

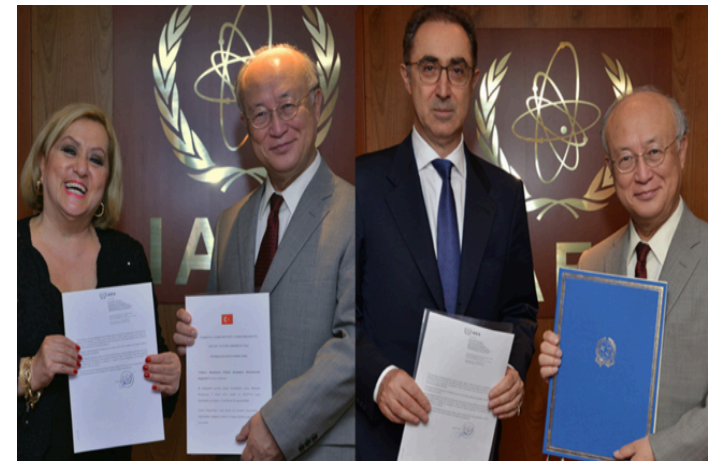


# The challenges

2 of 3

## Universalization and political commitment to implement the existing instruments

- Status of the main treaties and non-binding instruments
- Obstacles to universalization:
  - Lack of political will
  - More pressing priorities
  - Lack of awareness and/or understanding
  - Lack of capacity



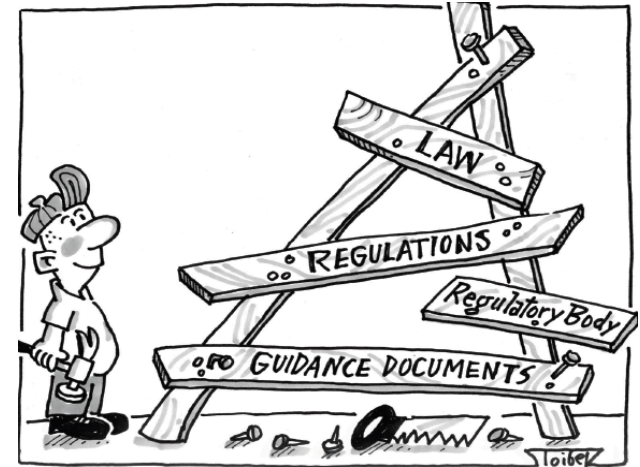
Ratification of the CPPNM/A by Turkey and Italy

# The challenges

3 of 3

## Implementation

- Identify the various obligations
- Identify the relevant areas of national laws
- Identify what is already being implemented
- Identify the relevant national stakeholders
- Decide on an approach for national implementation



“there are many international legal instruments and frameworks in nuclear security that exist under the aegis of the UN, IAEA and other international organizations. Some of them are internationally legally binding in nature, while the rest are voluntary or non-legally binding. Meanwhile, at the national level, the implementation of instruments and frameworks on nuclear security involve a wide range of national stakeholders.” Indonesia, 2012 Seoul Nuclear Security Summit

# Solutions: the example of VERTIC's NIM Programme

1 of 2

- Awareness-raising

- Implementation tools:

“11. We welcome efforts aimed at developing model legislation on nuclear security, which could provide States with building blocks to develop comprehensive national legislation in accordance with their own legal systems and internal legal processes.” The Hague Communiqué, 2014 NSS

- Indonesia-VERTIC: National Legislation Implementation Kit on Nuclear Security
- VERTIC's Nuclear Security Legislation Database

**National Legislation  
Implementation Kit  
on Nuclear Security**

Presented by the Republic of Indonesia  
to the Nuclear Security Summit  
The Hague, the Netherlands  
24-25 March 2014

# Solutions: the example of VERTIC's NIM Programme

2 of 2

- Legal analysis: nuclear security legislation surveys
- Legislative drafting
- Review of draft bills and regulations

Survey of [State's] National Measures to Implement  
Certain International Instruments  
Related to Nuclear Security



# Thoughts on a Convention on Nuclear Security

- Article 1: Ensure effective security of nuclear and other radioactive materials by:
  - Codifying a set of essential elements for national nuclear security regimes
  - Establishing a mechanism for continuous review and improvement of the international nuclear security regime
- To what extent could the ICNS help face the challenges identified ?
  - Persisting challenge of universalization
  - List of the elements that should compose the legal and regulatory framework for nuclear security but lack of detailed provisions for implementation
  - Main strengths: mechanism for reporting, continuous review and improvement

Thank you.

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