

NATIONAL IMPLEMENTATION MEASURES FOR THE IAEA ADDITIONAL PROTOCOL



ADDITIONAL PROTOCOL: IMPLEMENTATION AND RATIFICATION

The purpose of the international nuclear safeguards regime is to assess whether countries' nuclear activities are peaceful, and to make the conclusions from these assessments available to the international community. The regime relies on a set of agreements between states, or in some cases regional inspectorates, and the International Atomic Energy Agency (IAEA).

The Nuclear Non-Proliferation Treaty forms an important component of IAEA safeguards regime. The treaty requires non-nuclear weapons states parties to conclude safeguards agreements to ensure that all nuclear materials in these countries or under their control are only used toward peaceful ends.

IAEA safeguards agreements lay down the responsibilities and procedures that both parties to the agreement need to carry out. States are expected to set up a system to maintain oversight and control of their nuclear activities, and to provide information on these activities to the agency, which is in turn responsible for verifying this information.

Effective implementation of these agreements should provide assurance to the international community on each participating state's nuclear material and activities, and should demonstrate that the state has not diverted any nuclear material to the manufacturing of nuclear weapons or any other nuclear explosive device. In so doing, these agreements help to build confidence and stability among countries. They can also assist states in their efforts to develop effective regulatory systems for their nuclear activities.

Each of the safeguards agreements is based on a standard text providing a model framework of procedures and requirements developed by the agency and negotiated by states.

The primary instruments in the regime are known as 'comprehensive safeguards agreements', the 'additional protocol' to the comprehensive safeguards agreement, and the 'small quantities protocol' to the comprehensive safeguards agreement.

Comprehensive safeguards agreements centre on a state's responsibility to carry out accountancy procedures on their nuclear material which is then reported to the IAEA.

Under the agreement, states also undertake to receive and facilitate visits by the IAEA to verify that nuclear materials are only being put to peaceful uses.

The additional protocol is designed to supplement the verification measures under comprehensive safeguards agreements. The protocol specifies several important additional types of data that countries should collect and report, and provides greater access for IAEA inspectors to verify nuclear activities in a country.

Since some states have minimal or no nuclear activities, the IAEA has also developed the 'small quantities protocol' allowing such countries to ensure their safeguards obligations are appropriate for their situation by holding several elements of the comprehensive safeguards agreement in abeyance.

The first iteration of the small quantities protocol was launched in 1974 and a new version, with some important modifications, was brought out in 2005.

Some countries will therefore have in place a comprehensive safeguards agreement with the additional protocol, as well as a small quantities protocol.

Infobox: Three safeguards instruments

Comprehensive Safeguards Agreement

States' responsibilities focus on nuclear material accountancy, reporting and providing access to IAEA. States should:

- set up system to account for and control nuclear material.
- provide the following information to the agency:
 - initial reports on nuclear material, nuclear facilities;
 - record keeping of nuclear activities, reporting on inventory changes, imports and exports.
- facilitate access by the agency for:
 - facility design information verification;
 - ad hoc, routine and special inspections.
- cooperate with the agency.

Small Quantities Protocol 2005

Under this instrument, much of states' reporting and access requirements under the comprehensive safeguards agreement are held in abeyance, though the 2005 small quantities protocol differs from the 1974 version by reinstating several obligations. States should:

- provide the following information to the agency:
 - initial report on nuclear material;
 - early information on a decision to construct a nuclear facility.
- give access to the agency to verify the initial report.

Additional Protocol

This instrument requires supplementary information and greater access, in addition to comprehensive safeguards provisions. States should:

- provide the following information to the agency:
 - an initial declaration on AP items;
 - annual updates; quarterly reporting of AP exports.
- facilitate complementary access by the agency for:
 - short notice announced access;
 - managed access.
- put in place administrative measures for:
 - simplified inspector designation;
 - reduced visa requirements.

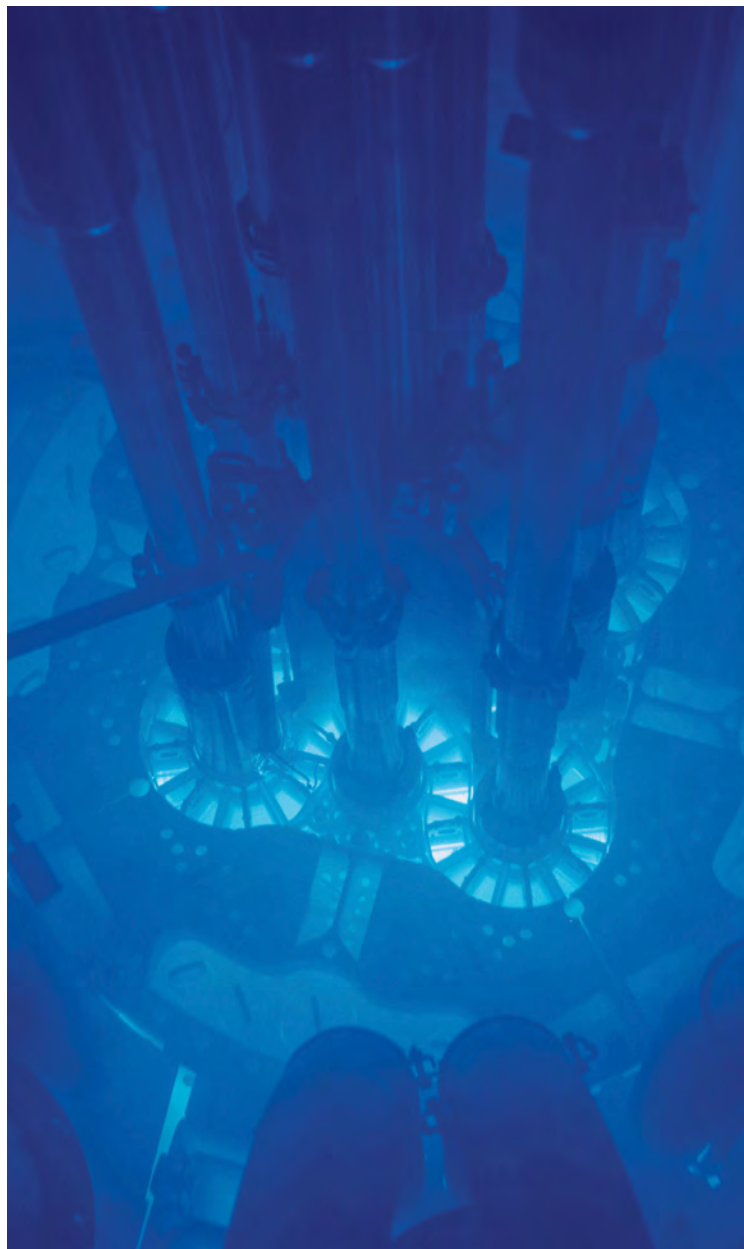
EVOLUTION OF THE ADDITIONAL PROTOCOL

The Model Comprehensive Safeguards Agreement was introduced by the IAEA in 1970. Up until the early 1990s its implementation primarily focused on verifying nuclear materials and activities as declared by states.

Thereafter, efforts to develop safeguards implementation pointed to the importance of providing the IAEA with tools that could enhance its ability to detect undeclared nuclear activities and materials.

As a result, the IAEA set about strengthening the safeguards system—partly by making more use of existing tools; and partly by developing the additional protocol, which was approved by the agency in 1997.

Since then, a growing number of states have subscribed to the additional protocol as an enhanced standard for verifying the non-proliferation of nuclear weapons.



ADDITIONAL PROTOCOL REQUIREMENTS FOR STATES

Building on the comprehensive safeguards agreement, the additional protocol requires states to provide the IAEA with more information through declarations. It also reinforces and broadens the agency's rights of access to verify declarations. The box below provides an overview of these provisions.

LEGAL AND ADMINISTRATIVE MEASURES

Bringing the additional protocol into force

Article 17 of the additional protocol specifies the requirements for its ratification and entry into force. To subscribe to the instrument, a state needs to notify the IAEA of its wish to 'conclude' an additional protocol and submit a draft text—based on the IAEA model document INFCIRC/540—to the agency's Board of Governors.

Once the Board of Governors authorises the Director General of the IAEA to go ahead with the process, the agreement is then signed by the Director General along with a person with appropriate credentials to represent the state in question.

The state will need to ensure that its statutory and/or constitutional requirements for entry into force of an international agreement have been met and notify the agency of this development when it occurs. Following the ratification of the additional protocol and notification to the agency, the protocol is considered to have entered into force.

Implementation

In order to implement the additional protocol, countries will need to ensure that they have brought their national law into conformity with the protocol's provisions.

This can be done in a number of ways depending on the state's legal culture and tradition, and the structure of its existing nuclear and safeguards legislation. For example, some states may have one single and unified nuclear law that includes safeguards-relevant provisions, while other states may have several separate laws dealing with this sector.

In addition, how states go about achieving conformity depends on whether they follow a two-step approach for ratification and implementation of treaties such that they need to incorporate the agreement into law with implementing instruments, or whether they use a one-step model whereby an international agreement becomes directly applicable when it is ratified.

Whichever the approach, it is important that the resulting legal framework is comprehensive, clear, consistent with existing provisions, and should not allow for misinterpretation or misapplication.

States may choose to adopt detailed laws, regulations or guidelines on areas covered by the additional protocol in which they are particularly involved, such as, for example, import and export measures for states that have a significant volume of trade and transport activities.

Likewise, states should ensure that their institutional arrangements are capable of managing the various responsibilities specified by the protocol, especially in areas in which they have particular involvement. Such institutions will need a clear and precise legal mandate to carry out their tasks effectively.

A state should therefore study which areas the protocol requires action on and ensure it has established appropriate mechanisms and procedures to meet its obligations under the instrument.

The extent to which additional protocol provisions touch on states' activities will vary considerably. In certain cases, a state may consider that it has little or no relevant activities. Such states will, however, be expected to check to the extent possible that this is the case, and consequently simply report that they have nothing to declare on those items.

COLLABORATION & ENGAGEMENT

Several organisations can offer assistance to states in developing effective and efficient measures to implement the additional protocol.

VERTIC has provided legislative assistance on implementation of arms treaties to states in many regions of the world. We can collaborate with governments interested in ratifying the additional protocol and offer a range of support services.

These services include running awareness-raising workshops focusing on the additional protocol for those unfamiliar with the instrument.

VERTIC can also review, and provide studies of, a state's safeguards-relevant legislative framework, based on a survey template specially prepared for that purpose.

VERTIC can also run workshops focused on examining and developing appropriate legislation, regulations and procedures for implementing the protocol. Resources for facilitating the ratification and implementation process are also available on the VERTIC website.

The IAEA's Office of Legal Affairs provides legislative assistance in response to requests from states and the IAEA's Department of Safeguards can provide guidance on the preparation of reports and declarations.

The IAEA Department of Safeguards also provides training to state officials responsible for verification and safeguards on the national level.

Several countries also offer their expertise to states willing to take on an additional protocol. Please see the VERTIC website for up-to-date details of these assistance providers.

Infobox: Requirements under the Additional Protocol

Additional information

- Nuclear fuel cycle-related R&D.
- All locations on specified sites (use of each building).
- Additional information on activities at a particular location (on request from the agency).
- Manufacture/assembly of specified nuclear-related equipment.
- Uranium mines and concentration plants, and thorium concentration plants.
- Source material (such as ore concentrate).
- Nuclear material exempted under CSA.
- Quarterly reporting on exports and—on request by the agency—imports of specified items.
- Nuclear fuel cycle plans.

- Changes in location and processing of intermediate and high level waste.

Complementary access

- Sites of facilities and locations where nuclear material is located to confirm absence of undeclared nuclear material and activities.
- Decommissioned facilities/locations outside facilities to verify decommissioned status.
- Other locations to resolve a question or inconsistency (after consultation with the state).

Administrative measures

- Simplified procedures for inspector designation.
- Long term multiple entry/exit/transit visas for inspectors within one month of request.

Infobox: Support activities provided by VERTIC on the additional protocol

- collaborative awareness-raising events
- ratification support
- legislative review
- legislative implementation plans



VERTIC (the Verification Research, Training and Information Centre) is an independent, non-profit making charitable organization. Established in 1986, VERTIC supports the development, implementation and verification of international agreements as well as initiatives in related areas.

VERTIC provides this support through research and analysis, assistance and training, dissemination of information, and interaction with the governmental, diplomatic, technical, scientific and non-governmental communities.

VERTIC's work focuses on the development and application of monitoring, reporting, review, verification and compliance mechanisms, and on national implementation measures.

VERTIC is based in central London, governed by a Board of Trustees and advised by an International Verification Consultants Network. It is funded by philanthropic foundations, governments and other organizations and is regulated by the Charity Commission for England and Wales.