

NATIONAL IMPLEMENTATION MEASURES FOR THE 1968 NUCLEAR NON-PROLIFERATION TREATY (NPT)

FACTS ABOUT THE TREATY

The 1968 Nuclear Non-Proliferation Treaty (NPT) entered into force on 5 March 1970. The treaty has 190 States Parties (as at 2 April 2013).

The treaty does not have a secretariat. However, the treaty tasks the International Atomic Energy Agency (IAEA) with verifying compliance. The treaty depositaries are the governments of the Russian Federation, the United Kingdom and the United States.



An old transport container for radioactive material recovered during an IAEA assisted mission. (Georgia, 2002). IAEA.org Image Bank

IS MY STATE UNDER AN OBLIGATION TO IMPLEMENT THE NPT?

- Article III.1 of the treaty requires your State to accept nuclear safeguards. A range of legislative measures are often necessary to ensure appropriate national implementation of safeguards agreements.
- Article III.2 of the treaty requires your State to enact export controls to ensure that exported materials are safeguarded in the recipient State. These controls will be most effective if they are formalized in national law.

WHAT FORMS OF LEGISLATION SHOULD MY STATE CONSIDER?

Implementing the treaty prohibitions in your State's *criminal law* is often a suitable first step. Non-nuclear weapon States must prohibit the following acts:

- receipt of a nuclear weapon or nuclear explosive device;
- receipt of control over a nuclear weapon or nuclear explosive device;
- the manufacture of a nuclear weapon or nuclear explosive device;
- the seeking of assistance in the manufacture of a nuclear weapon or nuclear explosive device; and
- the receipt of assistance in the manufacture of a nuclear weapon or nuclear explosive device.



Other activities may also be *criminalized*. For instance, your State may decide to penalize any form of assistance to non-nuclear weapon States that may further a weapons programme. Causing, allowing or attempting activities that violate the treaty might also be criminalized.

Effective implementation of the treaty also requires *export* and *import control legislation*. A basic system, suitable for a State without any significant nuclear activities, would criminalize any nuclear-related export or import conducted without State approval. More expansive models exist, for instance:

- the Nuclear Suppliers Group (NSG) has published guidelines for nuclear exports and nuclear-related exports; and
- the Zangger Committee maintains a trigger list of nuclear-related strategic goods to assist States in identifying equipment and materials subject to export controls.

Implementing all the requirements of mandatory safeguards agreements may require changes in your State's *administrative law*. National legislation is important for the effective operation of the IAEA's safeguards system. For instance, your State should establish and maintain:

- a national authority (with independent regulatory powers) responsible for the proper implementation and application of your State's safeguards agreement;
- a licensing system that ensures that only authorized persons may handle safeguarded materials;
- an inspection system, which allows the national authority to visit licensed bodies in order to check that materials are kept under strict controls; and
- a sanctions system, which appropriately punishes individuals or organizations that breach the licensing system or relevant security regulations.

Implementing relevant IAEA safeguards documents can be a complex task. However, most details of safeguards implementation could be addressed by appropriate *secondary legislation*. For instance, many safeguards provisions could be incorporated through regulations, guidance documents and instructions promulgated by the national authority. The enabling piece of legislation could assume a 'framework character', setting out principles and general provisions.

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.
- 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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