

## Legal

### The Legal Framework for Nuclear Security



Opening remarks by IAEA Director General Rafael Mariano Grossi at the ministerial side event on strengthening the global legal framework for nuclear security held during the International Conference on Nuclear Security: Sustaining and Strengthening Efforts (ICONS 2020).

(Photo: D. Calma/IAEA)

#### SUMMARY

- Nuclear security plays an essential role in ensuring the safe, secure and peaceful use of nuclear technology.
- No single international legal instrument addresses nuclear security in a comprehensive manner.
- The international legal framework for nuclear security is constituted by a number of instruments, both legally binding and legally non-binding.
- The IAEA assists Member States in adhering to and implementing relevant international legal instruments, including in the area of nuclear security.

#### INTRODUCTION

Nuclear security focuses on the prevention and detection of, and response to, criminal or intentional unauthorized acts involving or directed at nuclear material, other radioactive material, associated facilities or associated activities. The international legal framework for nuclear

security provides a foundation for establishing effective national nuclear security regimes. It also forms a basis for international cooperation and assistance, and harmonizes approaches to combatting criminal and other intentional unauthorized acts involving nuclear and other radioactive material.

#### MULTILATERAL TREATIES

The main treaty in the area of nuclear security is the [Convention on the Physical Protection of Nuclear Material \(CPPNM\) and its 2005 Amendment](#), which was adopted under IAEA auspices. The entry into force of the CPPNM in 1987 and its Amendment in May 2016 were crucial milestones in the development of the international legal framework for nuclear security, as they remain the only internationally legally binding undertakings in the area of physical protection of nuclear material and, in the case of the Amendment, of nuclear facilities used for peaceful purposes.



**IAEA Legal Adviser and Director of the Office of Legal Affairs Peri Lynne Johnson at the event to mark the entry into force of the Amendment to the CPPNM.**

(Photo: D. Calma/IAEA)

The CPPNM establishes legal obligations for Parties regarding the physical protection of nuclear material used for peaceful purposes during international transport; the criminalization of certain offences; and international cooperation, for example, in the case of theft, robbery or any other unlawful taking of nuclear material or credible threat thereof.

The Amendment to the CPPNM extends the scope of the original treaty to cover physical protection of nuclear facilities and nuclear material used for peaceful purposes in domestic use, storage and transport. It also further criminalizes offences related to illicit trafficking and sabotage of nuclear material or nuclear facilities, and provides for strengthened international cooperation in light of the expanded scope, such as assistance and information sharing in the event of sabotage.

There are, however, other treaties addressing aspects of nuclear security. For instance, the [International Convention for the Suppression of Acts of Nuclear Terrorism \(ICSANT\)](#), adopted under the auspices of the United Nations, covers all radioactive material, including nuclear material, and requires States Parties to criminalize the unlawful and intentional possession and use of radioactive material or radioactive devices, as well as the unlawful use of or damage to nuclear facilities. ICSANT also contains an obligation for States Parties to “make every effort” to adopt appropriate measures for ensuring the physical protection of nuclear and other radioactive material, as defined under the Convention, and thereby take into account relevant recommendations and functions of the IAEA. However, unlike the CPPNM and its Amendment, ICSANT does not establish any specific obligations for adopting necessary legislative and regulatory measures to ensure the physical protection of material and facilities.

Other relevant instruments include the [International Convention for the Suppression of Terrorist Bombings](#) and the [International Convention for the Suppression of the Financing of Terrorism](#), both adopted under the auspices of the United Nations; the [Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation](#) and the [Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf](#), adopted under the auspices of the International Maritime Organization (IMO); and the [Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation](#), adopted under the auspices of the International Civil Aviation Organization (ICAO).

## UNITED NATIONS SECURITY COUNCIL RESOLUTIONS 1373 AND 1540

In addition to the instruments mentioned above, both [Security Council Resolution 1373](#) and [Security Council Resolution 1540](#) are relevant to nuclear security and, having been adopted under Chapter VII of the Charter of the United Nations, are legally binding for all United Nations Member States.

Security Council Resolution 1373, inter alia, calls upon States to cooperate in order to prevent and suppress terrorist acts and take action against perpetrators of such acts, as well as to become party to the relevant international conventions and protocols relating to terrorism. Security Council Resolution 1540 sets out obligations for States, inter alia, to adopt and enforce laws prohibiting non-State actors from developing, acquiring, using and transferring nuclear, chemical or biological weapons or their means of delivery. In addition, it requires States to develop and maintain appropriate and effective measures to account for and secure related materials in production, use and storage, as well as appropriate and effective physical protection measures, border controls and export controls.

## BENEFITS OF JOINING THE CPPNM AND ITS AMENDMENT

The CPPNM as strengthened by its Amendment is pertinent for all States, not just those with nuclear facilities or nuclear materials, for several reasons:

1. It enhances the national security of a State by providing a strengthened international framework for combating nuclear terrorism and securing

nuclear material, helping to reduce the likelihood of malicious acts involving nuclear material and/or facilities.

2. It facilitates international and regional cooperation and assistance in this field.
3. It provides the basis for ensuring that persons involved in terrorist and other criminal acts are brought to justice and are denied safe haven.
4. It harmonizes national approaches to preventing and responding to criminal and other unauthorized acts involving nuclear material and facilities, in the recognition that such acts perpetrated in one State would have consequences for others.
5. Adherence to and full implementation of the CPPNM and its Amendment contribute to the fulfillment of a State's obligations under Security Council Resolution 1540.

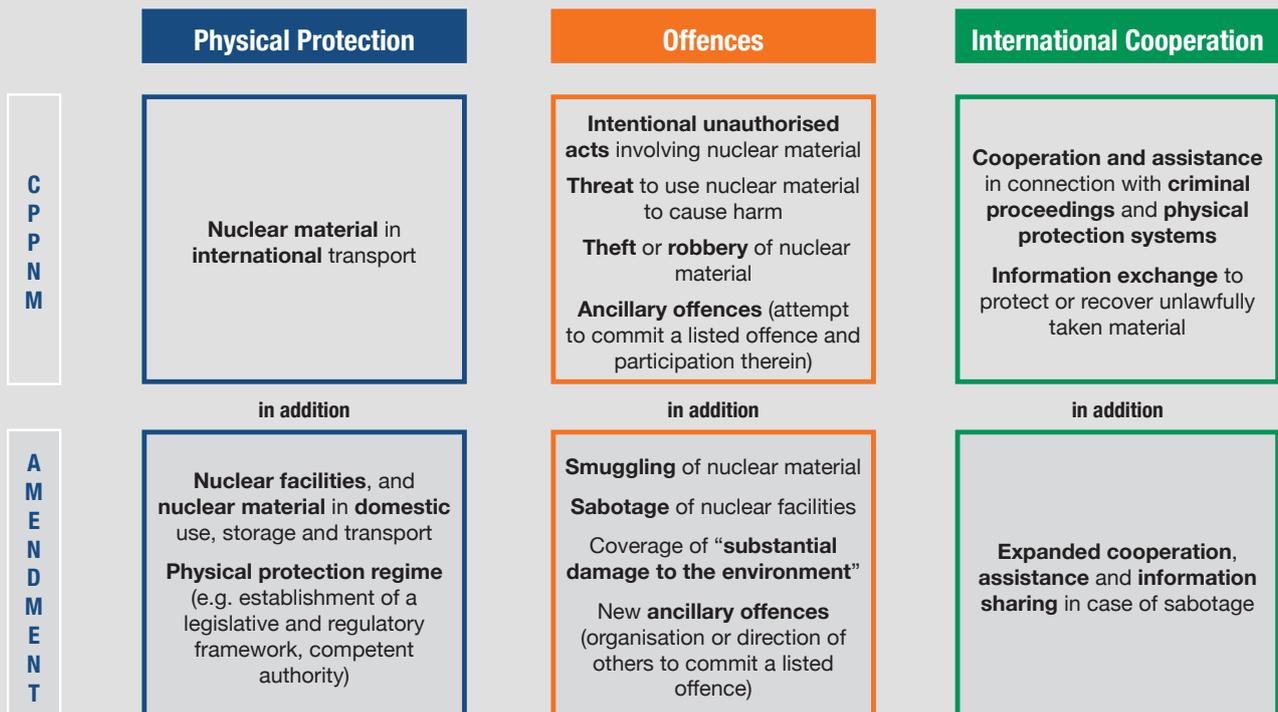
## LEGALLY NON-BINDING INSTRUMENTS

The IAEA also establishes and maintains the [Nuclear Security Series](#), a series of publications comprised of Nuclear Security Fundamentals, Recommendations,

Implementing Guides and Technical Guidance. The Nuclear Security Series provides international consensus guidance on all aspects of nuclear security. It is consistent with, and helps States implement, obligations under the above-mentioned legally binding instruments, including the CPPNM and its Amendment.

In addition, the IAEA's [Code of Conduct on the Safety and Security of Radioactive Sources](#) aims to help States achieve and maintain a high level of safety and security of radioactive sources throughout their life cycle. It provides guidance on the development and implementation of national policies, laws and regulations, and on fostering international cooperation, with respect to radioactive sources that may pose a significant risk to individuals, society or the environment. States are encouraged to express political commitment to following the guidance set forth in the Code of Conduct in writing to the Director General of the IAEA. The Code of Conduct is supplemented by guidance documents entitled [Guidance on the Import and Export of Radioactive Sources](#) and [Guidance on the Management of Disused Radioactive Sources](#).

## The Convention on the Physical Protection of Nuclear Material (CPPNM) and its Amendment





## IAEA ASSISTANCE

The IAEA facilitates Member States' adherence to and implementation of international instruments in the area of nuclear security through advisory services such as the [International Physical Protection Advisory Service \(IPPAS\)](#) and the [International Nuclear Security Advisory Service \(INSServ\)](#), and Integrated Nuclear Security Support Plans (INSSPs), as well as through the IAEA's [legislative assistance programme](#).

In the context of the IAEA's legislative assistance programme, support is offered to Member States in assessing and revising their national legislation in

For further information and support please contact:  
Legal Adviser and Director  
Office of Legal Affairs  
International Atomic Energy Agency  
Vienna International Centre, PO Box 100  
1400 Vienna, Austria  
Tel.: (+43 1) 2600-21500  
Email: [Legislative-Assistance.Contact-Point@iaea.org](mailto:Legislative-Assistance.Contact-Point@iaea.org)  
Additional details can be found at: [www.iaea.org/ola](http://www.iaea.org/ola)

order to comply with the obligations arising from the international nuclear law instruments to which they are party or which they intend to join. When providing legislative assistance, the IAEA promotes a comprehensive approach, covering all aspects of nuclear law, including nuclear safety, security and safeguards as well as liability for nuclear damage. In the case of the CPPNM and its Amendment, support is provided in drafting and revising national legal provisions on physical protection, criminalization and other elements of an adequate national legal framework for nuclear security.

## CONCLUSION

Universal adherence to and full implementation of the international legal instruments in the area of nuclear security, notably the CPPNM and its Amendment and ICSANT, as well as the use of applicable international guidance such as that set out in the IAEA Nuclear Security Series, help States to enjoy the benefits of nuclear science and technology while also managing and reducing the risks to human health, society and the environment.

A more detailed description and analysis of the relevant international legal instruments is provided in the publication [The International Legal Framework for Nuclear Security](#) (IAEA International Law Series No. 4), published in 2011.

## AREAS WHERE MEMBER STATES MAY BENEFIT FROM IAEA ASSISTANCE

1. Enhancing their knowledge of the legal framework for nuclear security, including by increasing their awareness of the benefits of joining the key international legal instruments, through participation in IAEA workshops and seminars.
2. Availing themselves of the IAEA legislative assistance programme in order to gain a better understanding of the elements of an adequate national nuclear law framework, including in the area of nuclear security.

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IAEA, Vienna International Centre, PO Box 100, 1400 Vienna, Austria

Email: [info@iaea.org](mailto:info@iaea.org) • Telephone: +43 (1) 2600-0 • Facsimile +43 (1) 2600-7

