



NATIONAL LEGISLATION IMPLEMENTATION KIT ON NUCLEAR SECURITY

Point of Departure:

Since its first round in 2010, the Nuclear Security process has acknowledged the importance of strong national legislation to enhance nuclear security worldwide. The importance of strong national legislation, for example, is also indicated by the dramatic increase of requests from States for assistance in developing nuclear-related national legislation, including in the area of nuclear security, through the IAEA Legislative Assistance Programme.

Indeed, it is also understood that it will be the discretionary power of every State, in accordance with its constitutional process, to decide what provisions on nuclear security are enacted at the level of legislation. The responsibility for nuclear security rests entirely with each individual State and there is no “one size fits all” template to draft legislation on nuclear security at the national level.

However, having an implementation kit on nuclear security will help individual States enhance its nuclear security. This model is only illustrative and should be adjusted to the real needs of States; the model would be able to help states in simplifying their efforts to reflect basic values and provisions from those legal instruments/frameworks into national legislation.

The main challenge in developing such comprehensive model legislation is the fact that 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. In pursuit of achieving integrated and harmonized national legislation on nuclear security, development of a model national legislation, which reflects all fundamental documents on nuclear security, needs to be explored.

We are convinced that these documents not only supplement each other but will also interlink them during implementation. Those documents among others are: the Convention on the Physical Protection of Nuclear Material and its 2005 Amendment, the International Convention for the Suppression of Acts of Nuclear Terrorism (Nuclear Terrorism Convention), Safeguards agreements and their additional protocols, the Code of Conduct on Safety and Security of Radioactive Sources, Physical Protection Objectives and Fundamental Principles, and Nuclear Security - Measures to Protect Against Nuclear Terrorism, 2006 GC(50)/13.

Objective

- To provide States with a national legislation implementation kit which can help States develop a more comprehensive national legislation on nuclear security.
- To provide States with a reference in nuclear security representing consolidated elements and provisions from different conventions/treaties, international legal instruments and frameworks in nuclear security.

Current status

- At the end of 2010, the IAEA published the "Handbook on Nuclear Law: Implementing Legislation," which in Chapter 14 and elsewhere covers a kind of model legislation on Nuclear Security, Physical Protection and Illicit Trafficking. However, the "model legislation" presented in Chapter 14 of the book was designed only to provide a basic understanding of key elements of nuclear security legislation and is not very comprehensive. The "model legislation" needs to be expanded further by incorporating a wider range of nuclear security-related legal instruments and frameworks prior to its development. Other international organisation, such as UNODC, have also created model legislation on such particular matter.
- States would like to have a reference in order to know what fundamental documents on nuclear security are advisable to be implemented at the level of legislation.

Recommended Actions:

- a. **Action 1:** consolidate all relevant instruments and frameworks and present them as a single and friendly reference encompassing all provisions and elements that need to be reflected in national legislation on nuclear security. This step is essential as many different international legal instruments and frameworks related to nuclear security are scattered among many different international organizations and in many models. The action to draw a single and friendly reference should involve all international organizations relevant to nuclear security with the IAEA (the IAEA Nuclear Security Office) coordinating this task. **The initial coordination of relevant international organizations within the framework of Action 1 is expected to take place before the Summit in 2012**, and information on this coordination would be shared during the Summit as an initial step toward developing a national legislation implementation kit on nuclear security.
- b. **Action 2:** After the 2012 Summit, the national legislation implementation kit on nuclear security is expected to be finalized by relevant international organizations which is coordinated by the IAEA. The implementation kit then could be used by any State to self-assess its own existing legislation(s) related to nuclear security.