

## **“The role of the International Atomic Energy Agency in connection with existing nuclear-weapon-free zone treaties”**

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Established in 1957, the International Atomic Energy Agency (IAEA) pursues the objective of accelerating and enlarging the contribution of atomic energy to peace, health and prosperity throughout the world while ensuring that assistance provided by it is not used in such a way as to further any military purpose. In this context, the IAEA plays an essential role in deterring the proliferation of nuclear weapons by detecting early misuse of nuclear material or technology and by providing credible assurances that States are honouring their safeguards obligations.

### **IAEA role under Nuclear-Weapon-Free Zones treaties**

The IAEA is the competent authority responsible for verifying that States are complying with safeguards agreements concluded with the IAEA in fulfilment of their non-proliferation obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and five existing nuclear-weapon-free zone (NWFZ) treaties; namely, the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco, 1967), the South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga, 1985), the Southeast Asia Nuclear-Weapon-Free Zone Treaty (Treaty of Bangkok, 1995), the African Nuclear Weapon Free Zone Treaty (Treaty of Pelindaba, 1996) and the Treaty on a Nuclear-Weapon-Free Zone in Central Asia (Treaty of Semipalatinsk, 2006).

Accordingly, as stated in the latest IAEA General Conference resolution, “IAEA safeguards are a fundamental component of the international nuclear non-proliferation regime, promote greater confidence among States, inter alia, by providing assurance that States are complying with their obligations under relevant safeguards agreements, contribute to strengthening their collective security and help creating an environment conducive to nuclear cooperation”.<sup>1</sup>

The IAEA is not a party to the NPT or to NWFZ treaties. However, the safeguards requirements set out in NWFZ treaties are similar to those in the NPT as they require States parties to conclude comprehensive safeguards agreements (CSAs) with the IAEA. The Treaty of Semipalatinsk also requires States parties to conclude with the IAEA, an Additional Protocol (AP) to their respective CSAs.

Like the NPT, the Rarotonga, Bangkok, Pelindaba and Semipalatinsk treaties also include provisions requiring IAEA safeguards as a condition of supply of source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or

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<sup>1</sup> Strengthening the Effectiveness and Improving the Efficiency of Agency Safeguards, IAEA General Conference resolution GC(63)RES/11, adopted on 19 September 2019.

production of special fissionable material to a non-nuclear-weapon State (NNWS). The Treaty of Semipalatinsk additionally requires the conclusion of an AP as a condition of supply of such material and equipment to a NNWS. Those treaties do not, however, specify a role for the IAEA in verifying that States are meeting such supply conditions.

The IAEA plays a crucial independent verification role, aimed at assuring the international community that nuclear material, facilities and other items subject to safeguards are used only for peaceful purposes. Accordingly, IAEA support with respect to NWFZs is principally in the form of the provision of credible assurances that States are honouring their safeguards obligations pursuant to CSAs concluded in connection with the NPT, which are deemed to also satisfy the legal requirements of the different NWFZ treaties for the conclusion of safeguards agreements with the IAEA.

Additionally, the IAEA has provided support at the request of the States concerned during the process of elaboration the Pelindaba and Semipalatinsk treaties. Such support included participation in meetings and workshops of the States parties. The IAEA also assists its Member States parties to those treaties, through its legislative assistance programme, in developing and amending their respective national legal frameworks governing the peaceful uses of nuclear energy and ionizing radiation in order to enable them to implement at national level the relevant international legal instruments on nuclear non-proliferation, safeguards, nuclear safety and security and liability for nuclear damage to which they adhered.

### ***The 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Tlatelolco Treaty)***

The Treaty of Tlatelolco was the first NWFZ treaty concluded, before the entry into force of the NPT.

Under this Treaty, each Contracting Party is required to conclude multilateral or bilateral agreements with the IAEA for the application of safeguards to its nuclear activities (Article 13). It should be noted that the majority of the States parties concluded CSAs with the IAEA pursuant to both the Treaty of Tlatelolco and the NPT. Article 16.1 of the Treaty envisions that the Agency for the Prohibition of Nuclear Weapons in Latin America (OPANAL) and the IAEA may carry out special inspections, in accordance with Article 12 of the Treaty and in accordance with the safeguards agreements referred to in Article 13 of the Treaty. An Agreement between the IAEA and the OPANAL, concluded in 1972, provides for a framework of cooperation between the two organizations on matters of common interest.

The Tlatelolco Treaty also includes Additional Protocol I, which is open to all States which have territories within the zone of application of the Treaty for which they are, *de jure* or *de facto*, responsible, with respect to which those States agree, *inter alia*, to conclude agreements for the application of safeguards to nuclear activities carried out in those territories.

The thirty-three States parties to the Tlatelolco Treaty have concluded safeguards agreements with the IAEA. In addition, three States have also concluded with the Agency safeguards agreements

pursuant to Additional Protocol I of the Treaty of Tlatelolco, covering their respective Additional Protocol I territories.

Twenty States within the zone of application of the Tlatelolco Treaty have received legislative assistance from the IAEA, to develop or further enhance their respective nuclear legal framework (Antigua and Barbuda, Barbados, Belize, Bolivia (Plurinational State of), Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago and Venezuela (Bolivarian Republic of)).

### ***The 1985 South Pacific Nuclear-Free-Zone Treaty (Rarotonga Treaty)***

The Rarotonga Treaty was the first NWFZ treaty concluded after the entry into force of the NPT. Thus, it was the first such treaty to require States parties to conclude safeguards agreements which either are, or are the equivalent in scope and effect to, those required in connection with the NPT. It was also the first NWFZ Treaty to contain an explicit requirement of IAEA safeguards as a condition of exports by States parties of source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material.

Pursuant to Article 4 of the Treaty, in the case of exports to NNWSs, the safeguards required are those provided for in Article III.1 of the NPT; in the case of exports to nuclear-weapon States (NWSs), the supply must be subject to “applicable safeguards agreements with the [IAEA]”.

Eleven States parties to the Treaty of Rarotonga have concluded safeguards agreements with the IAEA.<sup>2</sup>

Two States within the zone of application of the Rarotonga Treaty have received legislative assistance from the IAEA, to develop or further enhance their respective nuclear legal framework (Fiji and Papua New Guinea).

### ***The 1995 Treaty on the Southeast Asia Nuclear-Weapon-Free Zone (Bangkok Treaty)***

Under Article 5 of the Bangkok Treaty, each State Party which has not done so is required to conclude an agreement with the IAEA for the application of full scope safeguards to its peaceful nuclear activities. The Bangkok Treaty also contains language similar to that contained in Article 4 of the Rarotonga Treaty requiring NPT safeguards as a condition of supply to NNWSs and requiring that any such exports to NWSs be “in conformity with applicable safeguards agreements with the IAEA”.

Ten States parties to the Treaty of Bangkok have concluded safeguards agreements with the IAEA. Nine States within the zone of application of the Bangkok Treaty have received legislative assistance from the IAEA (Brunei, Cambodia, Indonesia, Lao People’s Democratic Republic, Malaysia, Myanmar, the Philippines, Thailand and Viet Nam).

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<sup>2</sup> The NPT safeguards agreement with New Zealand also applies to Cook Islands and Niue.

### ***The 1996 African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty)***

The IAEA assisted the African States in the development of a treaty establishing the African NWFZ, including through participating in meetings and workshops.

The Pelindaba Treaty requires that each State party conclude a CSA with the IAEA. Under Annex II to the Treaty, entitled “Safeguards of the International Atomic Energy Agency”, the safeguards agreement required under the Treaty “shall be, or shall be equivalent in its scope and effect to, the agreement required in connection with the [NPT]”.

States party to the Treaty undertake not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any NNWS unless subject to a CSA concluded with the IAEA.

The Pelindaba Treaty also includes Protocol III, which is open to all States which have territories within the zone of application of the Treaty for which they are, *de jure* or *de facto*, responsible, with respect to which those States agree, *inter alia*, to ensure the application of safeguards specified in Annex II of the Treaty.

Forty-seven States within the zone of application of the Pelindaba Treaty have concluded safeguards agreements with the IAEA and three States have signed but not brought into force yet a safeguards agreement with the IAEA.

Forty-four States in the zone of application have received legislative assistance from the IAEA, including 35 State parties (Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, Côte d'Ivoire, Eswatini, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Togo, Tunisia, United Republic of Tanzania, Zambia and Zimbabwe), and nine State signatories that have not ratified the treaty (Central African Republic, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Morocco, Sierra Leone, Sudan and Uganda).

### ***The 2006 Treaty on a Nuclear-Weapon-Free Zone in Central Asia (Semipalatinsk Treaty)***

Upon request of the Central Asian States, the IAEA participated in expert meetings and provided support on a variety of issues during the negotiation and drafting of the Treaty of Semipalatinsk.

Under the Semipalatinsk Treaty, each party is required to conclude with the IAEA an agreement for the application of safeguards in accordance with the NPT, and, as noted above, an AP. States parties also undertake not to provide any source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any NNWS unless that State has concluded with the IAEA both a CSA and an AP.

The five States parties to the Central Asian NWFZ treaty have concluded safeguards agreements with the IAEA and APs as well.

Four States within the zone of application of the treaty have received legislative assistance from the IAEA (Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan).

### ***Single State NWFZ – Mongolia***

The IAEA supports Mongolia in meeting its safeguards obligations and nuclear non-proliferation commitments, in accordance with its nuclear-weapon-free status. In this regard, Mongolia has concluded with the IAEA a CSA and an AP thereto. IAEA support has also included assistance in enhancing Mongolia's capacity for maintaining an effective State System of Accounting for and Control of Nuclear Material (SSAC), organizing technical workshops in Mongolia and providing legislative assistance.

### **Conclusion**

The IAEA's role with respect to NWFZs is mostly in the form of the provision of credible assurances that States are honouring their safeguards obligations pursuant to CSAs concluded with the IAEA, pursuant to their obligations under the NPT and NWFZ treaties. Additionally, the IAEA will continue sharing its technical expertise in support of the development of NWFZs, as requested and in line with decisions and resolutions of its Policy Making Organs, as it has been the practice.

Finally, the safe, secure and peaceful use of nuclear energy in a given State can be better assured with the promulgation and implementation of an effective national nuclear legal framework. In this regard, the IAEA will continue to assist its Member States parties to those treaties through its legislative assistance programme in developing and revisiting their respective national legal frameworks governing the peaceful uses of nuclear energy and ionizing radiation in order to enable them to implement at national level the relevant international legal instruments on nuclear non-proliferation, safeguards, nuclear safety and security and liability for nuclear damage to which they adhered.