Questionnaire 2: Establishing a baseline for Viet Nam on implementation of international standards and practices for the non-proliferation of nuclear weapons

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# Implementation of the Treaty on the Non-Proliferation of Nuclear Weapons

## Does Viet Nam have the following national measures in a legal instrument*[[1]](#footnote-2)* to account for, secure and physically protect nuclear material?*[[2]](#footnote-3)*

|  |  |
| --- | --- |
| Measures to implement a Safeguards Agreement [INFCIRC/153 (Corr.)] with the IAEA for the exclusive purpose of verification of the fulfilment of the State’s obligations assumed under the NPT, with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices {NPT, Article III (1), (4)} | INFCIRC/376 in force 23 February 1990 |
| Measures to implement a protocol additional to an existing Safeguards Agreement [Additional Protocol (INFCIRC/540 (Corr.)] {NPT, Article III (1), (4)} |  |

## Does Viet Nam have national measures in a legal instrument to control transfers of nuclear material as follows?

|  |  |
| --- | --- |
| Measures to implement a Safeguards Agreement [INFCIRC/153 (Corr.) [see paras. 91-97]] with the IAEA for the exclusive purpose of verification of the fulfilment of the State’s obligations assumed under the NPT, with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices {NPT, Article III (1), (4)} |  |
| Measures to implement a protocol additional to an existing Safeguards Agreement [Additional Protocol (INFCIRC/540 (Corr.) [*see* Articles 2(a)(vi)(b)-(c) and 5(a)(ii)]] {NPT, Article III (1), (4)} |  |
| Measures to ensure that (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, is not provided to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material is subject to safeguards as required by Article III {NPT, Article III (2)} |  |

# Implementation of the Convention on the Physical Protection of Nuclear Material and 2005 Amendment

## Does Viet Nam have definitions in a legal instrument for the following?

|  |  |
| --- | --- |
| Nuclear material {CPPNM/A, Article 1(a)} | Law on Atomic Energy (Law No. 18/2008/QH 12), Article 3(16) |
| Nuclear facility {CPPNM/A, Article 1(d)} |  |
| Sabotage {CPPNM/A, Article 1(e)} |  |

## Does Viet Nam have offences and penalties in a legal instrument for the following?

|  |  |
| --- | --- |
| Intentionally commit an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property or to the environment {CPPNM/A, Article 7(1)(a)} |  |
| Intentionally commit a theft or robbery of nuclear material {CPPNM/A, Article 7(1)(b)} |  |
| Intentionally embezzle or fraudulently obtain nuclear material {CPPNM/A, Article 7(1)(c)} |  |
| Intentionally commit an act which constitutes the carrying, sending, or moving of nuclear material into or out of a State without lawful authority {CPPNM/A, Article 7(1)(d)} |  |
| Intentionally commit an act directed against a nuclear facility, or an act interfering with the operation of a nuclear facility, where the offender intentionally causes, or where he knows that the act is likely to cause, death or serious injury to any person or substantial damage to property or to the environment by exposure to radiation or release of radioactive substances, unless the act is undertaken in conformity with the national law of the State Party in the territory of which the nuclear facility is situated {CPPNM/A, Article 7(1)(e)} |  |
| Intentionally commit an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation {CPPNM/A, Article 7(1)(f)} |  |
| Intentionally threaten: (i) to use nuclear material to cause death or serious injury to any person or substantial damage to property or to the environment or to commit the offence described in Article 7(1)(e), or (ii) to commit an offence described in Article 7(1)(b) and (e) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act {CPPNM/A, Article 7(1)(g)} |  |
| Intentionally attempt to commit any offence described in Article 7(1)(a)-(e) {CPPNM/A, Article 7(1)(h)} |  |
| Intentionally commit an act which constitutes participation in any offence described in Article 7(1)(a)-(h) {CPPNM/A, Article 7(1)(i)} |  |
| Intentionally organize or direct others to commit an offence described in Article 7(1)(a)-(h) {CPPNM/A, Article 7(1)(j)} |  |
| Intentionally commit an act which contributes to the commission of any offence described in Article 7(1)(a)-(h) by a group of persons acting with a common purpose; such act shall be intentional and shall either:  (i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence described in Article 7(1)(a)-(g), or  (ii) be made in the knowledge of the intention of the group to commit an offence described in Article 7(1)(a)-(g) {CPPNM/A, Article 7(1)(k)} |  |
| Penalties for the offences in Article 7(1) {CPPNM/A, Article 7(2)} |  |

## Does Viet Nam have jurisdiction over the offences in B in a legal instrument as follows?

|  |  |
| --- | --- |
| Jurisdiction over the offences set forth in Article 7 when the offence is committed in the territory of the State or on board a ship or aircraft registered in the State {CPPNM/A, Article 8(1)(a)} |  |
| Jurisdiction over the offences set forth in Article 7 when the alleged offender is a national of the State {CPPNM/A, Article 8(1)(b)} |  |
| Jurisdiction over the offences in Article 7 where the alleged offender is present in the territory of the State and he is not extradited pursuant to Article 11(1) {CPPNM/A, Article 8(2)} |  |
| Jurisdiction over the offences in Article 7 when the State is involved in international nuclear transport as the exporting or importing State {CPPNM/A, Article 8(4)} |  |

## Does Viet Nam have measures in a legal instrument for national enforcement and international co-operation as follows?

|  |  |
| --- | --- |
| Establishing or designating a competent authority or authorities responsible for the implementation of the State’s legislative and regulatory framework for a physical protection regime {CPPNM/A, Article 2A (2)(b), (3)} |  |
| Measures for a system of evaluation and licensing or other procedures to grant authorization {CPPNM/A, Article 2A (3)} |  |
| Measures for a system of inspection of nuclear facilities and transport to verify compliance with applicable requirements and conditions of a license or other authorizing document, including a means of enforcement and effective sanctions {CPPNM/A, Article 2A(3)} |  |
| Measures for the protection of the confidentiality of information, including information the unauthorized disclosure of which could compromise the physical protection of nuclear material and nuclear facilities {CPPNM/A, Articles 2A (3), 6} |  |
| Identifying and making known a point of contact, in relation to matters within the scope of the CPPNM (as amended), directly to other States Parties or through the IAEA {CPPNM/A, Article 5(1)} |  |
| Measures to facilitate co-operation and assistance to the maximum feasible extent in the recovery and protection of nuclear material to any State that so requests, in the case of theft, robbery or any other unlawful taking of such material or credible threat thereof {CPPNM/A, Article 5(2)} |  |
| Measures to facilitate co-operation – to the maximum feasible extent, in accordance with the State’s national law and consistent with its relevant obligations under international law – in the case of a credible threat of sabotage of nuclear material or a nuclear facility or in the case of sabotage thereof {CPPNM/A, Article 5(3)} |  |
| Measures for prosecution and extradition {CPPNM/A, Articles 9, 10, 11, 14(2)} |  |
| A measure to ensure that a request for extradition or for mutual legal assistance based on any of the offences in Article 7 is not refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives {CPPNM/A, Article 11A} |  |
| A measure to guarantee fair treatment at all stages of proceedings being carried out in connection with any of the offences set forth in Article 7 {CPPNM/A, Article 12} |  |
| Measures to facilitate assistance to other States Parties in connection with criminal proceedings brought in respect of the offences set forth in Article 7, including the supply of evidence at the State’s disposal necessary for the proceedings {CPPNM/A, Article 13} |  |

## Does Viet Nam have the following measures in a legal instrument to account for, secure and physically protect nuclear material?

|  |  |
| --- | --- |
| Measures to establish, implement and maintain an appropriate physical protection regime applicable to nuclear material and nuclear facilities under the State’s jurisdiction with the aim of:  (i) protecting against theft and other unlawful taking of nuclear material in use, storage and transport;  (ii) ensuring the implementation of rapid and comprehensive measures to locate and where appropriate, recover missing or stolen nuclear material (and act in accordance with Article 5 when the material is located outside its territory);  (iii) protecting nuclear material and nuclear facilities against sabotage; and  (iv) mitigating or minimizing the radiological consequences of sabotage {CPPNM/A, Article 2A (1), (2)(a), (2)(c), (3)} |  |

## **Does Viet Nam have the following measures in a legal instrument to control transfers of nuclear material?**

|  |  |
| --- | --- |
| Measures to ensure that, during international nuclear transport, nuclear material within the State’s territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from the State, is protected at the levels described in Annex I of the CPPNM {CPPNM/A, Articles 2A(3)(Fundamental Principle B), 3} |  |
| Measures to prevent export or the authorization of the export of nuclear material unless the relevant authority has received assurances that the material will be protected during the international nuclear transport at the levels described in Annex I of the CPPNM {CPPNM/A, Articles 2A(3)(Fundamental Principle B), 4(1)} |  |
| Measures to prevent import or the authorization of the import of nuclear material from a State not Party to the CPPNM unless the relevant authority has received assurances that the material will be protected during the international nuclear transport at the levels described in Annex I of the CPPNM {Articles 2A (3)(Fundamental Principle B), 4(2)} |  |
| Measures to prevent the transit of the State’s territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to the CPPNM unless the relevant authority has received assurances that the nuclear material will be protected during international nuclear transport at the levels described in Annex I to the CPPNM {CPPNM/A, Articles 2A(3)(Fundamental Principle B), 4(3)} |  |
| Measures to ensure that the levels of physical protection described in Annex I to the CPPNM apply to nuclear material being transported from a part of the State to another part of the same State through international waters or airspace {CPPNM/A, Articles 2A(3)(Fundamental Principle B), 4(4)} |  |
| Measures to ensure that the relevant authority responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I to the CPPNM (according to Article 4, paragraphs 1 to 3, identifies and informs in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter {CPPNM/A, Articles 2A(3)(Fundamental Principle B), 4(5)} |  |

1. This could be a law, regulation, decree, etc. [↑](#footnote-ref-2)
2. The right column is where the applicable law, regulation or other measure can be identified, along with a section or article number. For example: Penal Code, Article 2. [↑](#footnote-ref-3)