

You Only Get One Chance to Make a First Impression: Keys to a Successful Amended CPPNM Review Conference

The review conference for the amended Convention on the Physical Protection of Nuclear Material (CPPNM) that is set to take place in 2021 will be the first of its kind, following the Amendment's entry into force in 2016. This presents an important opportunity to lay the groundwork for a process that will both help facilitate full and effective implementation of the treaty and provide a forum for the parties to discuss needs for eventual evolution of the treaty regime in light of changing circumstances. In other words, as laid out in Article 16, review conferences under the amended CPPNM have a dual function, to look both at the implementation of the treaty as well as its adequacy. The reference in the Article 16 to "adequacy" means that the very suitability of the treaty to realize the aims that led to its adoption is part of the review discussion, in addition to operation of the treaty. It is an added element, requiring parties to go beyond article-by-article analysis, that leads one to believe that the process under the amended CPPNM is designed to involve broader consideration and debate of nuclear security requirements and how the treaty contributes to nuclear security governance. However, the review conference provision of the treaty unfortunately provides no guidance on the procedure or substance of the review conference. This paper will elaborate five keys, both substantive and procedural, to a successful 2021 review conference. First, the review conference agenda should not only give parties the opportunity to discuss implementation practice, challenges and lessons learned, but also should include a discussion of the treaty's ability to deal with emerging threat and challenges. Second, parties should agree on the role of the Nuclear Security Series Recommendations on Physical Protection of Nuclear Material and Nuclear Facilities (NSS No. 13, INFCIRC/225/Rev.5) as implementation guidance for the amended CPPNM, and call for this non-binding instrument to be updated regularly. Parties could agree, unanimously or by consensus depending on the rules of procedure adopted for the review conference, that the provisions of INFCIRC/225/Rev.5 are the appropriate measures necessary for establishing, implementing and maintaining an appropriate physical protection regime applicable to nuclear material and nuclear facilities under a state party's jurisdiction (Article 2A). Third, parties should commit to undergoing International Physical Protection Advisory Service missions (including follow-up missions) in order to assess the state of national nuclear security regimes, and should commit to acting in accordance with the missions' recommendations. Fourth, states should make a commitment to share information on laws and regulations giving effect to the treaty, as required by Article 14, and provide updates as necessary. Article 14 is an obligation of notification, providing no guidance on the format of information to be provided and leaving the amount of detail to be provided up to the discretion of the party concerned. Parties could make use of the template proposed by the Netherlands for sharing nuclear security-related information, as a way to harmonise the type of information shared and to assist parties with limited reporting capacity. The more information provided, the better it serves to build trust and confidence in compliance with the treaty, and the information provided by states parties could form the basis for discussing issues related to implementation and adequacy during review conferences. Finally, parties should agree to the convening of further review conferences in the interest of ensuring the continued viability of the treaty framework. With these five keys, the review conference for the amended CPPNM can become an effective instrument for strengthening the international legal framework for nuclear security.

State

Netherlands

Gender

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review conference in 2021