

Facilitating Adherence to the 2005 Amendment to the CPPNM

Opening Address: Talking Points

18 November 2010

10:00 – ~ 10:15 AM

Vienna, Austria

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Ambassadors/ Distinguished Guests/ Colleagues

- We convene here today to promote and facilitate early entry into force of the 2005 Amendment to the CPPNM. As DG Amano mentioned, this event was announced during the 54th General Conference.
- As you know, the present Convention is the only international legally binding undertaking in the area of physical protection of nuclear material.
- Its scope is threefold: it applies to nuclear material used for peaceful purposes while in international nuclear transport, it contains some additional provisions related to nuclear material used for peaceful purposes while in domestic use, storage and transport.
- The proposed amendments to the Convention would extend the scope of the present Convention to cover, also the physical protection of nuclear material used for peaceful purposes, in domestic use, storage and transport and the physical protection of nuclear material and nuclear facilities used for peaceful purposes against sabotage. It would also widen the spectrum of offences to establish new offences such as smuggling, illicit trafficking and sabotage.

PERSONAL HISTORY

- But allow me to take you back to a time when this amendment was being crafted, through its development, recalling the conditions that were prevailing when it was decided, and the reasons for its necessity.
- As in all good stories, it is set in the frame of *Den Gyldene Freden*, an excellent restaurant (remember I am French) in Gamla stan - Stockholm Sweden. Where in May 2001 I invited my opposite numbers from the US. Incidentally until 1980, Gamla stan was officially called *Staden mellan broarna* — *The Town between the Bridges*,
- This is where the story begins—the beginning of building bridges, across the Atlantic, but also between the CPPNM, its Amendment, and all the events that have happened in between.
- Foreshadowing this story, was the decision to convene an Experts meeting to review the CPPNM in November 1999, following the fourth revision of Infcirc 225: the physical protection of nuclear material and nuclear facilities. After 18 months, this "Experts meeting" had analysed the gaps in the existing nuclear security regime. The number of illicit trafficking incidents, including smuggling, had soared up after the collapse of the Soviet Union - New Independent States were looking for cooperation, guidance and a model to build or rebuild a National Security regulatory system. This meant protecting nuclear material during its domestic use, but also addressing elements newly included in Infcirc 225/Rev.4, namely the protection of nuclear facilities against sabotage, and “carving in marble” the Physical Protection Fundamental Principles.
- Back to den Gyldene Freden, by dessert time both parties, (the usual Caveat applies: any resemblance to real persons...is purely voluntary) pull a draft of their own views of an amended Convention from their wallet, exchanged with the air of a conspirator. Surprise! The documents are as alike as twin brothers.

- Impressed by the similarity of the projects traded in Stockholm, lively exchanges of emails start up across the Atlantic, to build a draft strawman, so as to enter the expected first meeting with the maximum preliminarily agreed elements, and with the maximum support. to refine and enrich the comments received in Europe, Japan and elsewhere in the world.
- The open ended group of Legal and Technical experts (the L&T group) was convened by a letter of Dr El Baradei dated 6th September 2001, just five days before the 9/11 attack, and it adopted its final report on March 14th 2003, less than a week before the beginning of the war in Iraq.
- These dates are significant for the draft amendment. Indeed, the very first debate addressed before the L&T group even met, was whether the recommendations at the basis of the mandate of the group were still valid after 9/11, and the last unresolved issue was that of the relevance of the Amendment in case of acts of war against nuclear facilities.
- The first debate was resolved through blood and tears by the open ended group of Legal and Technical experts,
- The last issue was resolved behind closed doors, leading to the July 2005 amendment Conference.

Why is the amendment a necessity today?

- The collapse of the Soviet Union is now an event of the past century, but since 9/11, the reality of terrorism is more present than ever, and the risk of nuclear terrorism is a formidable threat to the stability of our societies.
- With the advent of new countries deciding to develop peaceful nuclear energy programme, the need for guidance and a model to build a National Security regulatory system has shifted from NIS to Newcomers, and

- With the advent of global nuclear energy markets the need to consolidate the nuclear security framework is stronger than ever.

Where are we today?

- Currently, according to the CPPNM Map (see slide) 145 States have ratified the Convention, 22 of whom are not IAEA Member States.
- (next slide) As you can see, the ratification process is slow, compared particularly to other legal instruments; this is a challenge, and to progress, we need to understand the reasons behind this poor performance. You can help today in bringing elements answering this question.
- (next slide) of the 151 IAEA Member States, 29 have not ratified.
- As for the Amendment, (next slide), 42 have ratified, including 4 who are not IAEA Member States. This means that 114 IAEA MS have not yet ratified the Amendment.

Where we need to go

- This Amendment extends the scope of the CPPNM to domestic nuclear facilities and extends the provisions relating to the physical protection of nuclear material in peaceful domestic use, storage and transport. It will also provide for expanded co-operation between and among States regarding rapid measures to locate and recover stolen or smuggled nuclear material, mitigate any radiological consequences of sabotage, as well as tighten the laws and further prosecute the offenders.
- The Entry into Force of the amendment will benefit States with nuclear power programme, as well as States without, who may be targets of terrorist attacks, or whose territory may be concerned by trafficking of smuggling events: cooperation and criminalisation will be facilitated for all.

- (next slide) It will only enter into force after it has been ratified by two-thirds of the States Parties to the CPPNM. This means 55 ratifications are needed today.
- Today's discussion will help facilitate better understanding of the CPPNM and hopefully facilitate decision-making. I urge you to engage in these discussions fully and realize that the CPPNM Amendment is an important tool in the international fight against terrorism and proliferation. It fills an important gap in the existing international security framework, and builds upon the existing CPPNM to which many of you are already a Party.
- Cooperation under this global initiative will strengthen national legal frameworks to ensure the effective prosecution of, and the certainty of punishment for, terrorists and those who facilitate acts of nuclear terrorism.
- Lastly, your ratification of this amendment can be expected to encourage ratification by other countries. And widespread ratification and implementation of this amendment is critical, given its significant national security focus. We anticipate that your ratification will create significant momentum towards their entry into force.
- We need today your views, your ideas, your support, and your actions, how best to act towards an early entry into force of the Amendment.

Thank you for your time and your attention. I now would like to leave the floor to Johan Rautenbach, who took his position as Director of the Office of Legal Affairs precisely during the process of amending the CPPNM.