**ANNEXURE C: THE EXPLANATORY MEMORANDUM FOR THE AMENDMENT TO THE CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL (CPPNM)**



Compiled: Ms E Monale (CD: Nuclear Non-Proliferation and Radiation Security)

Reviewed: Mr Z Mbambo (DDG: Nuclear Energy)

Approved: Mr T Zulu (DG: Energy

**Explanatory Memorandum on the Amendment to Convention on Physical Protection of Nuclear Material (CPPNM)**

South Africa remains committed to ensuring and maintaining effective nuclear security measures of all nuclear and other radioactive material including nuclear facilities in accordance with its national and international obligations. Although much has been done by states to improve nuclear security, nuclear terrorism remains the most challenging threat to global security.

The Convention on the Physical Protection of Nuclear Material (CPPNM) remains the only internationally legal binding undertaking in the area of physical protection of nuclear material used for peaceful purposes, which entered into force in 1987. The original Convention provides a sound basis for physical protection during international transport as well as addressing the criminalization of certain offences and areas of international cooperation (**Annexure A**).

 The country signed the Convention in May 1981 and ratified on 17 September 2007. A key task of any State that is party to the Convention is to establish and implement measures to guarantee the effective protection of nuclear material for peaceful purposes during use, storage or transport as well as preventing any criminal use of such material. However, the scope of the CPPNM is not sufficiently comprehensive for today’s world. Most fundamentally, it does not cover either the physical protection of nuclear material in peaceful domestic use, storage and transport, nor nuclear facilities.

 State Parties to the CPPNM adopted, by consensus, an amendment to the CPPNM to strengthen its provisions on 8 July 2005 (**Annexure B**). Whereas the obligations for physical protection under the CPPNM covered nuclear material during international transport, the amended Convention makes it legally binding for State Parties to this Convention to protect nuclear facilities and material in peaceful domestic use, storage and transport. It also provides for expanded cooperation between and among States regarding rapid measures to locate and recover stolen or smuggled nuclear material; mitigate any radiological consequences of sabotage; prevent and combat related offences punishable in terms of domestic law, including theft of nuclear material, carrying or moving material into or out of State without authorisation, interfering with the operation of a nuclear facility; sharing of information on potential and actual attacks on nuclear material and facilities as well as the provision of assistance if such attacks should occur. The amended CPPNM came into force on 08 May 2016.

 In enhancing obligations related to nuclear security, the country is in the process of acceptance of the Amendment to CPPNM. Legal advice has been obtained, and indicated that the provisions of the Convention are consistent with the domestic law of South Africa and international law which is a positive move towards approval.

 The Convention has been presented to the Cabinet on 23 May 2018 and approval was granted for presentation in Parliament in terms of section 231(2) of the Constitution. Upon approval of the Convention, the Cabinet furthermore prescribed that the nuclear physical infrastructure be protected by individuals who hold the relevant security clearance and have South African citizenship. The directive has been communicated with the relevant institutions. Letters requesting tabling in Parliament have been submitted to the Chairperson of the National Council of Provinces and the Speaker of the National Assembly. Once all the processes have been completed, the instrument of acceptance will be deposited with the Depositary through the diplomatic channel.

 It is important to note that the international community support universalization of the amendment to the CPPNM, which is regarded as an important step towards making the world more secure, by providing assurance that the same level of physical protection is applied throughout the world, because terrorist will find and exploit the weakest link.

The Government of South Africa remains committed to ensuring adherence to its international obligations and implementation of nuclear security measures in accordance with its legislation and will continue to work together with international community to enhance the global nuclear security.

**Attached Copies**

A: Original Convention on Physical Protection of Nuclear Material (CPPNM)

B: Amendment to CPPNM