

**THE EXPLANATORY MEMORANDUM FOR THE AMENDMENT TO THE
CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL)**



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

South Africa is dedicated 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 country signed the CPPNM in May 1981 and ratified it in September 2007 to strengthen its security measures. This Convention is the legally binding international instrument in the area of physical protection of nuclear material. The Convention aims to ensure physical protection of nuclear material during international transport, enhancement of cooperation in protection and recovery of stolen nuclear material as well as criminalisation of offences such as theft or robbery on nuclear material.

Due to increased threat of terrorism especially the 11th September 2001 terrorist attacks on United States of America led to the initiation of an amendment process that sought to expand the scope of the Convention. As a result the State Parties to the CPPNM adopted by consensus an amendment to the original CPPNM to strengthen its provisions in July 2008. The Amendment to the Convention (**Annexure A**) came into force in May 2016 to strengthen the security measures developed in the original convention (**Annexure B**) thereby strengthening the global nuclear security.

The original CPPNM is having a threefold scope of application: (i) the physical protection of nuclear material used for peaceful purposes during international transport (and during storage incidental to such transport) (ii) the criminalisation of offences (the theft or robbery of nuclear material) and (iii) international cooperation (in the case of theft, robbery or any other unlawful taking of nuclear material or credible threat thereof).

The amended Convention expands the scope of the original CPPNM to include protection of nuclear material used for peaceful purposes in domestic use, storage, and transport as well as protection of nuclear facilities used for peaceful purposes. 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 as well as prevention and combating related offences. It also provides for the sharing of information on potential and actual attacks on nuclear material and facilities, and the provision of assistance if such attacks should occur

In reflecting the importance of national responsibility for physical protection of nuclear material and facilities, the amendment introduces a legal commitment by each State Party to establish, implement and maintain a physical protection regime applicable to nuclear material and facilities under its jurisdiction

The entry into force of the amended CPPNM is the most important step in strengthening nuclear security globally. The amended Convention will have a major impact in reducing the vulnerability of State Parties to nuclear terrorism and other criminal acts. It also helps to set global minimum requirements for the physical protection of nuclear material and facilities.

The amended CPPNM was submitted to both Department of Justice (State Law Advisers) and DIRCO (Office of the Chief State Law Adviser - International Law) for legal advice. Both Departments confirmed that the provisions of the Convention are consistent with the domestic law of the Republic of South Africa and international laws. **(Annexure C and D)**

The amended Convention was presented was presented at the ESIEID Cabinet Committee meeting on 08 September 2021 and was supported to be submitted to Cabinet. On 20 September 2021 Cabinet approved the Amended Convention to be submitted to Parliament **(Annexure E - Please refer to Decision number 2)**.

A letter for tabling the amended Convention in Parliament is attached as **(Annexure F)**. The instrument of acceptance will therefore be initiated with the assistance of Department of International Relations and Cooperation (DIRCO) after parliamentary approval has been granted.

Attached documents

A: Amendment to the Convention on Physical Protection of Nuclear Material (CPPNM)

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

C: Legal Advise – Department of Justice and Constitutional Development

D: Legal Advise – DIRCO

E: Cabinet Decision

F: Letter to the Chairperson of the National Council of Provinces and Speaker of the National Assembly