

IAEA BRIEF

LEGAL

THE LEGAL FRAMEWORK FOR IAEA SAFEGUARDS

SUMMARY

- IAEA safeguards contribute to nuclear non-proliferation through the application of technical measures to verify States' undertakings to use nuclear material or related items only for peaceful purposes.
- States undertake to accept safeguards on the basis of international treaties that make up the legal framework for IAEA safeguards, including the IAEA Statute and safeguards agreements between States and the IAEA.
- Safeguards agreements contain rights, obligations and procedures that provide the basis for the implementation of safeguards in a State.

CONTRIBUTING TO NUCLEAR NON-PROLIFERATION

The IAEA contributes to nuclear non-proliferation through safeguards designed to verify States' undertakings not to use nuclear material or related items for proscribed purposes (e.g. not to manufacture nuclear weapons or other nuclear explosive devices). The legal framework for IAEA safeguards consists of an array of international agreements under which the IAEA has responsibilities to implement these safeguards. This legal framework includes the IAEA Statute, safeguards agreements, protocols to those agreements, and subsidiary arrangements.

THE IAEA STATUTE

The IAEA Statute includes safeguards as one of the IAEA's main functions. According to the Statute:

- › The IAEA is authorized to establish and administer safeguards designed to ensure that nuclear material and other items made available by the IAEA or at its request or under its supervision or control are not

used in such a way as to further any military purpose. That may involve, for example, an IAEA project which under the IAEA Statute requires the application of safeguards.

- › The IAEA is authorized to apply safeguards at the request of parties to any bilateral or multilateral arrangement.
- › The IAEA may apply safeguards at the request of a State to any of that State's activities in the field of atomic energy.

Although the Statute provides the IAEA with the authority to apply safeguards, it does not obligate States to accept IAEA safeguards as a condition of membership in the IAEA. Safeguards provisions contained in the Statute are applied only to the extent relevant to a specific project or arrangement, e.g. through a project and supply agreement (PSA) or a safeguards agreement concluded between a State and the IAEA.

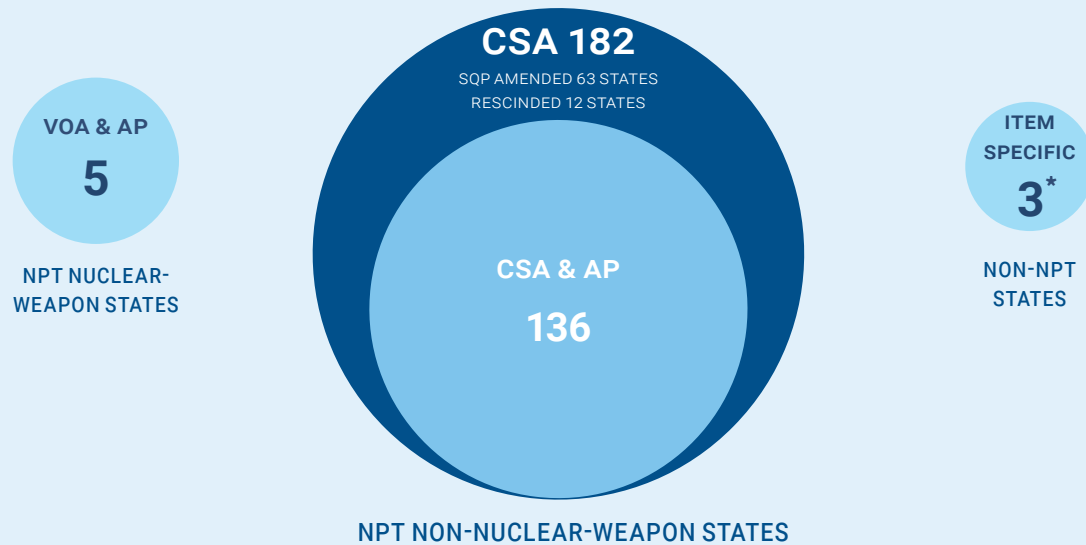


The IAEA Statute includes safeguards as one of the IAEA's main functions. (Photo: IAEA)

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SAFEGUARDS AGREEMENTS IMPLEMENTED

(PER STATE, AS OF AUGUST 2024)



CSA: COMPREHENSIVE SAFEGUARDS AGREEMENT • **AP:** ADDITIONAL PROTOCOL (* INDIA HAS AN AP IN FORCE)
VOA: VOLUNTARY OFFER AGREEMENT • **NPT:** TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

SAFEGUARDS AGREEMENTS

The IAEA may conclude safeguards agreements upon the request of Member States and non-Member States. It may also conclude safeguards agreements with groups of States and regional organizations.

Safeguards agreements provide the legal basis for implementing safeguards in a State. These agreements contain the basic undertaking of a State to accept IAEA safeguards, as well as the Agency's right and obligation to ensure that safeguards are applied in accordance with the procedures set out in the agreements.

States conclude safeguards agreements with the IAEA in connection with bilateral and multilateral arrangements comprising the global nuclear non-proliferation regime, such as the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), regional nuclear-weapon-free zone (NWFZ) treaties and nuclear cooperation agreements.

TYPES OF SAFEGUARDS AGREEMENTS

The three types of safeguards agreements currently implemented by the IAEA are as follows:

- 1. Comprehensive safeguards agreements (CSAs)** with non-nuclear-weapon States (NNWSs) parties to the NPT and to regional NWFZ treaties. These agreements are based on IAEA Information Circular INFCIRC/153 (Corr.) and apply to all nuclear material in all peaceful activities within the territory or jurisdiction of the State, or carried out under its control anywhere.
- 2. Voluntary offer agreements (VOAs)** with the nuclear-weapon States (NWSs) parties to the NPT (NWSs are defined under the NPT as those States which manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967). Safeguards under VOAs apply to nuclear material in facilities or parts thereof that the NWS

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has offered for the application of IAEA safeguards. The IAEA selects from the list of eligible facilities those at which it wishes to apply safeguards.

3. Item-specific safeguards agreements apply to nuclear material and other items specified under the agreements. These are based on the safeguards document reproduced in INFCIRC/66/Rev.2 (1968).

PROTOCOLS TO SAFEGUARDS AGREEMENTS

Protocols concluded to safeguards agreements are an integral part of those agreements. Two types of protocols that have been widely concluded are Additional Protocols (APs) and Small Quantities Protocols (SQPs). Other types of protocols relate to arrangements for cooperation in the application of safeguards under certain safeguards agreements (e.g. with groups of States and regional organizations) or to the suspension of the application of safeguards under an existing safeguards agreement where a new safeguards agreement has been concluded.

Additional Protocols

After the discovery of undeclared nuclear material and activities in two States with CSAs in the early 1990s, a Model Additional Protocol (INFCIRC/540 (Corr.)) was approved by the IAEA Board of Governors in 1997. The objective of an AP is to enhance both the effectiveness and the efficiency of IAEA safeguards. APs to safeguards agreements contain provisions based on the Model Additional Protocol for broader information about a State's nuclear fuel cycle-related activities and broader access to locations in a State.

An AP may be concluded to any type of safeguards agreement. An AP to a CSA must include all the provisions of the Model Additional Protocol.



IAEA Director General Rafael Mariano Grossi signing the Safeguards Agreement and Additional Protocol with Eritrea on 20 April 2021. (Photo: IAEA)

Small Quantities Protocols

SQPs to CSAs were introduced in the 1970s for States with little or no nuclear material and no nuclear material in a facility. So long as the State meets certain conditions under an SQP, the SQP remains operational, meaning that the implementation of many important procedures of the CSA is suspended.

In 2005, the IAEA Board of Governors decided that the SQP in its original form constituted a weakness in the safeguards system. The Board approved a revised standard SQP text, which made the SQP unavailable to a State with a planned or existing nuclear facility. An SQP based on the revised standard text, for example, requires the State to provide to the IAEA an initial report on all nuclear material subject to safeguards and enables the IAEA to conduct inspections.

The Board decided that existing SQPs should be subject to the modifications in the revised standard text, and from that point forward it would only approve SQPs based on the revised standard text. Many States with SQPs based on the original standard text have amended or rescinded their SQPs.

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In 1970, a Safeguards Committee was established by the IAEA Board of Governors to formulate guidelines for safeguards agreements required in connection with the NPT. (Photo: IAEA)

SUBSIDIARY ARRANGEMENTS

Subsidiary Arrangements are provided for in CSAs and VOAs, and have traditionally been concluded for item-specific safeguards agreements. Their purpose is to specify in detail how the procedures laid down in the agreement are to be applied.

They typically include a “General Part” – specifying contact points, formats and timing requirements for provision of information; and “Attachments” – specifying procedures for each facility or locations outside facilities (LOFs) where nuclear material is customarily used. They may also be concluded to specify how to apply measures provided for in APs.

CONCLUSION

The IAEA contributes to nuclear non-proliferation through safeguards designed to verify States’ undertakings to use nuclear material, facilities and other items subject to safeguards only for peaceful purposes. The legal framework for IAEA safeguards is thus an important element of the IAEA’s work in fulfilling its statutory objective “to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world”.

For more information on the latest status of safeguards agreements and related protocols see:

- www.iaea.org/topics/safeguards-legal-framework/more-on-safeguards-agreements
- ola.iaea.org/ola/what-we-do/non-proliferation-pmo.html

AREAS WHERE MEMBER STATES MAY BENEFIT FROM IAEA ASSISTANCE

- Enhancing their knowledge of the legal framework for IAEA safeguards through participating in IAEA workshops and seminars.
- Availing themselves of the IAEA’s legislative assistance programme in order to gain a better understanding of the elements of an adequate national nuclear legal framework in the area of IAEA safeguards.

For further information and support please contact:

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