



IAEA

International Atomic Energy Agency



LEGAL FRAMEWORK FOR IAEA SAFEGUARDS



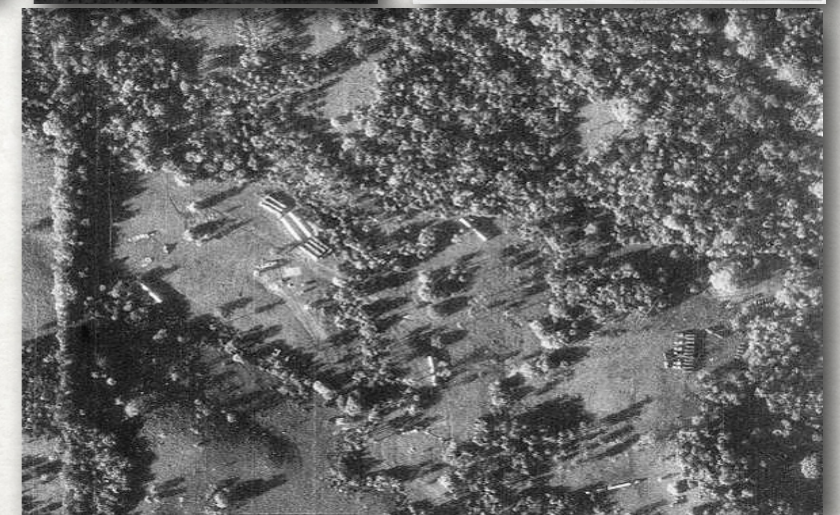
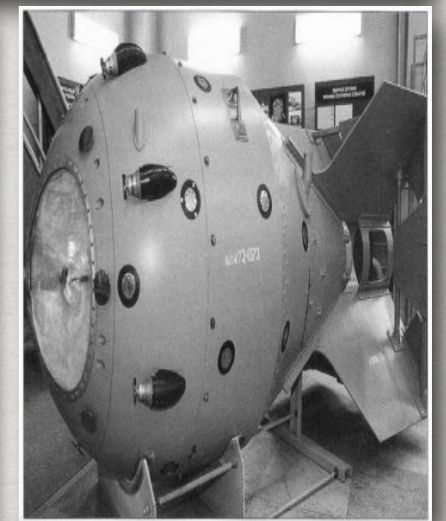
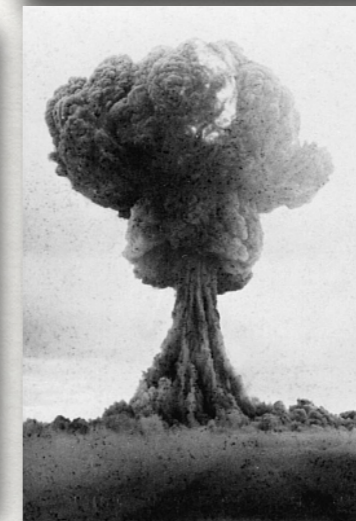
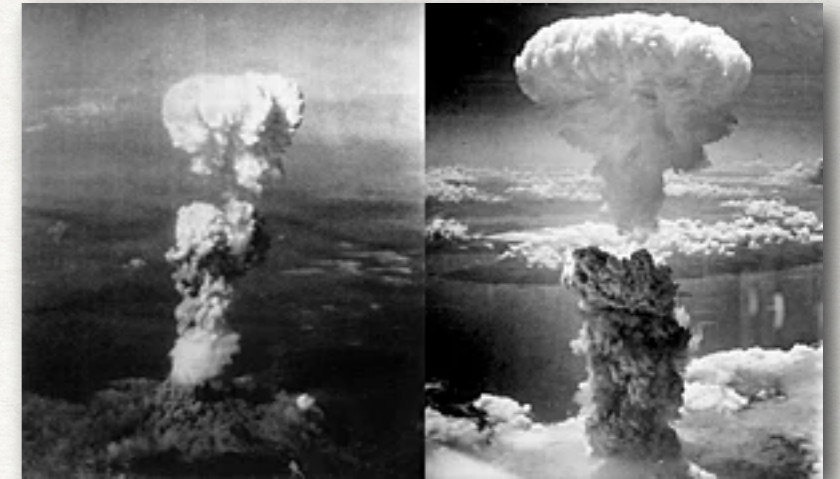
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ENERGY AND NATURAL RESOURCES LAW | 11 FEBRUARY 2020

XX CENTURY / COLD WAR

RISK POSED TO GLOBAL PEACE

- Atomic bombings of Hiroshima and Nagasaki
August 6,9 1945
- Soviet Atomic Program, Semipalatinsk
August 29, 1949
- Caribbean Crisis
October 16–28, 1962



INTERNATIONAL ATOMIC ENERGY AGENCY

HISTORY

- U.S. President Dwight D. Eisenhower, at the 1953 session of the United Nations General Assembly, to reveal his 'Atoms for Peace' proposal: to create an international organization responsible for promoting safe and peaceful uses of nuclear energy, entrusted with verifying that nuclear technology is not misused
- Headquarters are situated in Vienna, Austria
- independent intergovernmental organization consisting of over 150 Member States and a Secretariat headed by the Director General, Rafael Mariano Grossi
- created by the Statute, which entered into force on 29 July 1957

INTERNATIONAL ATOMIC ENERGY AGENCY

GENERAL ROLE

- IAEA safeguards play a central role in **preventing the proliferation of nuclear weapons** through the independent verification of States' compliance with nuclear non-proliferation undertakings.
- IAEA safeguards are embedded in **legally binding agreements** concluded between States and the IAEA.
- These agreements provide the legal basis for the implementation of safeguards.

IAEA has a specific verification role as the international safeguards inspectorate, namely to verify the fulfilment of obligations assumed under the NPT by non-nuclear-weapon States party with a view to **preventing the diversion of nuclear energy from peaceful uses to nuclear weapons**

STATUTE OF IAEA

- Article II: fundamental objective - to “seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world.”
- Article III.A.5: the IAEA is authorized to establish safeguards:
 - To ensure that special fissionable and other materials, services, equipment, facilities and information 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;
 - To apply safeguards, at the request of the parties, to any bilateral or multilateral arrangement;
 - To apply safeguards to any of the nuclear activities of a State, at that State’s request.

STATUTE OF IAEA

- Article XII: requires the IAEA to establish a **staff of inspectors** responsible for verifying compliance with the conditions

Article XII.A: rights and responsibilities of the IAEA

- examine the design of specialized equipment and facilities;
- require the maintenance and production of operating records to assist in ensuring accountability for and control of source and special fissionable materials;
- require the submission of reports;
- to send into the State inspectors, designated by the IAEA who shall have **access at all times** to all places and data and to any person who by reason of his or her occupation deals with materials, equipment or facilities which are required by the Statute to be safeguarded, as necessary to account for nuclear materials and to determine whether there is compliance with the undertaking against use in furtherance of any military purpose and with any other conditions prescribed in the agreement;
- In the event of non-compliance and failure by the State concerned to **take requested corrective steps** within a reasonable time, the right to curtail or suspend assistance and call for the return of any materials and equipment made available by the IAEA or a Member State in furtherance of the project.

STATUTE OF IAEA

Measures by inspectors:

- calling upon the State to remedy non-compliance;
- reporting non-compliance to the Member States of the IAEA and to the Security Council and the General Assembly of the United Nations;
- calling for the return of materials and equipment made available to the State; and
- suspending the State from the exercise of the privileges and rights of IAEA membership.

STATUTE OF IAEA

- Assistance may be provided to IAEA Member States by the IAEA in connection with any project for research on, or development or practical application of, atomic energy for peaceful purposes
- can take the form of the supply of special fissionable or other material, services, equipment and/or facilities
- projects are administered by the IAEA's Department of Technical Cooperation

SAFEGUARDS ELEMENTS

DOCUMENTS

1. IAEA Statute
2. Treaty on the Non-Proliferation of Nuclear Weapons (NPT)
3. Treaties establishing nuclear-weapon-free zones
4. Safeguards agreements
5. Protocols and subsidiary arrangements to those agreements;
6. Decisions of the IAEA Board of Governors.

NON-PROLIFERATION TREATY / 1 OF 2

AIMS

- to prevent the spread of nuclear weapons and weapons technology
- to foster the peaceful uses of nuclear energy, and
- to further the goal of disarmament.

NPT establishes a safeguards system under the responsibility of the IAEA

Adoption: 12 June 1968, United Nations, New York

Date of entry into force: 5 March 1970

Depositary Governments: Russian Federation, United Kingdom, United States

Number of signatory states: 93. Kazakhstan - deposited in Spring 1994.

NON-PROLIFERATION TREATY / 2 OF 2

OBLIGATIONS

- non-nuclear-weapon States parties commit themselves not to manufacture or otherwise acquire nuclear weapons
- nuclear-weapon States parties commit not to in any way assist, encourage or induce any non-nuclear-weapon State party to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices
- does not prohibit all military uses of nuclear material, but only explosive uses of such materials (due to nuclear naval propulsion)

Key verification responsibilities deriving from the Treaty - IAEA

Each non-nuclear-weapon State party is required under Article III of the NPT to conclude a [comprehensive safeguards agreement](#) (CSA) with the IAEA.

SAFEGUARD AGREEMENTS

TYPES

- A. comprehensive safeguards agreements (CSA) with non-nuclear-weapon State parties to the NPT;
- B. voluntary offer safeguards agreements with the nuclear-weapon State parties to the NPT; and
- C. item-specific safeguards agreements with non-NPT States.

IAEA has to date concluded comprehensive safeguards agreements with 175 States

agreements are concluded on the basis of [INFCIRC/153 \(Corrected\)](#)

SAFEGUARD AGREEMENTS

GENERAL

- Legally binding agreements as State is not bound to accept safeguards simply by virtue of becoming a Member of the IAEA
- All non-nuclear-weapon States party to the NPT, as well as States parties to the regional nuclear-weapon-free zone treaties, are **required to conclude** comprehensive safeguards agreements with the IAEA
- States accept these Safeguards through the conclusion of such agreements with the Agency

Under CSA, the IAEA has the right and obligation to ensure that safeguards are applied on

- all nuclear material in the territory
- jurisdiction or
- control of the State for the exclusive purpose of verifying that such material is not diverted to nuclear weapons.

SAFEGUARD AGREEMENTS

GENERAL

- five nuclear-weapon States parties to the NPT have concluded voluntary offer safeguards agreements under which the IAEA applies safeguards to nuclear material in facilities that the State has voluntarily offered and the IAEA has selected for the application of safeguards
- safeguards agreements that have been concluded by the IAEA with [non-nuclear-weapon States parties](#) to the [NPT](#) and nuclear-weapon-free zone treaties

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SAFEGUARD AGREEMENTS

HISTORY

- Initially (1961) contained the principles and procedures for the application of safeguards to small reactors
- larger reactors by decision of the Board on 26 February 1964
- Safeguards Document is now referred to as [INFCIRC/66/Rev.2](#) is not a model agreement, but rather a set of procedures which are incorporated by reference in agreements based on that document
- In 1961 - Inspectors Document (GC(V)/INF/39, Annex), worked out with the help of experts from Member States, which covers four different areas related to inspections (1. designation of inspectors, 2. notification of inspections, 3. the conduct of inspections and rights of access, and 4. the privileges and immunities of inspectors)

VOLUNTARY OFFER AGREEMENTS

OFFICIALLY RECOGNIZED AS
POSSESSING NUCLEAR WEAPONS BY THE NPT BEFORE 1 JAN 1967

1. China / 1 October 1989 / INFCIRC / 369
2. France / 27 July 1978 / INFCIRC / 290
3. Russia (USSR) / 21 February 1985 / INFCIRC/327
4. United Kingdom / 6 September 1976 / INFCIRC/263
5. the United States / 18 November 1977 / INFCIRC/288

The five NPT nuclear-weapon States have concluded safeguards agreements covering some or all of their peaceful nuclear activities. Under these **voluntary offer agreements**, facilities are notified to the IAEA by the State concerned and offered for the application of safeguards. The IAEA applies safeguards under voluntary offer agreements to nuclear material in selected facilities.

ITEM SPECIFIC AGREEMENTS

SAFEGUARDS APPLICATION IN NON NPT COUNTRIES

- Agreements of this type cover only nuclear material, non-nuclear material, facilities and other items specified in the safeguards agreements.
- India, Pakistan and Israel
- IAEA applies safeguards to ensure that nuclear material, facilities and other items specified under the safeguards agreement are not used for
 - (a) the manufacture of any nuclear weapon or
 - (b) to further any military purpose, and
 - (c) that such items are used exclusively for peaceful purposes and not for the manufacture of any nuclear explosive device

ADDITIONAL PROTOCOL

ACCESS TO INFORMATION

- annex to safeguard agreements;
- significantly increases the IAEA's ability to verify the peaceful use of all nuclear material in States with comprehensive safeguards agreements;
- IAEA's experience in Iraq and the Democratic People's Republic of Korea in the early 1990s: good verification but does not well detect undeclared activities
- In May 1997, the IAEA Board of Governors approved the Model Additional Protocol contained in INFCIRC/540 (Corrected) and requested the Director General to use this model as a standard text
- 16 October 2019, Additional Protocols are in force with 136 States and Euratom. 15 States signed an Additional Protocol but have yet to bring it into force

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SMALL QUANTITIES PROTOCOLS

- In conjunction with a comprehensive safeguards agreement
- STANDARDISED TEXT SINCE 1974
- STATES WITH MINIMAL OR NO NUCLEAR MATERIAL AND NO NUCLEAR MATERIAL IN A "FACILITY."
- SUSPENDS THE APPLICATION OF MANY PROVISIONS OF THE COMPREHENSIVE SAFEGUARDS AGREEMENT
- ALSO RESULTS IN A NUMBER OF LIMITATIONS.

NUCLEAR-WEAPON-FREE ZONES



**United
Nations**

DEFINITION

General Assembly resolution 3472 B (1975) defines a Nuclear-Weapon-Free Zone as

...any zone recognized as such by the General Assembly of the United Nations, which any group of States, in the free exercises of their sovereignty, has established by virtue of a treaty or convention whereby:

(a) The statute of **total absence of nuclear weapons** to which the zone shall be subject, including the procedure for the delimitation of the zone, is defined;

(b) An international system of **verification and control** is established to **guarantee compliance** with the obligations deriving from that statute.

NUCLEAR-WEAPON-FREE ZONES

TREATIES

1. Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco, 1967)
2. South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga, 1985)
3. Treaty on the Southeast Asia Nuclear Weapon-Free Zone (Treaty of Bangkok, 1995)
4. African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba, 1996)
5. Treaty on a Nuclear-Weapon-Free Zone in Central Asia (Treaty of Semipalatinsk, 2006)

State	Signature	Deposit	Deposit Type
Kazakhstan	8 September 2006	19 February 2009	Ratification
Kyrgyzstan	8 September 2006	27 July 2007	Ratification
Tajikistan	8 September 2006	13 January 2009	Ratification
Turkmenistan	8 September 2006	17 January 2009	Ratification
Uzbekistan	8 September 2006	10 May 2007	Ratification

TREATY OF SEMIPALATINSK

CENTRAL ASIAN NUCLEAR-WEAPON-FREE ZONE

Article 8. IAEA Safeguards

Each Party undertakes:

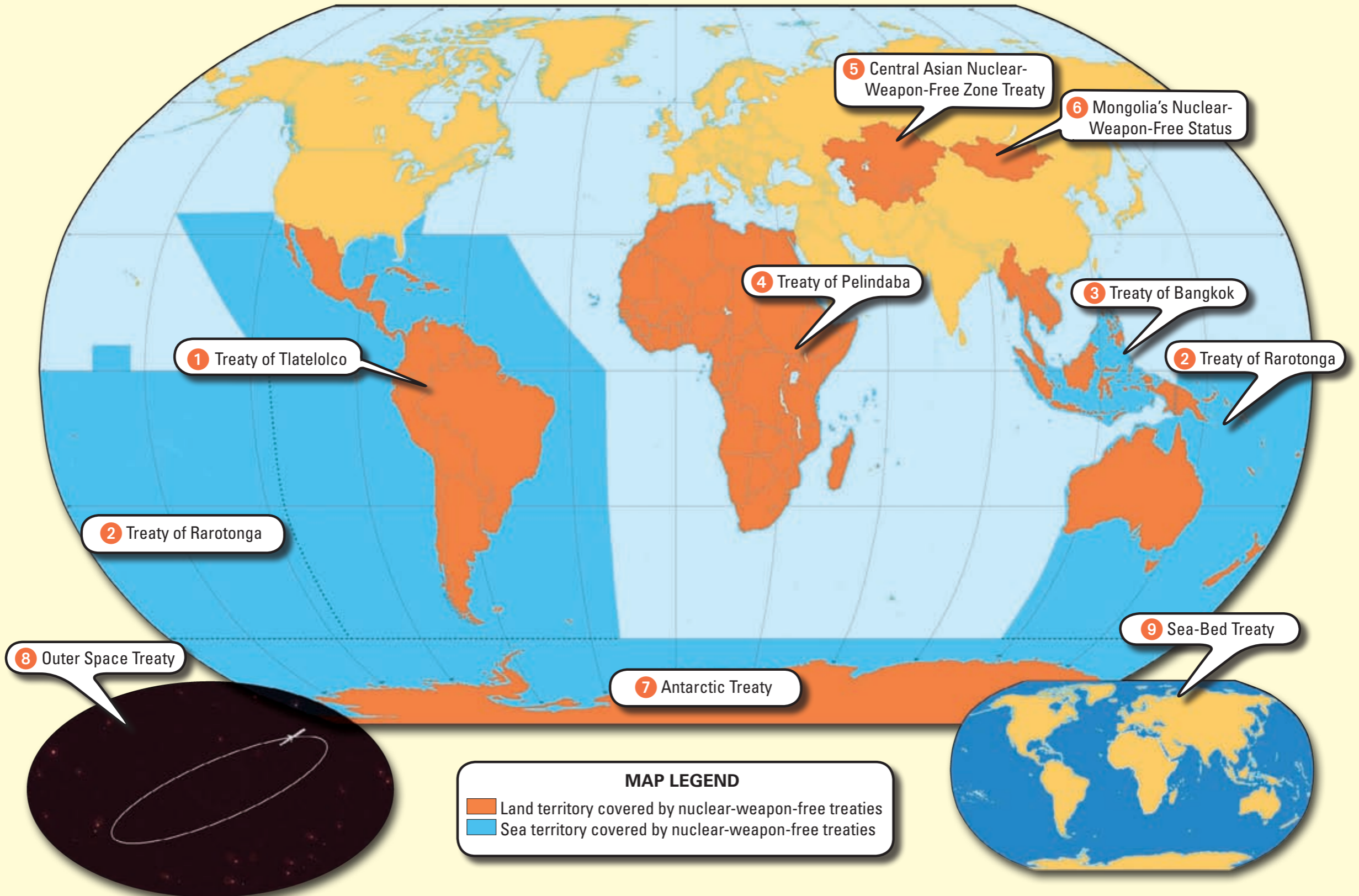
- (a) To use for **exclusively peaceful purposes** the nuclear material and facilities which are within its territory, under its jurisdiction, or under its control anywhere;
- (b) To conclude with the IAEA and bring into force, if it has not already done so, an agreement for the **application of safeguards** in accordance with the NPT (INFCIRC/153 (Corr.)), and an Additional Protocol (INFCIRC/540 (Corr.)) not later than 18 months after the entry into force of this Treaty (first such treaty to require the conclusion of an additional protocol to a State's safeguards agreement)
- (c) **Not to provide:** (i) source or special fissionable material or (ii) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State

There is one protocol to the Semipalatinsk Treaty, open to signature by the five NPT NWSs, in which the States undertake not to use or threaten to use a nuclear weapon or other nuclear explosive device against a Party to the Treaty and not to contribute to any act that constitutes a violation of the Treaty or the protocol.



NUCLEAR-WEAPON-FREE AREAS

Demarcation of nuclear-weapon-free zones, nuclear-weapon-free status and nuclear-weapon-free geographical regions



THE PRIVILEGES AND IMMUNITIES AGREEMENT

INSPECTORS

Article XV.B of the IAEA Statute staff of the IAEA shall enjoy "*such privileges and immunities as are necessary in the independent exercise of their functions in connexion with the Agency*"

Agreement on the Privileges and Immunities of the International Atomic Energy Agency (INFCIRC/9/Rev.2)

- immunity from legal process in respect of words spoken or written and all acts performed by an inspector in his or her official capacity
- immunity from personal arrest or detention for non-official capacity
- immunity from personal arrest or detention for non-official as well as official acts occurring during a mission
- inviolability of papers and documents and freedom from seizure of personal baggage