



COUNTER-TERRORISM COMMITTEE EXECUTIVE DIRECTORATE

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INTERNATIONAL COUNTER-TERRORISM INSTRUMENTS

Prior to the adoption of resolution 1373 (2001) and the establishment of the Counter-Terrorism Committee, the international community had already promulgated 12 of the current 16 international counter-terrorism legal instruments. However, the rate of adherence to these conventions and protocols by United Nations Member States was low.

As a result of the attention focused on countering terrorism since the events of 11 September 2001 and the adoption of Security Council resolution 1373 (2001), which calls on States to become parties to these international instruments, the rate of adherence has increased: some two-thirds of UN Member States have either ratified or acceded to at least 10 of the 16 instruments, and there is no longer any country that has neither signed nor become a party to at least one of them.

Between 1963 and 2004, under the auspices of the United Nations and its specialized agencies, the international community developed 13 international counter-terrorism instruments which are open to participation by all Member States. In 2005, the international community also introduced substantive changes to three of these universal instruments to specifically account for the threat of terrorism; on 8 July of that year States adopted the Amendments to the Convention on the Physical Protection of Nuclear Material, and on 14 October they agreed to both the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

The General Assembly has focused on terrorism as an international problem since 1972 and, through the 1980s, addressed the issue intermittently through resolutions. During this period, the Assembly also adopted two instruments related to counter-terrorism: the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (in 1973) and the International Convention against the Taking of Hostages (in 1979).

In December 1994, the Assembly again directed attention to this issue through a Declaration on Measures to Eliminate International Terrorism (A/RES/49/60). In 1996, a supplement to this Declaration (A/RES/51/210) established an Ad Hoc Committee on terrorism. Since then the Assembly addressed the issue of terrorism consistently.

During the past decade, Member States completed work on three more counter-terrorism instruments covering specific types of terrorist activities: the 1997 International Convention for the Suppression of Terrorist Bombings; the 1999 International Convention for the Suppression of the Financing of Terrorism and the International Convention for the Suppression of Acts of Nuclear Terrorism. The last of these was adopted in April 2005 and opened for signature on 14 September 2005, the first day of the General Assembly's World Summit. During that three-day high-level meeting, it was signed by 82 Member States.

It is also within the framework of the Ad Hoc Committee that Member States have been negotiating a draft comprehensive convention on international terrorism since 2000.

International Conventions

Here is a summary of the 16 international counter-terrorism legal instruments:

1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft (“Tokyo Convention”) on the safety of aviation

- * Applies to acts affecting in-flight safety;
- * Authorizes the aircraft commander to impose reasonable

measures, including restraint, on any person he or she has reason to believe has committed or is about to commit such an act, where necessary to protect the safety of the aircraft; and

- * Requires contracting States to take custody of offenders and to return control of the aircraft to the lawful commander.

1970 Convention for the Suppression of Unlawful Seizure of Aircraft (“Hague Convention”) on aircraft hijackings

- * Makes it an offence for any person on board an aircraft in flight to “unlawfully, by force or threat thereof, or any other form of intimidation, [to] seize or exercise control of that aircraft” or to attempt to do so;
- * Requires parties to the convention to make hijackings punishable by “severe penalties”;
- * Requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution; and
- * Requires parties to assist each other in connection with criminal proceedings brought under the Convention.

1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (“Montreal Convention”) on acts of aviation sabotage such as bombings aboard aircraft in flight

- * Makes it an offence for any person unlawfully and intentionally to perform an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of the aircraft; to place an explosive device on an aircraft; to attempt such acts; or to be an accomplice of a person who performs or attempts to perform such acts;
- * Requires parties to the Convention to make offences punishable by “severe penalties”; and
- * Requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution.

1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons on attacks on senior government officials and diplomats

- * Defines an “internationally protected person” as a Head of State, Minister for Foreign Affairs, representative or official of a State or international organization who is entitled to special protection in a foreign State, and his or her family; and
- * Requires parties to criminalize and make punishable “by appropriate penalties which take into account their grave nature” the intentional murder, kidnapping or other attack upon the person or liberty of an internationally protected person, a violent attack upon the official premises, the pri-

vate accommodations, or the means of transport of such person; a threat or attempt to commit such an attack; and an act “constituting participation as an accomplice”.

1979 International Convention against the Taking of Hostages (“Hostages Convention”)

- * Provides that “any person who seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostage within the meaning of this Convention”.

1980 Convention on the Physical Protection of Nuclear Material (“Nuclear Materials Convention”) on unlawful taking and use of nuclear material

- * Criminalizes the unlawful possession, use, transfer or theft of nuclear material and threats to use nuclear material to cause death, serious injury or substantial property damage.

Amendments to the Convention on the Physical Protection of Nuclear Material

- * Makes it legally binding for States Parties to protect nuclear facilities and material in peaceful domestic use, storage as well as transport; and
- * Provides for expanded cooperation between and among States regarding rapid measures to locate and recover stolen or smuggled nuclear material, mitigate any radiological consequences or sabotage, and prevent and combat related offences.

1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation

- * Extends the provisions of the Montreal Convention (see the **1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation**) to encompass terrorist acts at airports serving international civil aviation.

1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation on terrorist activities aboard ships

- * Establishes a legal regime applicable to acts against international maritime navigation that is similar to the regimes established for international aviation; and
- * Makes it an offence for a person unlawfully and intentionally to seize or exercise control over a ship by force, threat, or intimidation; to perform an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of the ship; to place a destructive device or substance aboard a ship; and other acts against the safety of ships.

2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

- * Criminalizes the use of a ship as a device to further an act of terrorism;
- * Criminalizes the transport on board a ship various materials knowing that it is intended to be used to cause, or in a threat to cause, death or serious injury or damage to further an act of terrorism;
- * Criminalizes the transporting on board a ship of persons who have committed an act of terrorism; and
- * Introduces procedures for governing the boarding of a ship believed to have committed an offence under the Convention.

1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf on terrorist activities on fixed offshore platforms

- * Establishes a legal regime applicable to acts against fixed platforms on the continental shelf that is similar to the regimes established against international aviation.

2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf

- * Adapts the changes to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation to the context of fixed platforms located on the continental shelf.

1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection provides for chemical marking to facilitate detection of plastic explosives, e.g., to combat aircraft sabotage

- * Designed to control and limit the use of unmarked and undetectable plastic explosives (negotiated in the aftermath of the 1988 Pan Am flight 103 bombing);
- * Parties are obligated in their respective territories to ensure

effective control over “unmarked” plastic explosives, i.e., those that do not contain one of the detection agents described in the Technical Annex to the treaty; and

- * Generally speaking, each party must, inter alia, take necessary and effective measures to prohibit and prevent the manufacture of unmarked plastic explosives; prevent the movement of unmarked plastic explosives into or out of its territory; exercise strict and effective control over possession and transfer of unmarked explosives made or imported prior to the entry into force of the Convention; ensure that all stocks of unmarked explosives not held by the military or police are destroyed, consumed, marked, or rendered permanently ineffective within three years; take necessary measures to ensure that unmarked plastic explosives held by the military or police are destroyed, consumed, marked or rendered permanently ineffective within fifteen years; and, ensure the destruction, as soon as possible, of any unmarked explosives manufactured after the date of entry into force of the Convention for that State.

1997 International Convention for the Suppression of Terrorist Bombings

- * Creates a regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place.

1999 International Convention for the Suppression of the Financing of Terrorism

- * Requires parties to take steps to prevent and counteract the financing of terrorism, whether direct or indirect, through groups claiming to have charitable, social or cultural goals or which also engage in illicit activities such as drug trafficking or gun running;
- * Commits States to hold those who finance terrorism criminally, civilly or administratively liable for such acts; and
- * Provides for the identification, freezing and seizure of funds allocated for terrorist activities, as well as for the sharing of the forfeited funds with other States on a case-by-case basis. Bank secrecy is no longer adequate justification for refusing to cooperate.

2005 International Convention for the Suppression of Acts of Nuclear Terrorism

- * Covers a broad range of acts and possible targets, including nuclear power plants and nuclear reactors;

- * *Covers threats and attempts to commit such crimes or to participate in them, as an accomplice;*
- * *Stipulates that offenders shall be either extradited or prosecuted;*
- * *Encourages States to cooperate in preventing terrorist attacks by sharing information and assisting each other in connection with criminal investigations and extradition proceedings; and*
- * *Deals with both crisis situations (assisting States to solve the situation) and post-crisis situations (rendering nuclear material safe through the International Atomic Energy Agency (IAEA)).*

