

# **International Instruments related to the Prevention and Suppression of International Terrorism**

Volume I



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## PREFACE

Terrorism is a threat to international peace and security. Perpetrators of terrorist acts undermine human rights, fundamental freedoms and the rule of law, which are essential pillars for peace and sustainable development.

The fight against terrorism requires global action and the United Nations, system-wide, plays a leading role. Law is a key element in the response to terrorism. The United Nations serves as the universal forum for the development and adoption of international instruments that provide the international community with common standards for combating terrorism in all its forms and manifestations.

The existing instruments are valuable tools, which reflect a clear condemnation of terrorism in all its forms and manifestations, and the commitment of States to combat it. They also provide States with a means for taking effective action. In addition to the universal instruments, key instruments have also been developed by regional organizations.

This fourth edition updates the compendium of universal and regional counter-terrorism instruments, taking into account recent developments, thus reflecting advances in this field. The present edition contributes to the dissemination and promotion of these instruments among States. This publication has become an essential reference work for enhancing the international community's knowledge of the legal instruments to be used for intensifying the fight against the scourge of terrorism.

António Guterres



## INTRODUCTION

In the Declaration on Measures to Eliminate International Terrorism, annexed to its resolution 49/60 of 9 December 1994, the General Assembly invited the United Nations, the relevant specialized agencies and intergovernmental organizations and other relevant bodies to make every effort with a view to promoting measures to combat and eliminate acts of terrorism and to strengthening their role in that field.

By resolution 51/210 of 17 December 1996, the General Assembly established an Ad Hoc Committee to elaborate legal instruments for the prevention and suppression of international terrorism. As a result of the work of the Ad Hoc Committee, the General Assembly has to date adopted the International Convention for the Suppression of Terrorist Bombings (1997), the Convention for the Suppression of the Financing of Terrorism (1999) and the International Convention on the Suppression of Acts of Nuclear Terrorism (2005).

The Ad Hoc Committee, together with the related Working Group on the subject, has also working on the development of a draft comprehensive convention on international terrorism.

The present compendium of instruments on the prevention and suppression of international terrorism is intended to be used as a general work of reference. It has been updated to take into account developments between 2008 (the publication of the third edition) and 31 December 2017. It is in five parts now contained in two volumes. Parts I to III are in volume I.

Part I contains universal treaties on the prevention and suppression of international terrorism adopted with the United Nations, system-wide, Part II deals with instruments adopted at the regional level, while Part III reproduces some extracts of international treaties relating to the question, including the Convention on the Safety of United Nations Personnel and Associated Personnel adopted by the United Nations General Assembly in 1994 and the Optional Protocol thereto adopted in 2005, as well as the Geneva Conventions of 1949 and the Additional Protocols thereto, of 1977.

Parts IV and IV are in volume II. Part IV reproduces United Nations declarations and other important resolutions adopted by the General Assembly, including the United Nations Global Counter-Terrorism Strategy adopted on 8 September 2008. Part V contains the texts of substantive Security Council resolutions on that subject. This is an area which has registered incremental growth.

The present compendium is not exhaustive: it does not include other instruments on the topic, such as bilateral treaties, or all instruments relating to other forms of crime, such as drug trafficking, arms

trafficking, smuggling, money-laundering and organized crime, although some of the instruments may touch upon these topics.

The present compendium, prepared by the Codification Division of the United Nations Office of Legal Affairs will be published in Arabic, Chinese, English, French, Russian and Spanish.

The texts contained in the present publication are solely for information purposes and should not be considered as the authentic versions.

New York  
1 January 2019



**PART I**

**UNIVERSAL INSTRUMENTS**



## UNITED NATIONS

### **1. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents**

*Adopted by the General Assembly of the United Nations on  
14 December 1973*

*In force on 20 February 1977*

*United Nations, Treaty Series, vol. 1035, No. 15410*

*Depositary: Secretary-General of the United Nations*

#### GENERAL ASSEMBLY RESOLUTION 3166 (XXVIII) OF 14 DECEMBER 1973

*The General Assembly,*

*Considering* that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in articles 1 and 2 of the Charter of the United Nations,

*Recalling* that in response to the request made in General Assembly resolution 2780 (XXVI) of 3 December 1971, the International Law Commission, at its twenty-fourth session, studied the question of the protection and inviolability of diplomatic agents and other persons entitled to special protection under international law and prepared draft articles on the prevention and punishment of crimes against such persons,

*Having considered* the draft articles and also the comments and observations thereon submitted by States, specialized agencies and other intergovernmental organizations in response to the invitation extended by the General Assembly in its resolution 2926 (XXVII) of 28 November 1972,

*Convinced* of the importance of securing international agreement on appropriate and effective measures for the prevention and punishment of crimes against diplomatic agents and other internationally protected persons in view of the serious threat to the maintenance and promotion of friendly relations and cooperation among States created by the commission of such crimes,

*Having elaborated* for that purpose the provisions contained in the Convention annexed hereto,

1. *Adopts* the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, annexed to the present resolution;
2. *Re-emphasizes* the great importance of the rules of international law concerning the inviolability of and special protection to be afforded to internationally protected persons and the obligations of States in relation thereto;
3. *Considers* that the annexed Convention will enable States to carry out their obligations more effectively;
4. *Recognizes* also that the provisions of the annexed Convention could not in any way prejudice the exercise of the legitimate right to self-determination and independence, in accordance with the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, by peoples struggling against colonialism, alien domination, foreign occupation, racial discrimination and apartheid;
5. *Invites* States to become parties to the annexed Convention;
6. *Decides* that the present resolution, whose provisions are related to the annexed Convention, shall always be published together with it.

#### ANNEX

*The States Parties to this Convention,*

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and cooperation among States,

*Considering* that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of these persons create a serious threat to the maintenance of normal international relations which are necessary for cooperation among States,

*Believing* that the commission of such crimes is a matter of grave concern to the international community,

*Convinced* that there is an urgent need to adopt appropriate and effective measures for the prevention and punishment of such crimes,

*Have agreed as follows:*

#### *Article 1*

For the purposes of this Convention:

1. "Internationally protected person" means:
  - (a) A Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of

the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) Any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household;

2. "Alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes set forth in article 2.

### Article 2

1. The intentional commission of:

(a) A murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) A violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;

(c) A threat to commit any such attack;

(d) An attempt to commit any such attack; and

(e) An act constituting participation as an accomplice in any such attack;

shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

### Article 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in article 2 in the following cases:

(a) When the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the crime is committed against an internationally protected person as defined in article 1 who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

#### *Article 4*

States Parties shall cooperate in the prevention of the crimes set forth in article 2, particularly by:

(a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;

(b) Exchanging information and coordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

#### *Article 5*

1. The State Party in which any of the crimes set forth in article 2 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to all other States concerned, directly or through the Secretary-General of the United Nations, all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever any of the crimes set forth in article 2 has been committed against an internationally protected person, any State Party which has information concerning the victim and the circumstances of the crime shall endeavour to transmit it, under the conditions provided for in its internal law, fully and promptly to the State Party on whose behalf he was exercising his functions.

#### *Article 6*

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

- (a) The State where the crime was committed;
- (b) The State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;
- (c) The State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;
- (d) All other States concerned; and
- (e) The international organization of which the internationally protected person concerned is an official or an agent.

2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

- (a) To communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and
- (b) To be visited by a representative of that State.

#### *Article 7*

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

#### *Article 8*

1. To the extent that the crimes set forth in article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the

place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 3.

*Article 9*

Any person regarding whom proceedings are being carried out in connexion with any of the crimes set forth in article 2 shall be guaranteed fair treatment at all stages of the proceedings.

*Article 10*

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes set forth in article 2, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

*Article 11*

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

*Article 12*

Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

*Article 13*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.



3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 14*

This Convention shall be opened for signature by all States, until 31 December 1974, at United Nations Headquarters in New York.

*Article 15*

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 16*

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 17*

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

*Article 18*

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months following the date on which notification is received by the Secretary-General of the United Nations.

*Article 19*

The Secretary-General of the United Nations shall inform all States, *inter alia*:

(a) Of signatures to this Convention, of the deposit of instruments of ratification or accession in accordance with articles 14, 15 and 16 and of notifications made under Article 18;

(b) Of the date on which this Convention will enter into force in accordance with article 17.

*Article 20*

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 14 December 1973.

## 2. **International Convention against the Taking of Hostages**

*Adopted by the General Assembly of the United Nations on  
17 December 1979*

*In force on 3 June 1983*

*United Nations, Treaty Series, vol. 1316, No. 21931*

*Depository: Secretary-General of the United Nations*

*The States Parties to this Convention,*

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and cooperation among States,

*Recognizing* in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

*Reaffirming* the principle of equal rights and self-determination of peoples as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, as well as in other relevant resolutions of the General Assembly,

*Considering* that the taking of hostages is an offence of grave concern to the international community and that, in accordance with the provisions of this Convention, any person committing an act of hostage taking shall either be prosecuted or extradited,

*Being convinced* that it is urgently necessary to develop international cooperation between States in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking of hostages as manifestations of international terrorism,

*Have agreed as follows:*

### *Article 1*

1. Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the “hostage”) 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 hostages (“hostage-taking”) within the meaning of this Convention.

2. Any person who:

(a) Attempts to commit an act of hostage-taking, or

(b) Participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking

likewise commits an offence for the purposes of this Convention.

#### *Article 2*

Each State Party shall make the offences set forth in article 1 punishable by appropriate penalties which take into account the grave nature of those offences.

#### *Article 3*

1. The State Party in the territory of which the hostage is held by the offender shall take all measures it considers appropriate to ease the situation of the hostage, in particular, to secure his release and, after his release, to facilitate, when relevant, his departure.

2. If any object which the offender has obtained as a result of the taking of hostages comes into the custody of a State Party, that State Party shall return it as soon as possible to the hostage or the third party referred to in article 1, as the case may be, or to the appropriate authorities thereof.

#### *Article 4*

States Parties shall cooperate in the prevention of the offences set forth in article 1, particularly by:

(a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts of taking of hostages;

(b) Exchanging information and coordinating the taking of administrative and other measures as appropriate to prevent the commission of those offences.

#### *Article 5*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offences set forth in article 1 which are committed:

- (a) In its territory or on board a ship or aircraft registered in that State;
- (b) By any of its nationals or, if that State considers it appropriate, by those stateless persons who have their habitual residence in its territory;
- (c) In order to compel that State to do or abstain from doing any act; or
- (d) With respect to a hostage who is a national of that State, if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 1 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

#### *Article 6*

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the alleged offender is present shall, in accordance with its laws, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted. That State Party shall immediately make a preliminary inquiry into the facts.

2. The custody or other measures referred to in paragraph 1 of this article shall be notified without delay directly or through the Secretary-General of the United Nations to:

- (a) The State where the offence was committed;
- (b) The State against which compulsion has been directed or attempted;
- (c) The State of which the natural or juridical person against whom compulsion has been directed or attempted is a national;
- (d) The State of which the hostage is a national or in the territory of which he has his habitual residence;
- (e) The State of which the alleged offender is a national or, if he is a stateless person, in the territory of which he has his habitual residence;
- (f) The international intergovernmental organization against which compulsion has been directed or attempted;
- (g) All other States concerned.

3. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

(a) To communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;

(b) To be visited by a representative of that State.

4. The rights referred to in paragraph 3 of this article shall be exercised in conformity with the laws and regulations of the State in the territory of which the alleged offender is present subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 of this article are intended.

5. The provisions of paragraphs 3 and 4 of this article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with paragraph 1 (b) of article 5 to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. The State which makes the preliminary inquiry contemplated in paragraph 1 of this article shall promptly report its findings to the States or organization referred to in paragraph 2 of this article and indicate whether it intends to exercise jurisdiction.

#### *Article 7*

The State Party where the alleged offender is prosecuted shall in accordance with its laws communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States concerned and the international intergovernmental organizations concerned.

#### *Article 8*

1. The State Party in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connexion with any of the offences set forth in article 1 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the law of the State in the territory of which he is present.

*Article 9*

1. A request for the extradition of an alleged offender, pursuant to this Convention, shall not be granted if the requested State Party has substantial grounds for believing:

(a) That the request for extradition for an offence set forth in article 1 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality, ethnic origin or political opinion; or

(b) That the person's position may be prejudiced:

(i) For any of the reasons mentioned in subparagraph (a) of this paragraph, or

(ii) For the reason that communication with him by the appropriate authorities of the State entitled to exercise rights of protection cannot be effected.

2. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

*Article 10*

1. The offences set forth in article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. The offences set forth in article 1 shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 5.

*Article 11*

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the offences set forth in article 1, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

*Article 12*

Insofar as the Geneva Conventions of 1949 for the protection of war victims or the Protocols Additional to those Conventions are applicable to a particular act of hostage-taking, and insofar as States Parties to this Convention are bound under those conventions to prosecute or hand over the hostage-taker, the present Convention shall not apply to an act of hostage-taking committed in the course of armed conflicts as defined in the Geneva Conventions of 1949 and the Protocols thereto, including armed conflicts mentioned in article 1, paragraph 4, of Additional Protocol I of 1977, in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

*Article 13*

This Convention shall not apply where the offence is committed within a single State, the hostage and the alleged offender are nationals of that State and the alleged offender is found in the territory of that State.

*Article 14*

Nothing in this Convention shall be construed as justifying the violation of the territorial integrity or political independence of a State in contravention of the Charter of the United Nations.

*Article 15*

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those treaties.



*Article 16*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 17*

1. This Convention is open for signature by all States until 31 December 1980 at United Nations Headquarters in New York.

2. This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention is open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 18*

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

*Article 19*

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

*Article 20*

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 18 December 1979.

### **3. International Convention for the Suppression of Terrorist Bombings**

*Adopted by the General Assembly of the United Nations on  
15 December 1997*

*In force on 23 May 2001*

*United Nations, Treaty Series, vol. 2149, No. 37517,  
U.N. Doc. A/RES/52/164, Annex*

*Depository: Secretary-General of the United Nations*

*The States Parties to this Convention,*

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good neighbourliness and friendly relations and cooperation among States,

*Deeply concerned* about the worldwide escalation of acts of terrorism in all its forms and manifestations,

*Recalling* the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995,

*Recalling also* the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994, in which, *inter alia*, “the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States”,

*Noting* that the Declaration also encouraged States “to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter”,

*Recalling* General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, annexed thereto,

*Noting* that terrorist attacks by means of explosives or other lethal devices have become increasingly widespread,

*Noting also* that existing multilateral legal provisions do not adequately address these attacks,

*Being convinced* of the urgent need to enhance international cooperation between States in devising and adopting effective and practical

measures for the prevention of such acts of terrorism, and for the prosecution and punishment of their perpetrators,

*Considering* that the occurrence of such acts is a matter of grave concern to the international community as a whole,

*Noting* that the activities of military forces of States are governed by rules of international law outside the framework of this Convention and that the exclusion of certain actions from the coverage of this Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

*Have agreed as follows:*

### Article 1

For the purposes of this Convention:

1. “State or government facility” includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. “Infrastructure facility” means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications.

3. “Explosive or other lethal device” means:

(a) An explosive or incendiary weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage; or

(b) A weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material.

4. “Military forces of a State” means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security, and persons acting in support of those armed forces who are under their formal command, control and responsibility.

5. “Place of public use” means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

6. “Public transportation system” means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

*Article 2*

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

- (a) With the intent to cause death or serious bodily injury; or
- (b) With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.

3. Any person also commits an offence if that person:

- (a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2; or
- (b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2; or
- (c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

*Article 3*

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 6, paragraph 1, or article 6, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 10 to 15 shall, as appropriate, apply in those cases.

*Article 4*

Each State Party shall adopt such measures as may be necessary:

- (a) To establish as criminal offences under its domestic law the offences set forth in article 2 of this Convention;

- (b) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

*Article 5*

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

*Article 6*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

- (a) The offence is committed in the territory of that State; or  
(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or  
(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

- (a) The offence is committed against a national of that State; or  
(b) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or  
(c) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or  
(d) The offence is committed in an attempt to compel that State to do or abstain from doing any act; or  
(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2 under its domestic law. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it

does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

*Article 7*

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence as set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 6, subparagraph 1 (c) or 2 (c), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 6, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact

that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

*Article 8*

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 6 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

*Article 9*

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also



in the territory of the States that have established jurisdiction in accordance with article 6, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between State Parties to the extent that they are incompatible with this Convention.

*Article 10*

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

*Article 11*

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

*Article 12*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

*Article 13*

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is

requested for purposes of testimony, identification or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent; and
- (b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of this article:

- (a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;
- (b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;
- (c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;
- (d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

#### *Article 14*

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international law of human rights.

#### *Article 15*

States Parties shall cooperate in the prevention of the offences set forth in article 2, particularly:

(a) By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the perpetration of offences as set forth in article 2;

(b) By exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences as set forth in article 2;

(c) Where appropriate, through research and development regarding methods of detection of explosives and other harmful substances that can cause death or bodily injury, consultations on the development of standards for marking explosives in order to identify their origin in post blast investigations, exchange of information on preventive measures, cooperation and transfer of technology, equipment and related materials.

#### *Article 16*

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

#### *Article 17*

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

#### *Article 18*

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

#### *Article 19*

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international

law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

*Article 20*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 21*

1. This Convention shall be open for signature by all States from 12 January 1998 until 31 December 1999 at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 22*

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of

ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

*Article 23*

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

*Article 24*

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 12 January 1998.

#### **4. International Convention for the Suppression of the Financing of Terrorism**

*Adopted by the General Assembly of the United Nations on  
9 December 1999*

*In force on 10 April 2002*

*United Nations, Treaty Series, vol. 2149, No. 37517,*

*U.N. Doc. A/RES/54/109, Annex*

*Depository: Secretary-General of the United Nations*

*The States Parties to this Convention,*

*Bearing in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

*Deeply concerned* about the worldwide escalation of acts of terrorism in all its forms and manifestations,

*Recalling* the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, contained in General Assembly resolution 50/6 of 24 October 1995,

*Recalling also* all the relevant General Assembly resolutions on the matter, including resolution 49/60 of 9 December 1994 and its annex on the Declaration on Measures to Eliminate International Terrorism, in which the States Members of the United Nations solemnly reaffirmed their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

*Noting* that the Declaration on Measures to Eliminate International Terrorism also encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

*Recalling* General Assembly resolution 51/210 of 17 December 1996, paragraph 3, subparagraph (f), in which the Assembly called upon all States to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms

trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds,

*Recalling also* General Assembly resolution 52/165 of 15 December 1997, in which the Assembly called upon States to consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210 of 17 December 1996,

*Recalling further* General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments,

*Considering* that the financing of terrorism is a matter of grave concern to the international community as a whole,

*Noting* that the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain,

*Noting also* that existing multilateral legal instruments do not expressly address such financing,

*Being convinced* of the urgent need to enhance international cooperation among States in devising and adopting effective measures for the prevention of the financing of terrorism, as well as for its suppression through the prosecution and punishment of its perpetrators,

*Have agreed as follows:*

#### *Article 1*

For the purposes of this Convention:

1. "Funds" means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, traveller's cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.

2. "A State or governmental facility" means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or

entity or by employees or officials of an intergovernmental organization in connection with their official duties.

3. “Proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

## Article 2

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.

3. For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraphs (a) or (b).

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

5. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;

(c) Contributes to the commission of one or more offences as set forth in paragraphs 1 or 4 of this article by a group of persons acting



with a common purpose. Such contribution shall be intentional and shall either:

- (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or
- (ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

#### *Article 3*

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, to exercise jurisdiction, except that the provisions of articles 12 to 18 shall, as appropriate, apply in those cases.

#### *Article 4*

Each State Party shall adopt such measures as may be necessary:

- (a) To establish as criminal offences under its domestic law the offences set forth in article 2;
- (b) To make those offences punishable by appropriate penalties which take into account the grave nature of the offences.

#### *Article 5*

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

*Article 6*

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

*Article 7*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

- (a) The offence is committed in the territory of that State;
- (b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed;
- (c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

- (a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State;
- (b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State;
- (c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act;
- (d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State;
- (e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

#### *Article 8*

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in article 2 and the proceeds derived from such offences.

3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of the funds derived from the forfeitures referred to in this article.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

#### *Article 9*

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

- (a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;
- (b) Be visited by a representative of that State;
- (c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 7, paragraph 1, subparagraph (b), or paragraph 2, subparagraph (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 7, paragraph 1 or 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

#### *Article 10*

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 7 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition

or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

#### *Article 11*

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 7, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

#### *Article 12*

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

3. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations,

prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

4. Each State Party may give consideration to establishing mechanisms to share with other States Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.

5. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

#### *Article 13*

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

#### *Article 14*

None of the offences set forth in article 2 shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

#### *Article 15*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

#### *Article 16*

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution

of offences set forth in article 2 may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent;
- (b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

- (a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;
- (b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;
- (c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;
- (d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

#### *Article 17*

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

#### *Article 18*

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, *inter alia*, by adapting their domestic legislation, if necessary, to prevent and counter

preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity. For this purpose, States Parties shall consider:

- (i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;
- (ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;
- (iii) Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;
- (iv) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.

2. States Parties shall further cooperate in the prevention of offences set forth in article 2 by considering:

(a) Measures for the supervision, including, for example, the licensing, of all money-transmission agencies;

(b) Feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments,



subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

3. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

- (i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;
- (ii) The movement of funds relating to the commission of such offences.

4. States Parties may exchange information through the International Criminal Police Organization (Interpol).

#### *Article 19*

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

#### *Article 20*

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

#### *Article 21*

Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes of the Charter of the United Nations, international humanitarian law and other relevant conventions.

*Article 22*

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

*Article 23*

1. The annex may be amended by the addition of relevant treaties that:

- (a) Are open to the participation of all States;
- (b) Have entered into force;
- (c) Have been ratified, accepted, approved or acceded to by at least twenty-two States Parties to the present Convention.

2. After the entry into force of this Convention, any State Party may propose such an amendment. Any proposal for an amendment shall be communicated to the depositary in written form. The depositary shall notify proposals that meet the requirements of paragraph 1 to all States Parties and seek their views on whether the proposed amendment should be adopted.

3. The proposed amendment shall be deemed adopted unless one third of the States Parties object to it by a written notification not later than 180 days after its circulation.

4. The adopted amendment to the annex shall enter into force 30 days after the deposit of the twenty-second instrument of ratification, acceptance or approval of such amendment for all those States Parties having deposited such an instrument. For each State Party ratifying, accepting or approving the amendment after the deposit of the twenty-second instrument, the amendment shall enter into force on the thirtieth day after deposit by such State Party of its instrument of ratification, acceptance or approval.

*Article 24*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does

not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 25*

1. This Convention shall be open for signature by all States from 10 January 2000 to 31 December 2001 at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 26*

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

*Article 27*

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

*Article 28*

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on 10 January 2000.

ANNEX

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980.
6. 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, done at Montreal on 24 February 1988.
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.
9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

## **5. International Convention for the Suppression of Acts of Nuclear Terrorism**

*Adopted by the General Assembly of the United Nations on  
13 April 2005*

*In force on 7 July 2007*

*United Nations, Treaty Series, vol. 2445, No. 44004;  
U.N. Doc. A/RES/59/290, Annex*

*Depositary: Secretary-General of the United Nations*

*The States Parties to this Convention,*

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

*Recalling* the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995,

*Recognizing* the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

*Bearing in mind* the Convention on the Physical Protection of Nuclear Material of 1980,

*Deeply concerned* about the worldwide escalation of acts of terrorism in all its forms and manifestations,

*Recalling* the Declaration on Measures to Eliminate International Terrorism annexed to General Assembly resolution 49/60 of 9 December 1994, in which, *inter alia*, the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

*Noting* that the Declaration also encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

*Recalling* General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

*Recalling also* that, pursuant to General Assembly resolution 51/210, an *ad hoc* committee was established to elaborate, *inter alia*, an international convention for the suppression of acts of nuclear terrorism to supplement related existing international instruments,

*Noting* that acts of nuclear terrorism may result in the gravest consequences and may pose a threat to international peace and security,

*Noting also* that existing multilateral legal provisions do not adequately address those attacks,

*Being convinced* of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism and for the prosecution and punishment of their perpetrators,

*Noting* that the activities of military forces of States are governed by rules of international law outside of the framework of this Convention and that the exclusion of certain actions from the coverage of this Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

*Have agreed as follows:*

#### Article 1

For the purposes of this Convention:

1. "Radioactive material" means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to the environment.

2. "Nuclear material" means plutonium, except that with isotopic concentration exceeding 80 per cent in plutonium 238; uranium 233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; or any material containing one or more of the foregoing;

Whereby "uranium enriched in the isotope 235 or 233" means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature.

3. "Nuclear facility" means:

(a) Any nuclear reactor, including reactors installed on vessels, vehicles, aircraft or space objects for use as an energy source in order to propel such vessels, vehicles, aircraft or space objects or for any other purpose;

(b) Any plant or conveyance being used for the production, storage, processing or transport of radioactive material.

4. "Device" means:

(a) Any nuclear explosive device; or

(b) Any radioactive material dispersal or radiation-emitting device which may, owing to its radiological properties, cause death, serious bodily injury or substantial damage to property or to the environment.

5. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of a Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

6. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security and persons acting in support of those armed forces who are under their formal command, control and responsibility.

#### *Article 2*

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

(a) Possesses radioactive material or makes or possesses a device:

(i) With the intent to cause death or serious bodily injury; or

(ii) With the intent to cause substantial damage to property or to the environment;

(b) Uses in any way radioactive material or a device, or uses or damages a nuclear facility in a manner which releases or risks the release of radioactive material:

(i) With the intent to cause death or serious bodily injury; or

(ii) With the intent to cause substantial damage to property or to the environment; or

(iii) With the intent to compel a natural or legal person, an international organization or a State to do or refrain from doing an act.

2. Any person also commits an offence if that person:

(a) Threatens, under circumstances which indicate the credibility of the threat, to commit an offence as set forth in paragraph 1 (b) of the present article; or

(b) Demands unlawfully and intentionally radioactive material, a device or a nuclear facility by threat, under circumstances which indicate the credibility of the threat, or by use of force.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

4. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1, 2 or 3 of the present article by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

### *Article 3*

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 9, paragraph 1 or 2, to exercise jurisdiction, except that the provisions of articles 7, 12, 14, 15, 16 and 17 shall, as appropriate, apply in those cases.

### *Article 4*

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

3. The provisions of paragraph 2 of the present article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.



4. This Convention does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States.

*Article 5*

Each State Party shall adopt such measures as may be necessary:

- (a) To establish as criminal offences under its national law the offences set forth in article 2;
- (b) To make those offences punishable by appropriate penalties which take into account the grave nature of these offences.

*Article 6*

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

*Article 7*

- 1. States Parties shall cooperate by:
  - (a) Taking all practicable measures, including, if necessary, adapting their national law, to prevent and counter preparations in their respective territories for the commission within or outside their territories of the offences set forth in article 2, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or knowingly provide technical assistance or information or engage in the perpetration of those offences;
  - (b) Exchanging accurate and verified information in accordance with their national law and in the manner and subject to the conditions specified herein, and coordinating administrative and other measures taken as appropriate to detect, prevent, suppress and investigate the offences set forth in article 2 and also in order to institute criminal proceedings against persons alleged to have committed those crimes. In particular, a State Party shall take appropriate measures in order to inform without delay the other States referred to in article 9 in respect of the commission of the offences set forth in article 2 as well as preparations to commit such offences

about which it has learned, and also to inform, where appropriate, international organizations.

2. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

3. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

4. States Parties shall inform the Secretary-General of the United Nations of their competent authorities and liaison points responsible for sending and receiving the information referred to in the present article. The Secretary-General of the United Nations shall communicate such information regarding competent authorities and liaison points to all States Parties and the International Atomic Energy Agency. Such authorities and liaison points must be accessible on a continuous basis.

#### *Article 8*

For purposes of preventing offences under this Convention, States Parties shall make every effort to adopt appropriate measures to ensure the protection of radioactive material, taking into account relevant recommendations and functions of the International Atomic Energy Agency.

#### *Article 9*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

- (a) The offence is committed in the territory of that State; or
- (b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or
- (c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

- (a) The offence is committed against a national of that State; or
- (b) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

- (c) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or
- (d) The offence is committed in an attempt to compel that State to do or abstain from doing any act; or
- (e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its national law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its national law.

#### *Article 10*

1. Upon receiving information that an offence set forth in article 2 has been committed or is being committed in the territory of a State Party or that a person who has committed or who is alleged to have committed such an offence may be present in its territory, the State Party concerned shall take such measures as may be necessary under its national law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 of the present article are being taken shall be entitled:

- (a) To communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;
- (b) To be visited by a representative of that State;
- (c) To be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 of the present article shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 of the present article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 9, paragraph 1 (c) or 2 (c), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 9, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact that that person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

### *Article 11*

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 9 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its national law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1 of the present article.

*Article 12*

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international law of human rights.

*Article 13*

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 9, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

*Article 14*

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their national law.

*Article 15*

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

*Article 16*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

*Article 17*

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of testimony, identification or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent; and
- (b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

- (a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

#### *Article 18*

1. Upon seizing or otherwise taking control of radioactive material, devices or nuclear facilities, following the commission of an offence set forth in article 2, the State Party in possession of such items shall:

(a) Take steps to render harmless the radioactive material, device or nuclear facility;

(b) Ensure that any nuclear material is held in accordance with applicable International Atomic Energy Agency safeguards; and

(c) Have regard to physical protection recommendations and health and safety standards published by the International Atomic Energy Agency.

2. Upon the completion of any proceedings connected with an offence set forth in article 2, or sooner if required by international law, any radioactive material, device or nuclear facility shall be returned, after consultations (in particular, regarding modalities of return and storage) with the States Parties concerned to the State Party to which it belongs, to the State Party of which the natural or legal person owning such radioactive material, device or facility is a national or resident, or to the State Party from whose territory it was stolen or otherwise unlawfully obtained.

3. (a) Where a State Party is prohibited by national or international law from returning or accepting such radioactive material, device or nuclear facility or where the States Parties concerned so agree, subject to paragraph 3 (b) of the present article, the State

Party in possession of the radioactive material, devices or nuclear facilities shall continue to take the steps described in paragraph 1 of the present article; such radioactive material, devices or nuclear facilities shall be used only for peaceful purposes;

(b) Where it is not lawful for the State Party in possession of the radioactive material, devices or nuclear facilities to possess them, that State shall ensure that they are placed as soon as possible in the possession of a State for which such possession is lawful and which, where appropriate, has provided assurances consistent with the requirements of paragraph 1 of the present article in consultation with that State, for the purpose of rendering it harmless; such radioactive material, devices or nuclear facilities shall be used only for peaceful purposes.

4. If the radioactive material, devices or nuclear facilities referred to in paragraphs 1 and 2 of the present article do not belong to any of the States Parties or to a national or resident of a State Party or was not stolen or otherwise unlawfully obtained from the territory of a State Party, or if no State is willing to receive such items pursuant to paragraph 3 of the present article, a separate decision concerning its disposition shall, subject to paragraph 3 (b) of the present article, be taken after consultations between the States concerned and any relevant international organizations.

5. For the purposes of paragraphs 1, 2, 3 and 4 of the present article, the State Party in possession of the radioactive material, device or nuclear facility may request the assistance and cooperation of other States Parties, in particular the States Parties concerned, and any relevant international organizations, in particular the International Atomic Energy Agency. States Parties and the relevant international organizations are encouraged to provide assistance pursuant to this paragraph to the maximum extent possible.

6. The States Parties involved in the disposition or retention of the radioactive material, device or nuclear facility pursuant to the present article shall inform the Director General of the International Atomic Energy Agency of the manner in which such an item was disposed of or retained. The Director General of the International Atomic Energy Agency shall transmit the information to the other States Parties.

7. In the event of any dissemination in connection with an offence set forth in article 2, nothing in the present article shall affect in any way the rules of international law governing liability for nuclear damage, or other rules of international law.



*Article 19*

The State Party where the alleged offender is prosecuted shall, in accordance with its national law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

*Article 20*

States Parties shall conduct consultations with one another directly or through the Secretary-General of the United Nations, with the assistance of international organizations as necessary, to ensure effective implementation of this Convention.

*Article 21*

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

*Article 22*

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its national law.

*Article 23*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months of the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 24*

1. This Convention shall be open for signature by all States from 14 September 2005 until 31 December 2006 at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 25*

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

*Article 26*

1. A State Party may propose an amendment to this Convention. The proposed amendment shall be submitted to the depositary, who circulates it immediately to all States Parties.

2. If the majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin no sooner than three months after the invitations are issued.

3. The conference shall make every effort to ensure amendments are adopted by consensus. Should this not be possible, amendments shall be adopted by a two-thirds majority of all States Parties. Any amendment adopted at the conference shall be promptly circulated by the depositary to all States Parties.

4. The amendment adopted pursuant to paragraph 3 of the present article shall enter into force for each State Party that deposits its instrument of ratification, acceptance, accession or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their relevant instrument. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day after the date on which that State deposits its relevant instrument.

*Article 27*

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

*Article 28*

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on 14 September 2005.

## INTERNATIONAL ATOMIC ENERGY AGENCY

### 6. Convention on the Physical Protection of Nuclear Material

*Adopted at Vienna on 26 October 1979*

*In force on 8 February 1987*

*United Nations, Treaty Series, vol. 1456, No. 24631*

*Depositary: Director General of the International Atomic Energy Agency*

*The State Parties to the Convention,*

*Recognizing* the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

*Convinced* of the need for facilitating international cooperation in the peaceful application of nuclear energy,

*Desiring* to avert the potential dangers posed by the unlawful taking and use of nuclear material,

*Convinced* that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,

*Aware of the need for* international cooperation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

*Convinced* that this Convention should facilitate the safe transfer of nuclear material,

*Stressing* also the importance of the physical protection of nuclear material in domestic use, storage and transport,

*Recognizing* the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection,

*Have agreed as follows:*

#### *Article 1*

For the purposes of this Convention:

(a) "nuclear material" means plutonium except that with isotopic concentration exceeding 80% in plutonium 238; uranium 233; ura-

mium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; any material containing one or more of the foregoing;

(b) “uranium enriched in the isotope 235 or 233” means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;

(c) “international nuclear transport” means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

#### *Article 2*

1. This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.

2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.

3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

#### *Article 3*

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

#### *Article 4*

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.

2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.

3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.

4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.

5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.

6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.

7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

#### *Article 5*

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for coordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide cooperation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

(a) A State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations;

(b) As appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:

- (i) Coordinate their efforts through diplomatic and other agreed channels;
- (ii) Render assistance, if requested;
- (iii) Ensure the return of nuclear material stolen or missing as a consequence of the above mentioned events.

The means of implementation of this cooperation shall be determined by the States Parties concerned.

3. States Parties shall cooperate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

#### *Article 6*

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

#### *Article 7*

1. The intentional commission of:

- (a) An act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
- (b) A theft or robbery of nuclear material;
- (c) An embezzlement or fraudulent obtaining of nuclear material;
- (d) An act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (e) A threat:

- (i) To use nuclear material to cause death or serious injury to any person or substantial property damage, or
- (ii) To commit an offence described in sub paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
- (f) An attempt to commit any offence described in paragraphs (a), (b) or (c); and
- (g) An act which constitutes participation in any offence described in paragraphs (a) to (f).

shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

#### *Article 8*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 7 in the following cases:

- (a) When the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;
- (b) When the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is presented in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in article 7 when it is involved in international nuclear transport as the exporting or importing State.

#### *Article 9*

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction pursuant to article 8 and, where appropriate, all other States concerned.



*Article 10*

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

*Article 11*

1. The offences in article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of article 8.

*Article 12*

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

*Article 13*

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

*Article 14*

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.

2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

*Article 15*

The Annexes constitute an integral part of this Convention.

*Article 16*

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

*Article 17*

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.

2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary General of the United Nations to appoint one or more arbitrators.

In case of conflicting requests by the parties to the dispute, the request to the Secretary General of the United Nations shall have priority.

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.

4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

#### *Article 18*

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

4. (a) This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.

(c) When becoming party to this Convention such an organization shall communicate to the depositary a declaration indicating which States are members thereof and which articles of this Convention do not apply to it.

(d) Such an organization shall not hold any vote additional to those of its Member States.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with depositary.

*Article 19*

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty first instrument of ratification, acceptance or approval with the depositary.

2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

*Article 20*

1. Without prejudice to article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.

2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

*Article 21*

1. Any State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

*Article 22*

The depositary shall promptly notify all States of:

- (a) Each signature of this Convention;
- (b) Each deposit of an instrument of ratification, acceptance, approval or accession;
- (c) Any reservation or withdrawal in accordance with article 17;

- (d) Any communication made by an organization in accordance with paragraph 4 (c) of article 18;
- (e) The entry into force of this Convention;
- (f) The entry into force of any amendment to this Convention; and
- (g) Any denunciation made under article 21.

*Article 23*

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

ANNEX I

**Levels of physical protection to be applied in international transport of nuclear materials as categorized in Annex II**

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

- (a) For Category III materials, storage within an area to which access is controlled;
- (b) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;
- (c) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

2. Levels of physical protection for nuclear material during international transport include:

- (a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;
- (b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;
- (c) For natural uranium other than in the form of ore or ore residue, transportation protection for quantities exceeding 500 kilograms uranium shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

## ANNEX II

TABLE

## Categorization of nuclear material

Material	Form	Category		
		I	II	III <sup>c</sup>
1. Plutonium <sup>a</sup>	Unirradiated <sup>b</sup>	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
2. Uranium-235	Unirradiated <sup>b</sup> -uranium enriched to 20% <sup>235</sup> U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less but more than 15 g
	-uranium enriched to 10% <sup>235</sup> U but less than 20%		10 kg or more	Less than 10 kg but more than 1 kg
	-uranium enriched above natural, but less than 10% <sup>235</sup> U			10 kg or more
3. Uranium-233	Unirradiated <sup>b</sup>	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fissile content) <sup>d,e</sup>	

<sup>a</sup> All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

<sup>b</sup> Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.

<sup>c</sup> Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

<sup>d</sup> Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.

<sup>e</sup> Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

## 7. Amendment to the Convention on the Physical Protection of Nuclear Material

*Adopted on 8 July 2005*

*Entry into force: in accordance with paragraph 2 of article 20 of the Convention*

*Depository: Director General of the International Atomic Energy Agency*

1. The Title of the Convention on the Physical Protection of Nuclear Material adopted on 26 October 1979 (hereinafter referred to as “the Convention”) is replaced by the following title:

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL AND NUCLEAR FACILITIES

2. The Preamble of the Convention is replaced by the following text:

*The States Parties to this Convention,*

*Recognizing* the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

*Convinced* of the need to facilitate international co-operation and the transfer of nuclear technology for the peaceful application of nuclear energy,

*Bearing in mind* that physical protection is of vital importance for the protection of public health, safety, the environment and national and international security,

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good neighbourliness and friendly relations and co-operation among States,

*Considering* that under the terms of paragraph 4 of Article 2 of the Charter of the United Nations, “All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations,”

*Recalling* the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994,

*Desiring* to avert the potential dangers posed by illicit trafficking, the unlawful taking and use of nuclear material and the sabotage of nuclear material and nuclear facilities, and noting that physical protection against such acts has become a matter of increased national and international concern,



*Deeply concerned* by the worldwide escalation of acts of terrorism in all its forms and manifestations, and by the threats posed by international terrorism and organized crime,

*Believing* that physical protection plays an important role in supporting nuclear non-proliferation and counter-terrorism objectives,

*Desiring* through this Convention to contribute to strengthening worldwide the physical protection of nuclear material and nuclear facilities used for peaceful purposes,

*Convinced* that offences relating to nuclear material and nuclear facilities are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures, or to strengthen existing measures, to ensure the prevention, detection and punishment of such offences,

*Desiring* to strengthen further international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material and nuclear facilities,

*Convinced* that this Convention should complement the safe use, storage and transport of nuclear material and the safe operation of nuclear facilities,

*Recognizing* that there are internationally formulated physical protection recommendations that are updated from time to time which can provide guidance on contemporary means of achieving effective levels of physical protection,

*Recognizing also* that effective physical protection of nuclear material and nuclear facilities used for military purposes is a responsibility of the State possessing such nuclear material and nuclear facilities, and understanding that such material and facilities are and will continue to be accorded stringent physical protection,

*Have agreed as follows:*

3. In article 1 of the Convention, after paragraph (c), two new paragraphs are added as follows:

(d) “Nuclear facility” means a facility (including associated buildings and equipment) in which nuclear material is produced, processed, used, handled, stored or disposed of, if damage to or interference with such facility could lead to the release of significant amounts of radiation or radioactive material;

(e) “Sabotage” means any deliberate act directed against a nuclear facility or nuclear material in use, storage or transport which could directly or indirectly endanger the health and safety of personnel, the public or the environment by exposure to radiation or release of radioactive substances.

4. After article 1 of the Convention, a new article 1A is added as follows:

*Article 1A*

The purposes of this Convention are to achieve and maintain worldwide effective physical protection of nuclear material used for peaceful purposes and of nuclear facilities used for peaceful purposes; to prevent and combat offences relating to such material and facilities worldwide; as well as to facilitate co-operation among States Parties to those ends.

5. Article 2 of the Convention is replaced by the following text:

1. This Convention shall apply to nuclear material used for peaceful purposes in use, storage and transport and to nuclear facilities used for peaceful purposes, provided, however, that articles 3 and 4 and paragraph 4 of article 5 of this Convention shall only apply to such nuclear material while in international nuclear transport.

2. The responsibility for the establishment, implementation and maintenance of a physical protection regime within a State Party rests entirely with that State.

3. Apart from the commitments expressly undertaken by States Parties under this Convention, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State.

4. (a) Nothing in this Convention shall affect other rights, obligations and responsibilities of States Parties under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

(b) The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

(c) Nothing in this Convention shall be construed as a lawful authorization to use or threaten to use force against nuclear material or nuclear facilities used for peaceful purposes.

(d) Nothing in this Convention condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

5. This Convention shall not apply to nuclear material used or retained for military purposes or to a nuclear facility containing such material.

6. After article 2 of the Convention, a new article 2A is added as follows:

*Article 2A*

1. Each State Party shall establish, implement and maintain an appropriate physical protection regime applicable to nuclear material and nuclear facilities under its jurisdiction, with the aim of:

(a) Protecting against theft and other unlawful taking of nuclear material in use, storage and transport;

(b) Ensuring the implementation of rapid and comprehensive measures to locate and, where appropriate, recover missing or stolen nuclear material; when the material is located outside its territory, that State Party shall act in accordance with article 5;

(c) Protecting nuclear material and nuclear facilities against sabotage; and

(d) Mitigating or minimizing the radiological consequences of sabotage.

2. In implementing paragraph 1, each State Party shall:

(a) Establish and maintain a legislative and regulatory framework to govern physical protection;

(b) Establish or designate a competent authority or authorities responsible for the implementation of the legislative and regulatory framework; and

(c) Take other appropriate measures necessary for the physical protection of nuclear material and nuclear facilities.

3. In implementing the obligations under paragraphs 1 and 2, each State Party shall, without prejudice to any other provisions of this Convention, apply insofar as is reasonable and practicable the following Fundamental Principles of Physical Protection of Nuclear Material and Nuclear Facilities.

*Fundamental Principle A: Responsibility of the State*

The responsibility for the establishment, implementation and maintenance of a physical protection regime within a State rests entirely with that State.

*Fundamental Principle B: Responsibilities during international transport*

The responsibility of a State for ensuring that nuclear material is adequately protected extends to the international transport thereof, until that responsibility is properly transferred to another State, as appropriate.

*Fundamental Principle C: Legislative and regulatory framework*

The State is responsible for establishing and maintaining a legislative and regulatory framework to govern physical protection. This framework should provide for the establishment of applicable physical protection requirements and include a system of evaluation and licensing or other procedures to grant authorization. This framework should include a system of inspection of nuclear facilities and transport to verify compliance with applicable requirements and conditions of the license or other authorizing document, and to establish a means to enforce applicable requirements and conditions, including effective sanctions.

*Fundamental principle D: Competent authority*

The State should establish or designate a competent authority which is responsible for the implementation of the legislative and regulatory framework, and is provided with adequate authority, competence and financial and human resources to fulfill its assigned responsibilities. The State should take steps to ensure an effective independence between the functions of the State's competent authority and those of any other body in charge of the promotion or utilization of nuclear energy.

*Fundamental principle E: Responsibility of the license holders*

The responsibilities for implementing the various elements of physical protection within a State should be clearly identified. The State should ensure that the prime responsibility for the implementation of physical protection of nuclear material or of nuclear facilities rests with the holders of the relevant licenses or of other authorizing documents (e.g., operators or shippers).

*Fundamental principle F: Security culture*

All organizations involved in implementing physical protection should give due priority to the security culture, to its development and maintenance necessary to ensure its effective implementation in the entire organization.

*Fundamental principle G: Threat*

The State's physical protection should be based on the State's current evaluation of the threat.

*Fundamental principle H: Graded approach*

Physical protection requirements should be based on a graded approach, taking into account the current evaluation of the threat, the relative attractiveness, the nature of the material and potential consequences associated with the unauthorized removal of nuclear material and with the sabotage against nuclear material or nuclear facilities.

*Fundamental principle I: Defence in depth*

The State's requirements for physical protection should reflect a concept of several layers and methods of protection (structural or other technical, personnel and organizational) that have to be overcome or circumvented by an adversary in order to achieve his objectives.

*Fundamental principle J: Quality assurance*

A quality assurance policy and quality assurance programmes should be established and implemented with a view to providing confidence that specified requirements for all activities important to physical protection are satisfied.

*Fundamental principle K: Contingency plans*

Contingency (emergency) plans to respond to unauthorized removal of nuclear material or sabotage of nuclear facilities or nuclear material, or attempts thereof, should be prepared and appropriately exercised by all license holders and authorities concerned.

*Fundamental principle L: Confidentiality*

The State should establish requirements for protecting the confidentiality of information, the unauthorized disclosure of which could compromise the physical protection of nuclear material and nuclear facilities.

4. (a) The provisions of this article shall not apply to any nuclear material which the State Party reasonably decides does not need to be subject to the physical protection regime established pursuant to paragraph 1, taking into account the nature of the material, its quantity and relative attractiveness and the potential radiological and other consequences associated with any unauthorized act directed against it and the current evaluation of the threat against it.

(b) Nuclear material which is not subject to the provisions of this article pursuant to subparagraph (a) should be protected in accordance with prudent management practice.

7. Article 5 of the Convention is replaced by the following text:

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their point of contact in relation to matters within the scope of this Convention.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

(a) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof, and to inform, where appropriate, the International Atomic Energy Agency and other relevant international organizations;

(b) in doing so, as appropriate, the States Parties concerned shall exchange information with each other, the International Atomic Energy Agency and other relevant international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container or recovering unlawfully taken nuclear material and shall:

- (i) Co-ordinate their efforts through diplomatic and other agreed channels;
- (ii) Render assistance, if requested;
- (iii) Ensure the return of recovered nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

3. In the case of a credible threat of sabotage of nuclear material or a nuclear facility or in the case of sabotage thereof, States Parties shall, to the maximum feasible extent, in accordance with their national law and consistent with their relevant obligations under international law, cooperate as follows:

(a) If a State Party has knowledge of a credible threat of sabotage of nuclear material or a nuclear facility in another State, the former shall decide on appropriate steps to be taken in order to inform that State as soon as possible and, where appropriate, the International Atomic Energy Agency and other relevant international organizations of that threat, with a view to preventing the sabotage;

(b) In the case of sabotage of nuclear material or a nuclear facility in a State Party and if in its view other States are likely to be radiologically affected, the former, without prejudice to its other obligations under international law, shall take appropriate steps to inform as soon as possible the State or the States which are likely to be radiologically affected and to inform, where appropriate, the International Atomic Energy Agency and other relevant international organizations, with a view to minimizing or mitigating the radiological consequences thereof;

(c) If in the context of sub-paragraphs (a) and (b), a State Party requests assistance, each State Party to which a request for assistance is directed shall promptly decide and notify the requesting State Party, directly or through the International Atomic Energy Agency, whether it is in a position to render the assistance requested and the scope and terms of the assistance that may be rendered;

(d) Co-ordination of the co-operation under sub-paragraphs (a) to (c) shall be through diplomatic or other agreed channels. The means of implementation of this co-operation shall be determined bilaterally or multilaterally by the States Parties concerned.

4. States Parties shall co-operate and consult, as appropriate, with each other directly or through the International Atomic Energy Agency and other relevant international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

5. A State Party may consult and co-operate, as appropriate, with other States Parties directly or through the International Atomic Energy Agency

and other relevant international organizations, with a view to obtaining their guidance on the design, maintenance and improvement of its national system of physical protection of nuclear material in domestic use, storage and transport and of nuclear facilities.

8. Article 6 of the Convention is replaced by the following text:

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations or to States that are not parties to this Convention in confidence, steps shall be taken to ensure that the confidentiality of such information is protected. A State Party that has received information in confidence from another State Party may provide this information to third parties only with the consent of that other State Party.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material or nuclear facilities.

9. Paragraph 1 of article 7 of the Convention is replaced by the following text:

1. The intentional commission of:

(a) An act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property or to the environment;

(b) A theft or robbery of nuclear material;

(c) An embezzlement or fraudulent obtaining of nuclear material;

(d) An act which constitutes the carrying, sending, or moving of nuclear material into or out of a State without lawful authority;

(e) An act directed against a nuclear facility, or an act interfering with the operation of a nuclear facility, where the offender intentionally causes, or where he knows that the act is likely to cause, death or serious injury to any person or substantial damage to property or to the environment by exposure to radiation or release of radioactive substances, unless the act is undertaken in conformity with the national law of the State Party in the territory of which the nuclear facility is situated;

(f) An act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;

(g) A threat:

- i. To use nuclear material to cause death or serious injury to any person or substantial damage to property or to the environment or to commit the offence described in sub-paragraph (e), or
- ii. To commit an offence described in sub-paragraphs (b) and (e) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;

(h) An attempt to commit any offence described in sub-paragraphs (a) to (e);

(i) An act which constitutes participation in any offence described in sub-paragraphs (a) to (h);

(j) An act of any person who organizes or directs others to commit an offence described in sub-paragraphs (a) to (h); and

(k) An act which contributes to the commission of any offence described in sub-paragraphs (a) to (h) by a group of persons acting with a common purpose; such act shall be intentional and shall either:

- i. Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence described in sub-paragraphs (a) to (g), or
- ii. Be made in the knowledge of the intention of the group to commit an offence described in subparagraphs (a) to (g)

shall be made a punishable offence by each State Party under its national law.

10. After article 11 of the Convention, two new articles, article 11A and article 11B, are added as follows:

#### *Article 11A*

None of the offences set forth in article 7 shall be regarded for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

#### *Article 11B*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 7 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic



origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

11. After article 13 of the Convention, a new article 13A is added as follows:

*Article 13A*

Nothing in this Convention shall affect the transfer of nuclear technology for peaceful purposes that is undertaken to strengthen the physical protection of nuclear material and nuclear facilities.

12. Paragraph 3 of article 14 of the Convention is replaced by the following text:

3. Where an offence involves nuclear material in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, or where an offence involves a nuclear facility and the alleged offender remains in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

13. Article 16 of the Convention is replaced by the following text:

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of the Amendment adopted on 8 July 2005 to review the implementation of this Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

14. Footnote *b* of Annex II of the Convention is replaced by the following text:

<sup>b</sup> Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 1 gray/hour (100 rads/hour) at one metre unshielded.

15. Footnote *e* of Annex II of the Convention is replaced by the following text:

<sup>e</sup> Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 1 gray/hour (100 rads/hour) at one metre unshielded.

## INTERNATIONAL CIVIL AVIATION ORGANIZATION

### 8. Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo Convention)

*Signed at Tokyo on 14 September 1963*

*In force on 4 December 1969*

*United Nations, Treaty Series, vol. 704, No. 10106*

*Depositary: International Civil Aviation Organization*

*The States Parties to this Convention*

*Have agreed as follows:*

#### CHAPTER I. SCOPE OF THE CONVENTION

##### *Article 1*

1. This Convention shall apply in respect of:
  - (a) offences against penal law;
  - (b) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board.
2. Except as provided in Chapter III, this Convention shall apply in respect of offences committed or acts done by a person on board any aircraft registered in a Contracting State, while that aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any State.
3. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take off until the moment when the landing run ends.
4. This Convention shall not apply to aircraft used in military, customs or police services.

##### *Article 2*

Without prejudice to the provisions of article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorizing or

requiring any action in respect of offences against penal laws of a political nature or those based on racial or religious discrimination.

## CHAPTER II. JURISDICTION

### *Article 3*

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.

2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

### *Article 4*

A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases:

- (a) The offence has effect on the territory of such State;
- (b) The offence has been committed by or against a national or permanent resident of such State;
- (c) The offence is against the security of such State;
- (d) The offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State;
- (e) The exercise of jurisdiction is necessary to ensure the observance of any obligation of such State under a multilateral international agreement.

## CHAPTER III. POWERS OF THE AIRCRAFT COMMANDER

### *Article 5*

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take off or the next point of intended landing is situated in a State other than that of registration, or the aircraft subsequently flies in the airspace of a State other than that of registration with such person still on board.

2. Notwithstanding the provisions of article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be considered to be in

flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the provisions of this Chapter shall continue to apply with respect to offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

#### *Article 6*

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act contemplated in article 1, paragraph 1, impose upon such person reasonable measures including restraint which are necessary:

- (a) To protect the safety of the aircraft, or of persons or property therein; or
- (b) To maintain good order and discipline on board; or
- (c) To enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

#### *Article 7*

1. Measures of restraint imposed upon a person in accordance with article 6 shall not be continued beyond any point at which the aircraft lands unless:

- (a) Such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with article 6, paragraph 1 (c) in order to enable his delivery to competent authorities;
- (b) The aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or
- (c) That person agrees to onward carriage under restraint.

2. The aircraft commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions

of article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

*Article 8*

1. The aircraft commander may, in so far as it is necessary for the purpose of subparagraph (a) or (b) of paragraph 1 of article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated in article 1, paragraph 1 (b).

2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this article, the fact of, and the reasons for, such disembarkation.

*Article 9*

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft.

2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.

3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this article with evidence and information which, under the law of the State of registration of the aircraft, are lawfully in his possession.

*Article 10*

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

CHAPTER IV. UNLAWFUL SEIZURE OF AIRCRAFT

*Article 11*

1. When a person on board has unlawfully committed by force or threat thereof an act of interference, seizure, or other wrongful exercise

of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated in the preceding paragraph, the Contracting State in which the aircraft lands shall permit its passengers and crew to continue their journey as soon as practicable, and shall return the aircraft and its cargo to the persons lawfully entitled to possession.

## CHAPTER V. POWERS AND DUTIES OF STATES

### *Article 12*

Any Contracting State shall allow the commander of an aircraft registered in another Contracting State to disembark any person pursuant to article 8, paragraph 1.

### *Article 13*

1. Any Contracting State shall take delivery of any person whom the aircraft commander delivers pursuant to article 9, paragraph 1.

2. Upon being satisfied that the circumstances so warrant, any Contracting State shall take custody or other measures to ensure the presence of any person suspected of an act contemplated in article 11, paragraph 1 and of any person of whom it has taken delivery. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.

3. Any person in custody pursuant to the previous paragraph shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. Any Contracting State, to which a person is delivered pursuant to article 9, paragraph 1, or in whose territory an aircraft lands following the commission of an act contemplated in article 11, paragraph 1, shall immediately make a preliminary enquiry into the facts.

5. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft and the State of nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 4 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

*Article 14*

1. When any person has been disembarked in accordance with article 8, paragraph 1, or delivered in accordance with article 9, paragraph 1, or has disembarked after committing an act contemplated in article 11, paragraph 1, and when such person cannot or does not desire to continue his journey and the State of landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the territory of the State of which he is a national or permanent resident or to the territory of the State in which he began his journey by air.

2. Neither disembarkation, nor delivery, nor the taking of custody or other measures contemplated in article 13, paragraph 2, nor return of the person concerned, shall be considered as admission to the territory of the Contracting State concerned for the purpose of its law relating to entry or admission of persons and nothing in this Convention shall affect the law of a Contracting State relating to the expulsion of persons from its territory.

*Article 15*

1. Without prejudice to article 14, any person who has been disembarked in accordance with article 8, paragraph 1, or delivered in accordance with article 9, paragraph 1, or has disembarked after committing an act contemplated in article 11, paragraph 1, and who desires to continue his journey shall be at liberty as soon as practicable to proceed to any destination of his choice unless his presence is required by the law of the State of landing for the purpose of extradition or criminal proceedings.

2. Without prejudice to its law as to entry and admission to, and extradition and expulsion from its territory, a Contracting State in whose territory a person has been disembarked in accordance with article 8, paragraph 1, or delivered in accordance with article 9, paragraph 1 or has disembarked and is suspected of having committed an act contemplated in article 11, paragraph 1, shall accord to such person treatment which is no less favourable for his protection and security than that accorded to nationals of such Contracting State in like circumstances.

CHAPTER VI. OTHER PROVISIONS

*Article 16*

1. Offences committed on aircraft registered in a Contracting State shall be treated, for the purpose of extradition, as if they had been committed not only in the place in which they have occurred but also in the territory of the State of registration of the aircraft.

2. Without prejudice to the provisions of the preceding paragraph, nothing in this Convention shall be deemed to create an obligation to grant extradition.

*Article 17*

In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.

*Article 18*

If Contracting States establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State those States shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

CHAPTER VII. FINAL CLAUSES

**Article 19**

Until the date on which this Convention comes into force in accordance with the provisions of article 21, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialized Agencies.

*Article 20*

1. This Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.
2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

*Article 21*

1. As soon as twelve of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the twelfth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.



2. As soon as this Convention comes into force, it shall be registered with the Secretary General of the United Nations by the International Civil Aviation Organization.

*Article 22*

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the Specialized Agencies.

2. The accession of a State shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the date of such deposit.

*Article 23*

1. Any Contracting State may denounce this Convention by notification addressed to the International Civil Aviation Organization.

2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

*Article 24*

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the International Civil Aviation Organization.

*Article 25*

Except as provided in article 24 no reservation may be made to this Convention.

*Article 26*

The International Civil Aviation Organization shall give notice to all States Members of the United Nations or of any of the Specialized Agencies:

- (a) Of any signature of this Convention and the date thereof;
- (b) Of the deposit of any instrument of ratification or accession and the date thereof;
- (c) Of the date on which this Convention comes into force in accordance with article 21, paragraph 1;
- (d) Of the receipt of any notification of denunciation and the date thereof; and
- (e) Of the receipt of any declaration or notification made under article 24 and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Tokyo on the fourteenth day of September, One Thousand Nine Hundred and Sixty three in three authentic texts drawn up in the English, French and Spanish languages.

This Convention shall be deposited with the International Civil Aviation Organization with which, in accordance with article 19, it shall remain open for signature and the said Organization shall send certified copies thereof to all States Members of the United Nations or of any Specialized Agency.

## **9. Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft**

*Signed at Montreal on 4 April 2014*

*ICAO Doc. 10034*

*Depositary: Secretary General of the International Civil Aviation Organization*

*The Contacting States to this Protocol,*

*Noting* that States have expressed their concern about the escalation of the severity and frequency of unruly behaviour on board aircraft that may jeopardize the safety of the aircraft or of persons or property therein or jeopardize good order and discipline on board;

*Recognizing* the desire of many States to assist each other in curbing unruly behaviour and restoring good order and discipline on board aircraft;

*Believing* that in order to address these concerns, it is necessary to adopt provisions to amend those of the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Tokyo on 14 September 1963;

*Have agreed as follows:*

### *Article I*

This Protocol amends the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963 (hereinafter referred to as “the Convention”).

### *Article II*

Article 1, paragraph 3, of the Convention shall be replaced by the following:

#### *“Article 1*

3. For the purposes of this Convention:

(a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board; and

(b) when the State of the operator is not the same as the State of registration, the term “the State of registration”, as used in Articles 4, 5 and 13 of the Convention shall be deemed to be the State of the operator.”

*Article III*

Article 2 of the Convention shall be replaced by the following:

*“Article 2*

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorizing or requiring any action in respect of offences against penal laws of a political nature or those based on discrimination on any ground such as race, religion, nationality, ethnic origin, political opinion or gender.”

*Article IV*

Article 3 of the Convention shall be replaced by the following:

*“Article 3*

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.

1 *bis*. A State is also competent to exercise jurisdiction over offences and acts committed on board:

(a) as the State of landing, when the aircraft on board which the offence or act is committed lands in its territory with the alleged offender still on board; and

(b) as the State of the operator, when the offence or act is committed on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence, is in that State.

2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.

2 *bis*. Each Contracting State shall also take such measures as may be necessary to establish its jurisdiction over offences committed on board aircraft in the following cases:

(a) as the State of landing, when:

(i) the aircraft on board which the offence is committed has its last point of take-off or next point of intended landing within its territory, and the aircraft subsequently lands in its territory with the alleged offender still on board; and

(ii) the safety of the aircraft or of persons or property therein, or good order and discipline on board, is jeopardized;

(b) as the State of the operator, when the offence is committed on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence, is in that State.

2 *ter*. In exercising its jurisdiction as the State of landing, a State shall consider whether the offence in question is an offence in the State of the operator.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.”

#### *Article V*

The following shall be added as Article 3 *bis* of the Convention:

#### *“Article 3 bis*

If a Contracting State, exercising its jurisdiction under Article 3, has been notified or has otherwise learned that one or more other Contracting States are conducting an investigation, prosecution or judicial proceeding in respect of the same offences or acts, that Contracting State shall, as appropriate, consult those other Contracting States with a view to coordinating their actions. The obligations in this Article are without prejudice to the obligations of a Contracting State under Article 13.”

#### *Article VI*

Article 5, paragraph 2, of the Convention shall be deleted.

#### *Article VII*

Article 6 of the Convention shall be replaced by the following:

#### *“Article 6*

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act contemplated in Article I, paragraph I, impose upon such person reasonable measures including restraint which are necessary:

(a) to protect the safety of the aircraft, or of persons or property therein; or

(b) to maintain good order and discipline on board; or

(c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of in-flight security officers or passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.
3. An in-flight security officer deployed pursuant to a bilateral or multilateral agreement or arrangement between the relevant Contracting States may take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft or persons therein from an act of unlawful interference, and, if the agreement or arrangement so allows, from the commission of serious offences.
4. Nothing in this Convention shall be deemed to create an obligation for a Contracting State to establish an in-flight security officer programme or to agree to a bilateral or multilateral agreement or arrangement authorizing foreign in-flight security officers to operate in its territory.”

*Article VIII*

Article 9 of the Convention shall be replaced by the following:

*“Article 9*

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence.
2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.
3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which are lawfully in his possession.”

*Article IX*

Article 10 of the Convention shall be replaced by the following:

*“Article 10*

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, any in-flight

security officer, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.”

*Article X*

The following shall be added as Article 15 *bis* of the Convention:

*“Article 15 bis*

1. Each Contracting State is encouraged to take such measures as may be necessary to initiate appropriate criminal, administrative or any other forms of legal proceedings against any person who commits on board an aircraft an offence or act referred to in Article 1, paragraph 1, in particular:

(a) physical assault or a threat to commit such assault against a crew member; or (b) refusal to follow a lawful instruction given by or on behalf of the aircraft commander for the purpose of protecting the safety of the aircraft or of persons or property therein.

2. Nothing in this Convention shall affect the right of each Contracting State to introduce or maintain in its national legislation appropriate measures in order to punish unruly and disruptive acts committed on board.”

*Article XI*

Article 16, paragraph 1, of the Convention shall be replaced by the following:

*“Article 16*

1. Offences committed on board aircraft shall be treated, for the purpose of extradition between the Contracting States, as if they had been committed not only in the place in which they occurred but also in the territories of the Contracting States required to establish their jurisdiction in accordance with paragraphs 2 and 2 *bis* of Article 3.”

*Article XII*

Article 17 of the Convention shall be replaced by the following:

*“Article 17*

1. In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft, the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.

2. Each Contracting State, when fulfilling its obligations, or exercising a permitted discretion under this Convention, shall act in accordance with the obligations and responsibilities of States under international law. In this respect, each Contracting State shall have regard for the principles of due process and fair treatment.”

*Article XIII*

The following shall be added as Article 18 *bis* of the Convention:

*“Article 18 bis*

Nothing in this Convention shall preclude any right to seek the recovery, under national law, of damages incurred, from a person disembarked or delivered pursuant to Article 8 or 9 respectively.”

*Article XIV*

The texts of the Convention in the Arabic, Chinese and Russian languages annexed to this Protocol shall, together with the texts of the Convention in the English, French, and Spanish languages, constitute texts equally authentic in the six languages.

*Article XV*

As between the Contracting States to this Protocol, the Convention and this Protocol shall be read and interpreted together as one single instrument and shall be known as the Tokyo Convention as amended by the Montreal Protocol, 2014.

*Article XVI*

This Protocol shall be open for signature in Montreal on 4 April 2014 by States participating in the International Air Law Conference held at Montreal from 26 March to 4 April 2014. After 4 April 2014, this Protocol shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with Article XVIII.

*Article XVII*

1. This Protocol is subject to ratification, acceptance or approval by the signatory States. The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the International Civil Aviation Organization, who is hereby designated as the Depository.



2. Any State which does not ratify, accept or approve this Protocol in accordance with paragraph 1 of this Article may accede to it at any time. The instruments of accession shall be deposited with the Depository.

3. Ratification, acceptance, approval or accession to this Protocol by any State which is not a Contracting State to the Convention shall have the effect of ratification, acceptance, approval or accession to the Tokyo Convention as amended by the Montreal Protocol, 2014.

#### *Article XVIII*

1. This Protocol shall enter into force on the first day of the second month following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Depository.

2. For each State ratifying, accepting, approving or acceding to this Protocol after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the first day of the second month following the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.

3. As soon as this Protocol enters into force, it shall be registered with the United Nations by the Depository.

#### *Article XIX*

1. Any Contracting State may denounce this Protocol by written notification to the Depository.

2. Denunciation shall take effect one year following the date on which notification is received by the Depository.

#### *Article XX*

The Depository shall promptly notify all signatory and Contracting States to this Protocol of the date of each signature, the date of deposit of each instrument of ratification, acceptance, approval or accession, the date of coming into force of this Protocol, and other relevant information.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the fourth day of April of the year Two Thousand and Fourteen in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another. This Protocol shall be deposited with the International Civil Aviation Organization,

and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Protocol.

## 10. Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague Convention)

*Signed at The Hague on 16 December 1970*

*In force on 14 October 1971*

*United Nations, Treaty Series, vol. 860, No. 12325*

*Depositary: Russian Federation, United Kingdom of Great Britain and Northern Ireland and the United States of America*

### PREAMBLE

*The States Parties to this Convention,*

*Considering that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;*

*Considering that the occurrence of such acts is a matter of grave concern;*

*Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;*

*Have agreed as follows:*

### *Article 1*

Any person who on board an aircraft in flight:

(a) Unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or

(b) Is an accomplice of a person who performs or attempts to perform any such act

Commits an offence (hereinafter referred to as “the offence”).

### *Article 2*

Each Contracting State undertakes to make the offence punishable by severe penalties.

### *Article 3*

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door

is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

3. This Convention shall apply only if the place of take off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in article 5, this Convention shall not apply if the place of take off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that article.

5. Notwithstanding paragraphs 3 and 4 of this article, articles 6, 7, 8 and 10 shall apply whatever the place of take off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

#### *Article 4*

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

(a) When the offence is committed on board an aircraft registered in that State;

(b) When the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(c) When the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

*Article 5*

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

*Article 6*

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in article 4, paragraph 1 (c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

*Article 7*

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

*Article 8*

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4, paragraph 1.

*Article 9*

1. When any of the acts mentioned in article 1 (a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

*Article 10*

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

*Article 11*

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) The circumstances of the offence;
- (b) The action taken pursuant to article 9;
- (c) The measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

*Article 12*

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

*Article 13*

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland,

and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to article 102 of the Charter of the United Nations and pursuant to article 83 of the Convention on International Civil Aviation (Chicago, 1944).

#### *Article 14*

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments, have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.



## **11. Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft**

*Done at Beijing on 10 September 2010*

*ICAO Doc. 9959*

*Depositary: Secretary General of the International Civil Aviation Organization*

*The States Parties to this Protocol,*

*Deeply concerned* about the worldwide escalation of unlawful acts against civil aviation;

*Recognizing* that new types of threats against civil aviation require new concerted efforts and policies of cooperation on the part of States; and;

*Believing* that in order to better address these threats, it is necessary to adopt provisions supplementary to those of the *Convention for the Suppression of Unlawful Seizure of Aircraft* signed at The Hague on 16 December 1970, to suppress unlawful acts of seizure or exercise of control of aircraft and to improve its effectiveness;

*Have agreed as follows:*

### *Article I*

This Protocol supplements the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970 (hereinafter referred to as “the Convention”).

### *Article II*

Article 1 of the Convention shall be replaced by the following:

#### *“Article 1*

1. Any person commits an offence if that person unlawfully and intentionally seizes or exercises control of an aircraft in service by force or threat thereof, or by coercion, or by any other form of intimidation, or by any technological means.
2. Any person also commits an offence if that person:
  - (a) makes a threat to commit the offence set forth in paragraph 1 of this Article; or
  - (b) unlawfully and intentionally causes any person to receive such a threat, under circumstances which indicate that the threat is credible.
3. Any person also commits an offence if that person:

(a) attempts to commit the offence set forth in paragraph 1 of this Article; or

(b) organizes or directs others to commit an offence set forth in paragraph 1, 2 or 3 (a) of this Article; or

(c) participates as an accomplice in an offence set forth in paragraph 1, 2 or 3 (a) of this Article; or

(d) unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed an act that constitutes an offence set forth in paragraph 1, 2, 3 (a), 3 (b) or 3 (c) of this Article, or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence.

4. Each State Party shall also establish as offences, when committed intentionally, whether or not any of the offences set forth in paragraph 1 or 2 of this Article is actually committed or attempted, either or both of the following:

(a) agreeing with one or more other persons to commit an offence set forth in paragraph 1 or 2 of this Article and, where required by national law, involving an act undertaken by one of the participants in furtherance of the agreement; or

(b) contributing in any other way to the commission of one or more offences set forth in paragraph 1 or 2 of this Article by a group of persons acting with a common purpose, and such contribution shall either:

(i) be made with the aim of furthering the general criminal activity or purpose of the group, where such activity or purpose involves the commission of an offence set forth in paragraph 1 or 2 of this Article; or

(ii) be made in the knowledge of the intention of the group to commit an offence set forth in paragraph 1 or 2 of this Article.”

### *Article III*

Article 2 of the Convention shall be replaced by the following:

#### *“Article 2*

Each State Party undertakes to make the offences set forth in Article 1 punishable by severe penalties.”

### *Article IV*

The following shall be added as Article 2 *bis* of the Convention:

*“Article 2 bis*

1. Each State Party, in accordance with its national legal principles, may take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in Article 1. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
3. If a State Party takes the necessary measures to make a legal entity liable in accordance with paragraph 1 of this Article, it shall endeavour to ensure that the applicable criminal, civil or administrative sanctions are effective, proportionate and dissuasive. Such sanctions may include monetary sanctions.”

*Article V*

1. Article 3, paragraph 1, of the Convention shall be replaced by the following:

*“Article 3*

1. For the purposes of this Convention, an aircraft is considered to be in service from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.”
2. In Article 3, paragraph 3, of the Convention, “registration” shall be replaced by “registry”.
3. In Article 3, paragraph 4, of the Convention, “mentioned” shall be replaced by “set forth”.
4. Article 3, paragraph 5, of the Convention shall be replaced by the following:
  - “5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 7 bis, 8, 8 bis, 8 ter and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registry of that aircraft.”

*Article VI*

The following shall be added as Article 3 bis of the Convention:

*“Article 3 bis*

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, the Convention on International Civil Aviation and international humanitarian law.
2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.
3. The provisions of paragraph 2 of this Article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.”

*Article VII*

Article 4 of the Convention shall be replaced by the following:

*“Article 4*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 and any other act of violence against passengers or crew committed by the alleged offender in connection with the offences, in the following cases:
  - (a) when the offence is committed in the territory of that State;
  - (b) when the offence is committed against or on board an aircraft registered in that State;
  - (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
  - (d) when the offence is committed against or on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in that State;
  - (e) when the offence is committed by a national of that State.
2. Each State Party may also establish its jurisdiction over any such offence in the following cases:
  - (a) when the offence is committed against a national of that State;
  - (b) when the offence is committed by a stateless person whose habitual residence is in the territory of that State.
3. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 in

the case where the alleged offender is present in its territory and it does not extradite that person pursuant to Article 8 to any of the States Parties that have established their jurisdiction in accordance with the applicable paragraphs of this Article with regard to those offences.

4. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.”

#### *Article VIII*

Article 5 of the Convention shall be replaced by the following:

#### *“Article 5*

The States Parties which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registry for the purpose of this Convention and shall give notice thereof to the Secretary General of the International Civil Aviation Organization who shall communicate the notice to all States Parties to this Convention.”

#### *Article IX*

Article 6, paragraph 4, of the Convention shall be replaced by the following:

#### *“Article 6*

4. When a State Party, pursuant to this Article, has taken a person into custody, it shall immediately notify the States Parties which have established jurisdiction under paragraph 1 of Article 4, and established jurisdiction and notified the Depositary under paragraph 2 of Article 4 and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant that person’s detention. The State Party which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States Parties and shall indicate whether it intends to exercise jurisdiction.”

#### *Article X*

The following shall be added as Article 7 *bis* of the Convention:

*“Article 7 bis*

Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.”

*Article XI*

Article 8 of the Convention shall be replaced by the following:

*“Article 8*

1. The offences set forth in Article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in Article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in Article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with subparagraphs (b), (c), (d) and (e) of paragraph 1 of Article 4 and who have established jurisdiction in accordance with paragraph 2 of Article 4.
5. The offences set forth in subparagraphs (a) and (b) of paragraph 4 of Article 1 shall, for the purpose of extradition between States Parties, be treated as equivalent.”

*Article XII*

The following shall be added as Article 8 *bis* of the Convention:

*“Article 8 bis*

None of the offences set forth in Article 1 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.”

*Article XIII*

The following shall be added as Article 8 *ter* of the Convention:

*“Article 8 ter*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 1 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person’s race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person’s position for any of these reasons.”

*Article XIV*

Article 9, paragraph 1, of the Convention shall be replaced by the following:

*“Article 9*

1. When any of the acts set forth in paragraph 1 of Article 1 has occurred or is about to occur, States Parties shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve the commander’s control of the aircraft.”

*Article XV*

Article 10, paragraph 1, of the Convention shall be replaced by the following:

*“Article 10*

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 1 and other acts set forth in Article 4. The law of the State requested shall apply in all cases.”

*Article XVI*

The following shall be added as Article 10 *bis* of the Convention:

*“Article 10 bis*

Any State Party having reason to believe that one of the offences set forth in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States Parties which it believes would be the States set forth in paragraphs 1 and 2 of Article 4.”

*Article XVII*

1. All references in the Convention to “Contracting State” and “Contracting States” shall be replaced by “State Party” and “States Parties” respectively.

2. All references in the Convention to “him” and “his” shall be replaced by “that person” and “that person’s” respectively.

*Article XVIII*

The texts of the Convention in the Arabic and Chinese languages annexed to this Protocol shall, together with the texts of the Convention in the English, French, Russian and Spanish languages, constitute texts equally authentic in the six languages.

*Article XIX*

As between the States Parties to this Protocol, the Convention and this Protocol shall be read and interpreted together as one single instrument and shall be known as The Hague Convention as amended by the Beijing Protocol, 2010.

*Article XX*

This Protocol shall be open for signature in Beijing on 10 September 2010 by States participating in the Diplomatic Conference on Aviation Security held at Beijing from 30 August to 10 September 2010. After 27 September 2010, this Protocol shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montréal until it enters into force in accordance with Article XXIII.

*Article XXI*

1. This Protocol is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be



deposited with the Secretary General of the International Civil Aviation Organization, who is hereby designated as the Depository.

2. Ratification, acceptance or approval of this Protocol by any State which is not a Party to the Convention shall have the effect of ratification, acceptance or approval of The Hague Convention as amended by the Beijing Protocol, 2010.

3. Any State which does not ratify, accept or approve this Protocol in accordance with paragraph 1 of this Article may accede to it at any time. The instruments of accession shall be deposited with the Depository.

#### *Article XXII*

Upon ratifying, accepting, approving or acceding to this Protocol, each State Party:

(a) shall notify the Depository of the jurisdiction it has established under its national law in accordance with paragraph 2 of Article 4 of The Hague Convention as amended by the Beijing Protocol, 2010, and immediately notify the Depository of any change; and

(b) may declare that it shall apply the provisions of subparagraph (d) of paragraph 3 of Article 1 of The Hague Convention as amended by the Beijing Protocol, 2010 in accordance with the principles of its criminal law concerning family exemptions from liability.

#### *Article XXIII*

1. This Protocol shall enter into force on the first day of the second month following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Depository.

2. For each State ratifying, accepting, approving or acceding to this Protocol after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the first day of the second month following the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.

3. As soon as this Protocol enters into force, it shall be registered with the United Nations by the Depository.

#### *Article XXIV*

1. Any State Party may denounce this Protocol by written notification to the Depository.

2. Denunciation shall take effect one year following the date on which notification is received by the Depository.

*Article XXV*

The Depositary shall promptly inform all States Parties to this Protocol and all signatory or acceding States to this Protocol of the date of each signature, the date of deposit of each instrument of ratification, acceptance, approval or accession, the date of coming into force of this Protocol, and other relevant information.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Beijing on the tenth day of September of the year Two Thousand and Ten in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Protocol.

## **12. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation**

*Concluded at Montreal on 23 September 1971*

*In force on 26 January 1973*

*United Nations, Treaty Series, vol. 974, No. 14118*

*Depositary: Russian Federation, United Kingdom of Great Britain and Northern Ireland and the United States of America*

*The States Parties to the Convention,*

*Considering that unlawful acts against the safety of civil aviation jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;*

*Considering that the occurrence of such acts is a matter of grave concern;*

*Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;*

*Have agreed as follows:*

### *Article 1*

1. Any person commits an offence if he unlawfully and intentionally:

(a) Performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

(b) Destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

(c) Places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(d) Destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or

(e) Communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.

2. Any person also commits an offence if he:

- (a) Attempts to commit any of the offences mentioned in paragraph 1 of this article; or
- (b) Is an accomplice of a person who commits or attempts to commit any such offence.

#### *Article 2*

For the purposes of this Convention:

- (a) An aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;
- (b) An aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this article.

#### *Article 3*

Each Contracting State undertakes to make the offences mentioned in article 1 punishable by severe penalties.

#### *Article 4*

1. This Convention shall not apply to aircraft used in military, customs or police services.
2. In the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if:
  - (a) The place of take off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft; or
  - (b) The offence is committed in the territory of a State other than the State of registration of the aircraft.
3. Notwithstanding paragraph 2 of this article, in the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.
4. With respect to the States mentioned in article 9 and in the cases mentioned in subparagraphs (a), (b), (c) and (e) of paragraph 1

of article 1, this Convention shall not apply if the places referred to in subparagraph (a) of paragraph 2 of this article are situated within the territory of the same State where that State is one of those referred to in article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4 and 5 of this article shall also apply in the cases contemplated in paragraph 2 of article 1.

#### *Article 5*

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

- (a) When the offence is committed in the territory of that State;
- (b) When the offence is committed against or on board an aircraft registered in that State;
- (c) When the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (d) When the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in article 1, paragraph 1 (a), (b) and (c), and in article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### *Article 6*

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States mentioned in article 5, paragraph 1, the State of nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### *Article 7*

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

#### *Article 8*

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1 (b), (c) and (d).

*Article 9*

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

*Article 10*

1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measure for the purpose of preventing the offences mentioned in article 1.

2. When, due to the commission of one of the offences mentioned in article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

*Article 11*

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

*Article 12*

Any Contracting State having reason to believe that one of the offences mentioned in article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in article 5, paragraph 1.

*Article 13*

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) The circumstances of the offence;

- (b) The action taken pursuant to article 10, paragraph 2;
- (c) The measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

*Article 14*

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

*Article 15*

1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971 (hereinafter referred to as the Montreal Conference). After 10 October 1971, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in the Montreal Conference.



4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to article 102 of the Convention on International Civil Aviation (Chicago, 1944).

*Article 16*

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.

DONE at Montreal, this twenty third day of September, one thousand nine hundred and seventy one, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

**13. 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, done at Montreal on 23 September 1971**

*Done at Montreal on 24 February 1988*

*In force on 6 August 1989*

*ICAO Doc. 9518*

*United Nations, Treaty Series, vol. 1589, No. A-1418*

*Depositary: Russian Federation, United Kingdom of Great Britain and Northern Ireland, the United States of America and the International Civil Aviation Organization*

*The States Parties to this Protocol,*

*Considering that unlawful acts of violence which endanger or are likely to endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the peoples of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States;*

*Considering that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;*

*Considering that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, to deal with such unlawful acts of violence at airports serving international civil aviation;*

*Have agreed as follows:*

*Article I*

This Protocol supplements the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (hereinafter referred to as “the Convention”), and, as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument.

### Article II

1. In article 1 of the Convention, the following shall be added as new paragraph 1 *bis*:

“1 *bis*. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:

(a) Performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

(b) Destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,

If such an act endangers or is likely to endanger safety at that airport.”

2. In paragraph 2 (a) of article 1 of the Convention, the following words shall be inserted after the words “paragraph 1”:

“Or paragraph 1 *bis*”.

### Article III

In article 5 of the Convention, the following shall be added as paragraph 2 *bis*:

“2 *bis*. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in article 1, paragraph 1 *bis*, and in article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to the State mentioned in paragraph 1 (a) of this article.”

### Article IV

This Protocol shall be open for signature at Montreal on 24 February 1988 by States participating in the International Conference on Air Law held at Montreal from 9 to 24 February 1988. After 1 March 1988, the Protocol shall be open for signature to all States in London, Moscow, Washington and Montreal, until it enters into force in accordance with article VI.

### Article V

1. This Protocol shall be subject to ratification by the signatory States.

2. Any State which is not a Contracting State to the Convention may ratify this Protocol if at the same time it ratifies or accedes to the Convention in accordance with article 15 thereof.

3. Instruments of ratification shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom

of Great Britain and Northern Ireland and the United States of America or with the International Civil Aviation Organization, which are hereby designated the Depositaries.

*Article VI*

1. As soon as ten of the signatory States have deposited their instruments of ratification of this Protocol, it shall enter into force between them on the thirtieth day after the date of the deposit of the tenth instrument of ratification. It shall enter into force for each State which deposits its instrument of ratification after that date on the thirtieth day after deposit of its instrument of ratification.

2. As soon as this Protocol enters into force, it shall be registered by the Depositaries pursuant to article 102 of the Charter of the United Nations and pursuant to article 83 of the Convention on International Civil Aviation (Chicago, 1944).

*Article VII*

1. This Protocol shall, after it has entered into force, be open for accession by any non-signatory State.

2. Any State which is not a Contracting State to the Convention may accede to this Protocol if at the same time it ratifies or accedes to the Convention in accordance with article 15 thereof.

3. Instruments of accession shall be deposited with the Depositaries and accession shall take effect on the thirtieth day after the deposit.

*Article VIII*

1. Any Party to this Protocol may denounce it by written notification addressed to the Depositaries.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositaries.

3. Denunciation of this Protocol shall not of itself have the effect of denunciation of the Convention.

4. Denunciation of the Convention by a Contracting State to the Convention as supplemented by this Protocol shall also have the effect of denunciation of this Protocol.

*Article IX*

1. The Depositaries shall promptly inform all signatory and acceding States to this Protocol and all signatory and acceding States to the Convention:

(a) Of the date of each signature and the date of deposit of each instrument of ratification of, or accession to, this Protocol, and

(b) Of the receipt of any notification of denunciation of this Protocol and the date thereof.

2. The Depositaries shall also notify the States referred to in paragraph 1 of the date on which this Protocol enters into force in accordance with article VI.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Protocol.

DONE at Montreal on the twenty fourth day of February of the year One Thousand Nine Hundred and Eighty eight, in four originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

## 14. Convention on the Marking of Plastic Explosives for the Purpose of Detection

*Signed at Montreal on 1 March 1991*

*In force on 21 June 1998*

*United Nations, Treaty Series, vol. 2122, No. 36984*

*Depositary: International Civil Aviation Organization*

*The States Parties to this Convention,*

*Conscious of the implications of acts of terrorism for international security;*

*Expressing deep concern regarding terrorist acts aimed at destruction of aircraft, other means of transportation and other targets;*

*Concerned that plastic explosives have been used for such terrorist acts;*

*Considering that the marking of such explosives for the purpose of detection would contribute significantly to the prevention of such unlawful acts;*

*Recognizing that for the purpose of deterring such unlawful acts there is an urgent need for an international instrument obliging States to adopt appropriate measures to ensure that plastic explosives are duly marked;*

*Considering United Nations Security Council resolution 635 of 14 June 1989, and United Nations General Assembly resolution 44/29 of 4 December 1989 urging the International Civil Aviation Organization to intensify its work on devising an international regime for the marking of plastic or sheet explosives for the purpose of detection;*

*Bearing in mind resolution A27-8 adopted unanimously by the 27th Session of the Assembly of the International Civil Aviation Organization which endorsed with the highest and overriding priority the preparation of a new international instrument regarding the marking of plastic or sheet explosives for detection;*

*Noting with satisfaction the role played by the Council of the International Civil Aviation Organization in the preparation of the Convention as well as its willingness to assume functions related to its implementation;*

*Have agreed as follows:*

### *Article I*

For the purposes of this Convention:

1. “Explosives” mean explosive products, commonly known as “plastic explosives”, including explosives in flexible or elastic sheet form, as described in the Technical Annex to this Convention.

2. “Detection agent” means a substance as described in the Technical Annex to this Convention which is introduced into an explosive to render it detectable.

3. “Marking” means introducing into an explosive a detection agent in accordance with the Technical Annex to this Convention.

4. “Manufacture” means any process, including reprocessing, that produces explosives.

5. “Duly authorized military devices” include, but are not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades and perforators manufactured exclusively for military or police purposes according to the laws and regulations of the State Party concerned.

6. “Producer State” means any State in whose territory explosives are manufactured.

#### *Article II*

Each State Party shall take the necessary and effective measures to prohibit and prevent the manufacture in its territory of unmarked explosives.

#### *Article III*

1. Each State Party shall take the necessary and effective measures to prohibit and prevent the movement into or out of its territory of unmarked explosives.

2. The preceding paragraph shall not apply in respect of movements for purposes not inconsistent with the objectives of this Convention, by authorities of a State Party performing military or police functions, of unmarked explosives under the control of that State Party in accordance with paragraph 1 of article IV.

#### *Article IV*

1. Each State Party shall take the necessary measures to exercise strict and effective control over the possession and transfer of possession of unmarked explosives which have been manufactured in or brought into its territory prior to the entry into force of this Convention in respect of that State, so as to prevent their diversion or use for purposes inconsistent with the objectives of this Convention.

2. Each State Party shall take the necessary measures to ensure that all stocks of those explosives referred to in paragraph 1 of this

article not held by its authorities performing military or police functions are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective, within a period of three years from the entry into force of this Convention in respect of that State.

3. Each State Party shall take the necessary measures to ensure that all stocks of those explosives referred to in paragraph 1 of this article held by its authorities performing military or police functions and that are not incorporated as an integral part of duly authorized military devices are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective, within a period of fifteen years from the entry into force of this Convention in respect of that State.

4. Each State Party shall take the necessary measures to ensure the destruction, as soon as possible, in its territory of unmarked explosives which may be discovered therein and which are not referred to in the preceding paragraphs of this article, other than stocks of unmarked explosives held by its authorities performing military or police functions and incorporated as an integral part of duly authorized military devices at the date of the entry into force of this Convention in respect of that State.

5. Each State Party shall take the necessary measures to exercise strict and effective control over the possession and transfer of possession of the explosives referred to in paragraph II of Part 1 of the Technical Annex to this Convention so as to prevent their diversion or use for purposes inconsistent with the objectives of this Convention.

6. Each State Party shall take the necessary measures to ensure the destruction, as soon as possible, in its territory of unmarked explosives manufactured since the coming into force of this Convention in respect of that State that are not incorporated as specified in paragraph II (*d*) of Part 1 of the Technical Annex to this Convention and of unmarked explosives which no longer fall within the scope of any other sub-paragraphs of the said paragraph II.

#### *Article V*

1. There is established by this Convention an International Explosives Technical Commission (hereinafter referred to as “the Commission”) consisting of not less than fifteen nor more than nineteen members appointed by the Council of the International Civil Aviation Organization (hereinafter referred to as “the Council”) from among persons nominated by States Parties to this Convention.



2. The members of the Commission shall be experts having direct and substantial experience in matters relating to the manufacture or detection of, or research in, explosives.

3. Members of the Commission shall serve for a period of three years and shall be eligible for re-appointment.

4. Sessions of the Commission shall be convened at least once a year at the Headquarters of the International Civil Aviation Organization, or at such places and times as may be directed or approved by the Council.

5. The Commission shall adopt its rules of procedure, subject to the approval of the Council.

#### *Article VI*

1. The Commission shall evaluate technical developments relating to the manufacture, marking and detection of explosives.

2. The Commission, through the Council, shall report its findings to the States Parties and international organizations concerned.

3. Whenever necessary, the Commission shall make recommendations to the Council for amendments to the Technical Annex to this Convention. The Commission shall endeavour to take its decisions on such recommendations by consensus. In the absence of consensus the Commission shall take such decisions by a two-thirds majority vote of its members.

4. The Council may, on the recommendation of the Commission, propose to States Parties amendments to the Technical Annex to this Convention.

#### *Article VII*

1. Any State Party may, within ninety days from the date of notification of a proposed amendment to the Technical Annex to this Convention, transmit to the Council its comments. The Council shall communicate these comments to the Commission as soon as possible for its consideration. The Council shall invite any State Party which comments on or objects to the proposed amendment to consult the Commission.

2. The Commission shall consider the views of States Parties made pursuant to the preceding paragraph and report to the Council. The Council, after consideration of the Commission's report, and taking into account the nature of the amendment and the comments of States Parties, including producer States, may propose the amendment to all States Parties for adoption.

3. If a proposed amendment has not been objected to by five or more States Parties by means of written notification to the Council within ninety days from the date of notification of the amendment by

the Council, it shall be deemed to have been adopted, and shall enter into force one hundred and eighty days thereafter or after such other period as specified in the proposed amendment for States Parties not having expressly objected thereto.

4. States Parties having expressly objected to the proposed amendment may, subsequently, by means of the deposit of an instrument of acceptance or approval, express their consent to be bound by the provisions of the amendment.

5. If five or more States Parties have objected to the proposed amendment, the Council shall refer it to the Commission for further consideration.

6. If the proposed amendment has not been adopted in accordance with paragraph 3 of this article, the Council may also convene a conference of all States Parties.

#### *Article VIII*

1. States Parties shall, if possible, transmit to the Council information that would assist the Commission in the discharge of its functions under paragraph 1 of article VI.

2. States Parties shall keep the Council informed of measures they have taken to implement the provisions of this Convention. The Council shall communicate such information to all States Parties and international organizations concerned.

#### *Article IX*

The Council shall, in co-operation with States Parties and international organizations concerned, take appropriate measures to facilitate the implementation of this Convention, including the provision of technical assistance and measures for the exchange of information relating to technical developments in the marking and detection of explosives.

#### *Article X*

The Technical Annex to this Convention shall form an integral part of this Convention.

#### *Article XI*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of

the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other States Parties shall not be bound by the preceding paragraph with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary.

#### *Article XII*

Except as provided in article XI no reservation may be made to this Convention.

#### *Article XIII*

1. This Convention shall be open for signature in Montreal on 1 March 1991 by States participating in the International Conference on Air Law held at Montreal from 12 February to 1 March 1991. After 1 March 1991 the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 3 of this article. Any State which does not sign this Convention may accede to it at any time.

2. This Convention shall be subject to ratification, acceptance, approval or accession by States. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary. When depositing its instrument of ratification, acceptance, approval or accession, each State shall declare whether or not it is a producer State.

3. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession with the Depositary, provided that no fewer than five such States have declared pursuant to paragraph 2 of this article that they are producer States. Should thirty-five such instruments be deposited prior to the deposit of their instruments by five producer States, this Convention shall enter into force on the sixtieth day following the date of deposit of the instrument of ratification, acceptance, approval or accession of the fifth producer State.

4. For other States, this Convention shall enter into force sixty days following the date of deposit of their instruments of ratification, acceptance, approval or accession.

5. As soon as this Convention comes into force, it shall be registered by the Depositary pursuant to article 102 of the Charter of the United Nations and pursuant to article 83 of the Convention on International Civil Aviation (Chicago, 1944).

*Article XIV*

The Depositary shall promptly notify all signatories and States Parties of:

1. Each signature of this Convention and date thereof;
2. Each deposit of an instrument of ratification, acceptance, approval or accession and date thereof, giving special reference to whether the State has identified itself as a producer State;
3. The date of entry into force of this Convention;
4. The date of entry into force of any amendment to this Convention or its Technical Annex;
5. Any denunciation made under article XV; and
6. Any declaration made under paragraph 2 of article XI.

*Article XV*

1. Any State Party may denounce this Convention by written notification to the Depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.

DONE at Montreal, this first day of March, one thousand nine hundred and ninety-one, in one original, drawn up in five authentic texts in the English, French, Russian, Spanish and Arabic languages.

TECHNICAL ANNEX

Part I: DESCRIPTION OF EXPLOSIVES

- I. The explosives referred to in paragraph 1 of article I of this Convention are those that:
  - (a) Are formulated with one or more high explosives which in their pure form have a vapour pressure less than 10<sup>-4</sup> Pa at a temperature of 25°C;
  - (b) Are formulated with a binder material; and
  - (c) Are, as a mixture, malleable or flexible at normal room temperature.

II. The following explosives, even though meeting the description of explosives in paragraph I of this Part, shall not be considered to be explosives as long as they continue to be held or used for the purposes specified below or remain incorporated as there specified, namely those explosives that:

- (a) Are manufactured, or held, in limited quantities solely for use in duly authorized research, development or testing of new or modified explosives;
- (b) Are manufactured, or held, in limited quantities solely for use in duly authorized training in explosives detection and/or development or testing of explosives detection equipment;
- (c) Are manufactured, or held, in limited quantities solely for duly authorized forensic science purposes; or
- (d) Are destined to be and are incorporated as an integral part of duly authorized military devices in the territory of the producer State within three years after the coming into force of this Convention in respect of that State. Such devices produced in this period of three years shall be deemed to be duly authorized military devices within paragraph 4 of article IV of this Convention.

III. In this Part:

“Duly authorized” in paragraph II (a), (b) and (c) means permitted according to the laws and regulations of the State Party concerned; and

“High explosives” include but are not restricted to cyclotetramethylenetetranitramine (HMX), pentaerythritol tetranitrate (PETN) and cyclotrimethylenetrinitramine (RDX).

#### Part 2: DETECTION AGENTS

A detection agent is any one of those substances set out in the following Table. Detection agents described in this Table are intended to be used to enhance the detectability of explosives by vapour detection means. In each case, the introduction of a detection agent into an explosive shall be done in such a manner as to achieve homogeneous distribution in the finished product. The minimum concentration of a detection agent in the finished product at the time of manufacture shall be as shown in the said Table.

TABLE

<i>Name of detection agent</i>	<i>Molecular formula</i>	<i>Molecular weight</i>	<i>Minimum concentration</i>
Ethylene glycol dinitrate (EGDN)	$C_2H_4(NO_3)_2$	152	0.2% by mass
2,3-Dimethyl-2,3-dinitrobutane (DMNB)	$C_6H_{12}(NO_2)_2$	176	0.1% by mass
para-Mononitrotoluene (p-MNT)	$C_7H_7NO_2$	137	0.5% by mass
ortho-Mononitrotoluene (o-MNT)	$C_7H_7NO_2$	137	0.5% by mass

Any explosive which, as a result of its normal formulation contains any of the designated detection agents at or above the required minimum concentration level shall be deemed to be marked.

## **15. Convention on the Suppression of Unlawful Acts relating to International Civil Aviation**

*Done at Beijing on 10 September 2010*

*Doc. 9960*

*Depositary: Secretary-General of the International Civil Aviation Organization*

*The States Parties to this Convention,*

*Deeply concerned* that unlawful acts against civil aviation jeopardize the safety and security of persons and property, seriously affect the operation of air services, airports and air navigation, and undermine the confidence of the peoples of the world in the safe and orderly conduct of civil aviation for all States;

*Recognizing* that new types of threats against civil aviation require new concerted efforts and policies of cooperation on the part of States; and

*Being convinced* that in order to better address these threats, there is an urgent need to strengthen the legal framework for international cooperation in preventing and suppressing unlawful acts against civil aviation;

*Have agreed as follows:*

### *Article 1*

1. Any person commits an offence if that person unlawfully and intentionally:

(a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

(b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

(c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or

(e) communicates information which that person knows to be false, thereby endangering the safety of an aircraft in flight; or

(f) uses an aircraft in service for the purpose of causing death, serious bodily injury, or serious damage to property or the environment; or

(g) releases or discharges from an aircraft in service any BCN weapon or explosive, radioactive, or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment; or

(h) uses against or on board an aircraft in service any BCN weapon or explosive, radioactive, or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment; or

(i) transports, causes to be transported, or facilitates the transport of, on board an aircraft:

- (1) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under national law, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; or
- (2) any BCN weapon, knowing it to be a BCN weapon as defined in Article 2; or
- (3) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to a safeguards agreement with the International Atomic Energy Agency; or
- (4) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon without lawful authorization and with the intention that it will be used for such purpose;

provided that for activities involving a State Party, including those undertaken by a person or legal entity authorized by a State Party, it shall not be an offence under subparagraphs (3) and (4) if the transport of such items or materials is consistent with or is for a use or activity that is consistent with its rights, responsibilities and obligations under the applicable multilateral non-proliferation treaty to which it is a party including those referred to in Article 7.

2. Any person commits an offence if that person unlawfully and intentionally, using any device, substance or weapon:



(a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

(b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport.

3. Any person also commits an offence if that person:

(a) makes a threat to commit any of the offences in subparagraphs (a), (b), (c), (d), (f), (g) and (h) of paragraph 1 or in paragraph 2 of this Article; or

(b) unlawfully and intentionally causes any person to receive such a threat,

under circumstances which indicate that the threat is credible.

4. Any person also commits an offence if that person:

(a) attempts to commit any of the offences set forth in paragraph 1 or 2 of this Article; or

(b) organizes or directs others to commit an offence set forth in paragraph 1, 2, 3 or 4(a) of this Article; or

(c) participates as an accomplice in an offence set forth in paragraph 1, 2, 3 or 4(a) of this Article; or

(d) unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed an act that constitutes an offence set forth in paragraph 1, 2, 3, 4(a), 4(b) or 4(c) of this Article, or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence.

5. Each State Party shall also establish as offences, when committed intentionally, whether or not any of the offences set forth in paragraph 1, 2 or 3 of this Article is actually committed or attempted, either or both of the following:

(a) agreeing with one or more other persons to commit an offence set forth in paragraph 1, 2 or 3 of this Article and, where required by national law, involving an act undertaken by one of the participants in furtherance of the agreement; or

(b) contributing in any other way to the commission of one or more offences set forth in paragraph 1, 2 or 3 of this Article by a group of persons acting with a common purpose, and such contribution shall either:

(i) be made with the aim of furthering the general criminal activity or purpose of the group, where such activity or

- purpose involves the commission of an offence set forth in paragraph 1, 2 or 3 of this Article; or
- (ii) be made in the knowledge of the intention of the group to commit an offence set forth in paragraph 1, 2 or 3 of this Article.

### *Article 2*

For the purposes of this Convention:

- (a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;
- (b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article;
- (c) "Air navigation facilities" include signals, data, information or systems necessary for the navigation of the aircraft;
- (d) "Toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;
- (e) "Radioactive material" means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to the environment;
- (f) "Nuclear material" means plutonium, except that with isotopic concentration exceeding 80 per cent in plutonium-238; uranium-233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; or any material containing one or more of the foregoing;
- (g) "Uranium enriched in the isotope 235 or 233" means uranium containing the isotope 235 or 233 or both in an amount such that

the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;

(h) “BCN weapon” means:

(a) “biological weapons”, which are:

(i) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or

(ii) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

(b) “chemical weapons”, which are, together or separately:

(i) toxic chemicals and their precursors, except where intended for:

(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes; or

(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or

(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(D) law enforcement including domestic riot control purposes, as long as the types and quantities are consistent with such purposes;

(ii) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (b)(i), which would be released as a result of the employment of such munitions and devices;

(iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b)(ii).

(c) nuclear weapons and other nuclear explosive devices.

(i) “Precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system;

(j) the terms “source material” and “special fissionable material” have the same meaning as given to those terms in the Statute of the

International Atomic Energy Agency, done at New York on 26 October 1956.

*Article 3*

Each State Party undertakes to make the offences set forth in Article 1 punishable by severe penalties.

*Article 4*

1. Each State Party, in accordance with its national legal principles, may take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in Article 1. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. If a State Party takes the necessary measures to make a legal entity liable in accordance with paragraph 1 of this Article, it shall endeavour to ensure that the applicable criminal, civil or administrative sanctions are effective, proportionate and dissuasive. Such sanctions may include monetary sanctions.

*Article 5*

1. This Convention shall not apply to aircraft used in military, customs or police services.

2. In the cases contemplated in subparagraphs (a), (b), (c), (e), (f), (g), (h) and (i) of paragraph 1 of Article 1, this Convention shall apply irrespective of whether the aircraft is engaged in an international or domestic flight, only if:

(a) the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registry of that aircraft; or

(b) the offence is committed in the territory of a State other than the State of registry of the aircraft.

3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs (a), (b), (c), (e), (f), (g), (h) and (i) of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registry of the aircraft.

4. With respect to the States Parties mentioned in Article 15 and in the cases set forth in subparagraphs (a), (b), (c), (e), (f), (g), (h) and (i) of paragraph 1 of Article 1, this Convention shall not apply if the places

referred to in subparagraph (a) of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 15, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 4 of Article 1.

#### *Article 6*

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, the Convention on International Civil Aviation and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

3. The provisions of paragraph 2 of this Article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.

#### *Article 7*

Nothing in this Convention shall affect the rights, obligations and responsibilities under the Treaty on the Non-Proliferation of Nuclear Weapons, signed at London, Moscow and Washington on 1 July 1968, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, signed at London, Moscow and Washington on 10 April 1972, or the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed at Paris on 13 January 1993, of States Parties to such treaties.

#### *Article 8*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 in the following cases:

- (a) when the offence is committed in the territory of that State;
- (b) when the offence is committed against or on board an aircraft registered in that State;
- (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (d) when the offence is committed against or on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in that State;
- (e) when the offence is committed by a national of that State.

2. Each State Party may also establish its jurisdiction over any such offence in the following cases:

- (a) when the offence is committed against a national of that State;
- (b) when the offence is committed by a stateless person whose habitual residence is in the territory of that State.

3. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1, in the case where the alleged offender is present in its territory and it does not extradite that person pursuant to Article 12 to any of the States Parties that have established their jurisdiction in accordance with the applicable paragraphs of this Article with regard to those offences.

4. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### *Article 9*

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present, shall take that person into custody or take other measures to ensure that person's presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which that person is a national.

4. When a State Party, pursuant to this Article, has taken a person into custody, it shall immediately notify the States Parties which have established jurisdiction under paragraph 1 of Article 8 and established jurisdiction and notified the Depositary under subparagraph (a) of paragraph 4 of Article 21 and, if it considers it advisable, any other

interested States of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State Party which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States Parties and shall indicate whether it intends to exercise jurisdiction.

*Article 10*

The State Party in the territory of which the alleged offender is found shall, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

*Article 11*

Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

*Article 12*

1. The offences set forth in Article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in Article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in Article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with

subparagraphs (b), (c), (d) and (e) of paragraph 1 of Article 8, and who have established jurisdiction in accordance with paragraph 2 of Article 8.

5. The offences set forth in subparagraphs (a) and (b) of paragraph 5 of Article 1 shall, for the purpose of extradition between States Parties, be treated as equivalent.

*Article 13*

None of the offences set forth in Article 1 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

*Article 14*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 1 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

*Article 15*

The States Parties which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registry for the purpose of this Convention and shall give notice thereof to the Secretary General of the International Civil Aviation Organization who shall communicate the notice to all States Parties to this Convention.

*Article 16*

1. States Parties shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences set forth in Article 1.



2. When, due to the commission of one of the offences set forth in Article 1, a flight has been delayed or interrupted, any State Party in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

*Article 17*

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 1. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

*Article 18*

Any State Party having reason to believe that one of the offences set forth in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States Parties which it believes would be the States set forth in paragraphs 1 and 2 of Article 8.

*Article 19*

Each State Party shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to paragraph 2 of Article 16;
- (c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

*Article 20*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other States Parties shall not be bound by the preceding paragraph with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depository.

#### *Article 21*

1. This Convention shall be open for signature in Beijing on 10 September 2010 by States participating in the Diplomatic Conference on Aviation Security held at Beijing from 30 August to 10 September 2010. After 27 September 2010, this Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montréal until it enters into force in accordance with Article 22.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the International Civil Aviation Organization, who is hereby designated as the Depository.

3. Any State which does not ratify, accept or approve this Convention in accordance with paragraph 2 of this Article may accede to it at any time. The instrument of accession shall be deposited with the Depository.

4. Upon ratifying, accepting, approving or acceding to this Convention, each State Party:

(a) shall notify the Depository of the jurisdiction it has established under its national law in accordance with paragraph 2 of Article 8, and immediately notify the Depository of any change; and

(b) may declare that it shall apply the provisions of subparagraph (d) of paragraph 4 of Article 1 in accordance with the principles of its criminal law concerning family exemptions from liability.

#### *Article 22*

1. This Convention shall enter into force on the first day of the second month following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession.

2. For each State ratifying, accepting, approving or acceding to this Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the second month following the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.

3. As soon as this Convention enters into force, it shall be registered with the United Nations by the Depositary.

*Article 23*

1. Any State Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect one year following the date on which notification is received by the Depositary.

*Article 24*

As between the States Parties, this Convention shall prevail over the following instruments:

(a) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Signed at Montreal on 23 September 1971; and

(b) the 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, Done at Montreal on 23 September 1971, Signed at Montreal on 24 February 1988.

*Article 25*

The Depositary shall promptly inform all States Parties to this Convention and all signatory or acceding States to this Convention of the date of each signature, the date of deposit of each instrument of ratification, approval, acceptance or accession, the date of coming into force of this Convention, and other relevant information.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Beijing on the tenth day of September of the year Two Thousand and Ten in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another. This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Convention.

## INTERNATIONAL MARITIME ORGANIZATION

### 16. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention)

*Done at Rome on 10 March 1988*

*In force on 1 March 1992*

*United Nations, Treaty Series, vol. 1678, No. 29004*

*Depositary: Secretary-General of the International Maritime Organization*

*The States Parties to this Convention,*

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and cooperation among States,

*Recognizing* in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

*Deeply concerned* about the world wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

*Considering* that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the peoples of the world in the safety of maritime navigation,

*Considering* that the occurrence of such acts is a matter of grave concern to the international community as a whole,

*Being convinced* of the urgent need to develop international cooperation between States in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of their perpetrators,

*Recalling* resolution 40/61 of the General Assembly of the United Nations of 9 December 1985 which, *inter alia*, “urges all States, unilaterally and in cooperation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of

causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security”,

*Recalling further* that resolution 40/61 “unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security”,

*Recalling also* that by resolution 40/61, the International Maritime Organization was invited to “study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures”,

*Having in mind* resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called for development of measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

*Noting* that acts of the crew which are subject to normal shipboard discipline are outside the purview of this Convention,

*Affirming* the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board ships, with a view to updating them as necessary, and, to this effect, taking note with satisfaction of the Measures to Prevent Unlawful Acts against Passengers and Crews on Board Ships, recommended by the Maritime Safety Committee of the International Maritime Organization,

*Affirming further* that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

*Recognizing* the need for all States, in combating unlawful acts against the safety of maritime navigation, strictly to comply with rules and principles of general international law,

*Have agreed as follows:*

#### *Article 1*

For the purposes of this Convention, “ship” means a vessel of any type whatsoever not permanently attached to the sea bed, including dynamically supported craft, submersibles, or any other floating craft.

#### *Article 2*

1. This Convention does not apply to:
  - (a) A warship; or

(b) A ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or

(c) A ship which has been withdrawn from navigation or laid up.

2. Nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

### *Article 3*

1. Any person commits an offence if that person unlawfully and intentionally:

(a) Seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or

(b) Performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or

(c) Destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or

(d) Places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or

(e) Destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or

(f) Communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or

(g) Injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).

2. Any person also commits an offence if that person:

(a) Attempts to commit any of the offences set forth in paragraph 1; or

(b) Abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or

(c) Threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.

*Article 4*

1. This Convention applies if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.

2. In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

*Article 5*

Each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

*Article 6*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:

- (a) Against or on board a ship flying the flag of the State at the time the offence is committed; or
- (b) In the territory of that State, including its territorial sea; or
- (c) By a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

- (a) It is committed by a stateless person whose habitual residence is in that State; or
- (b) During its commission a national of that State is seized, threatened, injured or killed; or
- (c) It is committed in an attempt to compel that State to do or abstain from doing any act.

3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary General of the International Maritime Organization (hereinafter referred to as “the Secretary General”). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary General.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### *Article 7*

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceeding to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts, in accordance with its own legislation.

3. Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

- (a) communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;
- (b) be visited by a representative of that State.

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### *Article 8*

1. The master of a ship of a State Party (the “flag State”) may deliver to the authorities of any other State Party (the “receiving State”) any person who he has reasonable grounds to believe has committed one of the offences set forth in article 3.

2. The flag State shall ensure that the master of its ship is obliged, whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person whom the master intends to deliver in accordance with paragraph 1, to give notification



to the authorities of the receiving State of his intention to deliver such person and the reasons therefore.

3. The receiving State shall accept the delivery, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery, and shall proceed in accordance with the provisions of article 7. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.

4. The flag State shall ensure that the master of its ship is obliged to furnish the authorities of the receiving State with the evidence in the master's possession which pertains to the alleged offence.

5. A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may, in turn, request the flag State to accept delivery of that person. The flag State shall consider any such request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it shall furnish the receiving State with a statement of the reasons therefor.

#### *Article 9*

Nothing in this Convention shall affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

#### *Article 10*

1. The State Party in the territory of which the offender or the alleged offender is found shall, in cases to which article 6 applies, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 3 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which he is present.

#### *Article 11*

1. The offences set forth in article 3 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 3. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 3 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 3 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.

5. A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 6 and which decides not to prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

6. In considering a request for the extradition of an alleged offender pursuant to this Convention, the requested State shall pay due regard to whether his rights as set forth in article 7, paragraph 3, can be effected in the requesting State.

7. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

#### *Article 12*

1. State Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 3, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

#### *Article 13*

1. States Parties shall cooperate in the prevention of the offences set forth in article 3, particularly by:

(a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories;

(b) Exchanging information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 3.

2. When, due to the commission of an offence set forth in article 3, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

#### *Article 14*

Any State Party having reason to believe that an offence set forth in article 3 will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.

#### *Article 15*

1. Each State Party shall, in accordance with its national law, provide to the Secretary General, as promptly as possible, any relevant information in its possession concerning:

(a) The circumstances of the offence;

(b) The action taken pursuant to article 13, paragraph 2;

(c) The measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

2. The State Party where the alleged offender is prosecuted shall, in accordance with its national law, communicate the final outcome of the proceedings to the Secretary General.

3. The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary General to all States Parties, to Members of the International Maritime Organization (hereinafter referred to as "the Organization"), to the other States concerned, and to the appropriate international intergovernmental organizations.

#### *Article 16*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from

the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may, at any time, withdraw that reservation by notification to the Secretary General.

#### *Article 17*

1. This Convention shall be open for signature at Rome on 10 March 1988 by States participating in the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation and at the Headquarters of the Organization by all States from 14 March 1988 to 9 March 1989. It shall thereafter remain open for accession.

2. States may express their consent to be bound by this Convention by:

- (a) Signature without reservation as to ratification, acceptance or approval; or
- (b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) Accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary General.

#### *Article 18*

1. This Convention shall enter into force ninety days following the date on which fifteen States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Convention after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

*Article 19*

1. This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary General.
3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary General.

*Article 20*

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.
2. The Secretary General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.
3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

*Article 21*

1. This Convention shall be deposited with the Secretary General.
2. The Secretary General shall:
  - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
    - (ii) the date of the entry into force of this Convention;
    - (iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;
    - (iv) the receipt of any declaration or notification made under this Convention;
  - (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.
3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary General of the United Nations for registration and publication in accordance with article 102 of the Charter of the United Nations.

*Article 22*

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

DONE at Rome this tenth day of March one thousand nine hundred and eighty eight.

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

*Signed in London on 14 October 2005*

*Entry into force: in accordance with article 18 of the Protocol*

*Depositary: Secretary-General of the International  
Maritime Organization*

### PREAMBLE

*The States Parties to this Protocol,*

*Being Parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation done at Rome on 10 March 1988,*

*Acknowledging that terrorist acts threaten international peace and security,*

*Mindful of resolution A.924 (22) of the Assembly of the International Maritime Organization requesting the revision of existing international legal and technical measures and the consideration of new measures in order to prevent and suppress terrorism against ships and to improve security aboard and ashore, and thereby to reduce the risk to passengers, crews and port personnel on board ships and in port areas and to vessels and their cargoes,*

*Conscious of the Declaration on Measures to Eliminate International Terrorism, annexed to United Nations General Assembly resolution 49/60 of 9 December 1994, in which, *inter alia*, the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,*

*Noting United Nations General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,*

*Recalling resolutions 1368 (2001) and 1373 (2001) of the United Nations Security Council, which reflect international will to combat terrorism in all its forms and manifestations, and which assigned tasks and responsibilities to States, and taking into account the continued threat from terrorist attacks,*

*Recalling also* resolution 1540 (2004) of the United Nations Security Council, which recognizes the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

*Recalling further* the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973; the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979; the Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979 and amendments thereto adopted on 8 July 2005; the 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, done at Montreal on 24 February 1988; the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988; the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991; the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999, and the International Convention for the Suppression of Acts of Nuclear Terrorism adopted by the General Assembly of the United Nations on 13 April 2005,

*Bearing in mind* the importance of the United Nations Convention on the Law of the Sea done at Montego Bay, on 10 December 1982, and of the customary international law of the sea,

*Considering* resolution 59/46 of the United Nations General Assembly, which reaffirmed that international co-operation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter of the United Nations, international law and relevant international conventions, and resolution 59/24 of the United Nations General Assembly, which urged States to become parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol, invited States to participate in the review of those instruments by the Legal Committee of the International Maritime Organization to strengthen the means of



combating such unlawful acts, including terrorist acts, and also urged States to take appropriate measures to ensure the effective implementation of those instruments, in particular through the adoption of legislation, where appropriate, aimed at ensuring that there is a proper framework for responses to incidents of armed robbery and terrorist acts at sea,

*Considering also* the importance of the amendments to the International Convention for the Safety of Life at Sea, 1974, and of the International Ship and Port Facility Security (ISPS) Code, both adopted by the 2002 Conference of Contracting Governments to that Convention, in establishing an appropriate international technical framework involving co-operation between Governments, Government agencies, national and local administrations and the shipping and port industries to detect security threats and take preventative measures against security incidents affecting ships or port facilities used in international trade,

*Considering further* resolution 58/187 of the United Nations General Assembly, which reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

*Believing* that it is necessary to adopt provisions supplementary to those of the Convention, to suppress additional terrorist acts of violence against the safety and security of international maritime navigation and to improve its effectiveness,

*Have agreed as follows:*

#### *Article 1*

For the purposes of this Protocol:

1. “Convention” means the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
2. “Organization” means the International Maritime Organization (IMO).
3. “Secretary-General” means the Secretary-General of the Organization.

#### *Article 2*

Article 1 of the Convention is amended to read as follows:

#### *Article 1*

1. For the purposes of this Convention:

(a) “ship” means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.

(b) “transport” means to initiate, arrange or exercise effective control, including decision-making authority, over the movement of a person or item.

(c) “serious injury or damage” means:

(i) serious bodily injury; or

(ii) extensive destruction of a place of public use, State or government facility, infrastructure facility, or public transportation system, resulting in major economic loss; or

(iii) substantial damage to the environment, including air, soil, water, fauna, or flora.

(d) “BCN weapon” means:

(i) “biological weapons”, which are:

(1) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or

(2) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

(ii) “chemical weapons”, which are, together or separately:

(1) toxic chemicals and their precursors, except where intended for:

(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes; or

(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or

(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(D) law enforcement including domestic riot control purposes, as long as the types and quantities are consistent with such purposes;

(2) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (ii) (1), which would be released as a result of the employment of such munitions and devices;

(3) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (ii) (2).

(iii) nuclear weapons and other nuclear explosive devices.

(e) “toxic chemical” means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(f) “precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.

(g) “Organization” means the International Maritime Organization (IMO).

(h) “Secretary-General” means the Secretary-General of the Organization.

2. For the purposes of this Convention:

(a) the terms “place of public use”, “State or government facility”, “infrastructure facility”, and “public transportation system” have the same meaning as given to those terms in the International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997; and

(b) the terms “source material” and “special fissionable material” have the same meaning as given to those terms in the Statute of the International Atomic Energy Agency (IAEA), done at New York on 26 October 1956.

### *Article 3*

The following text is added as article 2 *bis* of the Convention:

#### *Article 2 bis*

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international human rights, refugee and humanitarian law.

2. This Convention does not apply to the activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law.

3. Nothing in this Convention shall affect the rights, obligations and responsibilities under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London and Moscow on 1 July 1968, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at Washington, London and Moscow on 10 April 1972, or the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993, of States Parties to such treaties.

#### Article 4

1. The *chapeau* of article 3, paragraph 1 of the Convention is replaced by the following text:

Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

2. Article 3, paragraph 1 (*f*) of the Convention is replaced by the following text:

(*f*) communicates information which that person knows to be false, thereby endangering the safe navigation of a ship.

3. Article 3, paragraph 1 (*g*) of the Convention is deleted.

4. Article 3, paragraph 2 of the Convention is replaced by the following text:

2. Any person also commits an offence if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraphs 1 (*b*), (*c*), and (*e*), if that threat is likely to endanger the safe navigation of the ship in question.

5. The following text is added as article 3 *bis* of the Convention:

#### Article 3 bis

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

(*a*) when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act:

(i) uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or

(ii) discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (*a*) (i), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or

(iii) uses a ship in a manner that causes death or serious injury or damage; or

(iv) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a) (i), (ii) or (iii); or

(b) transports on board a ship:

(i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under national law, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; or

(ii) any BCN weapon, knowing it to be a BCN weapon as defined in article 1; or

(iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; or

(iv) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.

2. It shall not be an offence within the meaning of this Convention to transport an item or material covered by paragraph 1 (b) (iii) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, paragraph 1 (b) (iv), if such item or material is transported to or from the territory of, or is otherwise transported under the control of, a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons where:

(a) the resulting transfer or receipt, including internal to a State, of the item or material is not contrary to such State Party's obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and,

(b) if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, the holding of such weapon or device is not contrary to that State Party's obligations under that Treaty.

6. The following text is added as article 3 *ter* of the Convention:

*Article 3 ter*

Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally transports another person on board a ship knowing that the person has committed an act that constitutes an offence set forth in article 3, 3 *bis* or 3 *quater* or an offence set forth in any treaty listed in the Annex, and intending to assist that person to evade criminal prosecution.

The following text is added as article 3 *quater* of the Convention:

*Article 3 quater*

Any person also commits an offence within the meaning of this Convention if that person:

(a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in article 3, paragraph 1, article 3 *bis*, or article 3 *ter*; or

(b) attempts to commit an offence set forth in article 3, paragraph 1, article 3 *bis*, paragraph 1 (a) (i), (ii) or (iii), or subparagraph (a) of this article; or

(c) participates as an accomplice in an offence set forth in article 3, article 3 *bis*, article 3 *ter*, or subparagraph (a) or (b) of this article; or

(d) organizes or directs others to commit an offence set forth in article 3, article 3 *bis*, article 3 *ter*, or subparagraph (a) or (b) of this article; or

(e) contributes to the commission of one or more offences set forth in article 3, article 3 *bis*, article 3 *ter* or subparagraph (a) or (b) of this article, by a group of persons acting with a common purpose, intentionally and either:

(i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in article 3, 3 *bis* or 3 *ter*; or

(ii) in the knowledge of the intention of the group to commit an offence set forth in article 3, 3 *bis* or 3 *ter*.

*Article 5*

1. Article 5 of the Convention is replaced by the following text:

Each State Party shall make the offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater* punishable by appropriate penalties which take into account the grave nature of those offences.

2. The following text is added as article 5 *bis* of the Convention:

*Article 5 bis*

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in this Convention. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

*Article 6*

1. The *chapeau* of article 6, paragraph 1 of the Convention is replaced by the following text:

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater* when the offence is committed:

2. Article 6, paragraph 3 of the Convention is replaced by the following text:

3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

3. Article 6, paragraph 4 of the Convention is replaced by the following text:

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater* in cases where the alleged offender is present in its territory and it does not extradite the alleged offender to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

*Article 7*

The following text is added as the Annex to the Convention:

ANNEX

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.

2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
5. Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979.
6. 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, done at Montreal on 24 February 1988.
7. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.
8. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.
9. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.

#### *Article 8*

1. Article 8, paragraph 1 of the Convention is replaced by the following text:

1. The master of a ship of a State Party (the “flag State”) may deliver to the authorities of any other State Party (the “receiving State”) any person who the master has reasonable grounds to believe has committed an offence set forth in article 3, 3 *bis*, 3 *ter*, or 3 *quater*.
2. The following text is added as article 8 *bis* of the Convention:

#### *Article 8 bis*

1. States Parties shall co-operate to the fullest extent possible to prevent and suppress unlawful acts covered by this Convention, in conformity with international law, and shall respond to requests pursuant to this article as expeditiously as possible.
2. Each request pursuant to this article should, if possible, contain the name of the suspect ship, the IMO ship identification number, the port of registry, the ports of origin and destination, and any other relevant information. If a request is conveyed orally, the requesting Party shall



confirm the request in writing as soon as possible. The requested Party shall acknowledge its receipt of any written or oral request immediately.

3. States Parties shall take into account the dangers and difficulties involved in boarding a ship at sea and searching its cargo, and give consideration to whether other appropriate measures agreed between the States concerned could be more safely taken in the next port of call or elsewhere.

4. A State Party that has reasonable grounds to suspect that an offence set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* has been, is being or is about to be committed involving a ship flying its flag, may request the assistance of other States Parties in preventing or suppressing that offence. The States Parties so requested shall use their best endeavours to render such assistance within the means available to them.

5. Whenever law enforcement or other authorized officials of a State Party (“the requesting Party”) encounter a ship flying the flag or displaying marks of registry of another State Party (“the first Party”) located seaward of any State’s territorial sea, and the requesting Party has reasonable grounds to suspect that the ship or a person on board the ship has been, is or is about to be involved in the commission of an offence set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater*, and the requesting Party desires to board,

(a) it shall request, in accordance with paragraphs 1 and 2 that the first Party confirm the claim of nationality, and

(b) if nationality is confirmed, the requesting Party shall ask the first Party (hereinafter referred to as “the flag State”) for authorization to board and to take appropriate measures with regard to that ship which may include stopping, boarding and searching the ship, its cargo and persons on board, and questioning the persons on board in order to determine if an offence set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* has been, is being or is about to be committed, and

(c) the flag State shall either:

(i) authorize the requesting Party to board and to take appropriate measures set out in subparagraph (b), subject to any conditions it may impose in accordance with paragraph 7; or

(ii) conduct the boarding and search with its own law enforcement or other officials; or

(iii) conduct the boarding and search together with the requesting Party, subject to any conditions it may impose in accordance with paragraph 7; or

(iv) decline to authorize a boarding and search.

The requesting Party shall not board the ship or take measures set out in subparagraph (b) without the express authorization of the flag State.

(d) Upon or after depositing its instrument of ratification, acceptance, approval or accession, a State Party may notify the Secretary-General that, with respect to ships flying its flag or displaying its mark of

registry, the requesting Party is granted authorization to board and search the ship, its cargo and persons on board, and to question the persons on board in order to locate and examine documentation of its nationality and determine if an offence set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* has been, is being or is about to be committed, if there is no response from the first Party within four hours of acknowledgement of receipt of a request to confirm nationality.

(e) Upon or after depositing its instrument of ratification, acceptance, approval or accession, a State Party may notify the Secretary-General that, with respect to ships flying its flag or displaying its mark of registry, the requesting Party is authorized to board and search a ship, its cargo and persons on board, and to question the persons on board in order to determine if an offence set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* has been, is being or is about to be committed.

The notifications made pursuant to this paragraph can be withdrawn at any time.

6. When evidence of conduct described in article 3, 3 *bis*, 3 *ter* or 3 *quater* is found as the result of any boarding conducted pursuant to this article, the flag State may authorize the requesting Party to detain the ship, cargo and persons on board pending receipt of disposition instructions from the flag State. The requesting Party shall promptly inform the flag State of the results of a boarding, search, and detention conducted pursuant to this article. The requesting Party shall also promptly inform the flag State of the discovery of evidence of illegal conduct that is not subject to this Convention.

7. The flag State, consistent with the other provisions of this Convention, may subject its authorization under paragraph 5 or 6 to conditions, including obtaining additional information from the requesting Party, and conditions relating to responsibility for and the extent of measures to be taken. No additional measures may be taken without the express authorization of the flag State, except when necessary to relieve imminent danger to the lives of persons or where those measures derive from relevant bilateral or multilateral agreements.

8. For all boardings pursuant to this article, the flag State has the right to exercise jurisdiction over a detained ship, cargo or other items and persons on board, including seizure, forfeiture, arrest and prosecution. However, the flag State may, subject to its constitution and laws, consent to the exercise of jurisdiction by another State having jurisdiction under article 6.

9. When carrying out the authorized actions under this article, the use of force shall be avoided except when necessary to ensure the safety of its officials and persons on board, or where the officials are obstructed in the execution of the authorized actions. Any use of force pursuant to this article shall not exceed the minimum degree of force which is necessary and reasonable in the circumstances.

10. Safeguards:

(a) Where a State Party takes measures against a ship in accordance with this article, it shall:

- (i) take due account of the need not to endanger the safety of life at sea;
- (ii) ensure that all persons on board are treated in a manner which preserves their basic human dignity, and in compliance with the applicable provisions of international law, including international human rights law;
- (iii) ensure that a boarding and search pursuant to this article shall be conducted in accordance with applicable international law;
- (iv) take due account of the safety and security of the ship and its cargo;
- (v) take due account of the need not to prejudice the commercial or legal interests of the flag State;
- (vi) ensure, within available means, that any measure taken with regard to the ship or its cargo is environmentally sound under the circumstances;
- (vii) ensure that persons on board against whom proceedings may be commenced in connection with any of the offences set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* are afforded the protections of paragraph 2 of article 10, regardless of location;
- (viii) ensure that the master of a ship is advised of its intention to board, and is, or has been, afforded the opportunity to contact the ship's owner and the flag State at the earliest opportunity; and
- (ix) take reasonable efforts to avoid a ship being unduly detained or delayed.

(b) Provided that authorization to board by a flag State shall not *per se* give rise to its liability, States Parties shall be liable for any damage, harm or loss attributable to them arising from measures taken pursuant to this article when:

- (i) the grounds for such measures prove to be unfounded, provided that the ship has not committed any act justifying the measures taken; or
- (ii) such measures are unlawful or exceed those reasonably required in light of available information to implement the provisions of this article. States Parties shall provide effective recourse in respect of such damage, harm or loss.

(c) Where a State Party takes measures against a ship in accordance with this Convention, it shall take due account of the need not to interfere with or to affect:

- (i) the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or
- (ii) the authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the ship.

(d) Any measure taken pursuant to this article shall be carried out by law enforcement or other authorized officials from warships or military aircraft, or from other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect and, notwithstanding articles 2 and 2 *bis*, the provisions of this article shall apply

(e) For the purposes of this article “law enforcement or other authorized officials” means uniformed or otherwise clearly identifiable members of law enforcement or other government authorities duly authorized by their government. For the specific purpose of law enforcement under this Convention, law enforcement or other authorized officials shall provide appropriate government-issued identification documents for examination by the master of the ship upon boarding.

11. This article does not apply to or limit boarding of ships conducted by any State Party in accordance with international law, seaward of any State’s territorial sea, including boardings based upon the right of visit, the rendering of assistance to persons, ships and property in distress or peril, or an authorization from the flag State to take law enforcement or other action.

12. States Parties are encouraged to develop standard operating procedures for joint operations pursuant to this article and consult, as appropriate, with other States Parties with a view to harmonizing such standard operating procedures for the conduct of operations.

13. States Parties may conclude agreements or arrangements between them to facilitate law enforcement operations carried out in accordance with this article.

14. Each State Party shall take appropriate measures to ensure that its law enforcement or other authorized officials, and law enforcement or other authorized officials of other States Parties acting on its behalf, are empowered to act pursuant to this article.

15. Upon or after depositing its instrument of ratification, acceptance, approval or accession, each State Party shall designate the authority, or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of nationality, and for authorization to take appropriate measures. Such designation, including contact information, shall be notified to the Secretary-General within one month of becoming a Party, who shall inform all other States Parties within one month of the designation. Each State Party is responsible for providing prompt

notice through the Secretary-General of any changes in the designation or contact information.

*Article 9*

Article 10, paragraph 2 is replaced by the following text:

2. Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

*Article 10*

1. Article 11, paragraphs 1, 2, 3 and 4 are replaced by the following text:

1. The offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater* shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater*. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater* as extraditable offences between themselves, subject to the conditions provided by the law of the requested State Party.

4. If necessary, the offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater* shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.

2. The following text is added as article 11 *bis*, of the Convention:

*Article 11 bis*

None of the offences set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an

offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

3. The following text is added as article 11 *ter* of the Convention:

*Article 11 ter*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

*Article 11*

1. Article 12, paragraph 1 of the Convention is replaced by the following text:

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater*, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. The following text is added as article 12 *bis* of the Convention:

*Article 12 bis*

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* may be transferred if the following conditions are met:

(a) the person freely gives informed consent; and

(b) the competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of this article:

(a) the State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) the State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) the State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) the person transferred shall receive credit for service of the sentence being served in the State from which the person was transferred for time spent in the custody of the State to which the person was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever that person's nationality, shall not be prosecuted or detained or subjected to any other restriction of personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to that person's departure from the territory of the State from which such person was transferred.

#### *Article 12*

Article 13 of the Convention is replaced by the following text:

1. States Parties shall co-operate in the prevention of the offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater*, particularly by:

(a) taking all practicable measures to prevent preparation in their respective territories for the commission of those offences within or outside their territories;

(b) exchanging information in accordance with their national law, and co-ordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in articles 3, 3 *bis*, 3 *ter* and 3 *quater*.

2. When, due to the commission of an offence set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater*, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

#### *Article 13*

Article 14 of the Convention is replaced by the following text:

Any State Party having reason to believe that an offence set forth in article 3, 3 *bis*, 3 *ter* or 3 *quater* will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.

*Article 14*

Article 15, paragraph 3 of the Convention is replaced by the following text:

3. The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to Members of the Organization, to other States concerned, and to the appropriate international intergovernmental organizations.

*Article 15*

*Interpretation and application*

1. The Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.
2. Articles 1 to 16 of the Convention, as revised by this Protocol, together with articles 17 to 24 of this Protocol and the Annex thereto, shall constitute and be called the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 (2005 SUA Convention).

*Article 16*

The following text is added as article 16 *bis* of the Convention:

*Final clauses of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005*

The final clauses of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 shall be articles 17 to 24 of the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. References in this Convention to States Parties shall be taken to mean references to States Parties to that Protocol.

FINAL CLAUSES

*Article 17*

*Signature, ratification, acceptance, approval and accession*

1. This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Protocol by:
  - (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or



(c) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4. Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention may become a Party to this Protocol.

#### *Article 18*

##### *Entry into force*

1. This Protocol shall enter into force ninety days following the date on which twelve States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions in paragraph 1 for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

#### *Article 19*

##### *Denunciation*

1. This Protocol may be denounced by any State Party at any time after the date on which this Protocol enters into force for that State.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the deposit of the instrument with the Secretary-General.

#### *Article 20*

##### *Revision and amendment*

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2. The Secretary-General shall convene a conference of States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.

3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

*Article 21*

*Declarations*

1. Upon depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the Annex may declare that, in the application of this Protocol to the State Party, the treaty shall be deemed not to be included in article 3 *ter*. The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the Secretary-General of this fact.

2. When a State Party ceases to be a party to a treaty listed in the Annex, it may make a declaration as provided for in this article, with respect to that treaty.

3. Upon depositing its instrument of ratification, acceptance, approval or accession, a State Party may declare that it will apply the provisions of article 3 *ter* in accordance with the principles of its criminal law concerning family exemptions of liability

*Article 22*

*Amendments to the Annex*

1. The Annex may be amended by the addition of relevant treaties that:

- (a) are open to the participation of all States;
- (b) have entered into force; and
- (c) have been ratified, accepted, approved or acceded to by at least twelve States Parties to this Protocol.

2. After the entry into force of this Protocol, any State Party thereto may propose such an amendment to the Annex. Any proposal for an amendment shall be communicated to the Secretary-General in written form. The Secretary-General shall circulate any proposed amendment that meets the requirements of paragraph 1 to all members of the Organization and seek from States Parties to this Protocol their consent to the adoption of the proposed amendment.

3. The proposed amendment to the Annex shall be deemed adopted after more than twelve of the States Parties to this Protocol consent to it by written notification to the Secretary-General.

4. The adopted amendment to the Annex shall enter into force thirty days after the deposit with the Secretary-General of the twelfth

instrument of ratification, acceptance or approval of such amendment for those States Parties to this Protocol that have deposited such an instrument. For each State Party to this Protocol ratifying, accepting or approving the amendment after the deposit of the twelfth instrument with the Secretary-General, the amendment shall enter into force on the thirtieth day after deposit by such State Party of its instrument of ratification, acceptance or approval.

*Article 23*

*Depositary*

1. This Protocol and any amendments adopted under articles 20 and 22 shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) inform all States which have signed this Protocol or acceded to this Protocol of:

- (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
- (ii) the date of the entry into force of this Protocol;
- (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
- (iv) any communication called for by any article of this Protocol;
- (v) any proposal to amend the Annex which has been made in accordance with article 22, paragraph 2;
- (vi) any amendment deemed to have been adopted in accordance with article 22, paragraph 3;
- (vii) any amendment ratified, accepted or approved in accordance with article 22, paragraph 4, together with the date on which that amendment shall enter into force; and

(b) transmit certified true copies of this Protocol to all States which have signed or acceded to this Protocol.

3. As soon as this Protocol enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations for registration and publication in accordance with article 102 of the Charter of the United Nations.

*Article 24*

*Languages*

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE at London this fourteenth day of October two thousand and five.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

## **18. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf**

*Done at Rome on 10 March 1988*

*In force on 1 March 1992*

*United Nations, Treaty Series, vol. 1678, No. 29004*

*Depositary: Secretary General of the International Maritime Organization*

*The States Parties to this Protocol,*

*Being Parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,*

*Recognizing that the reasons for which the Convention was elaborated also apply to fixed platforms located on the continental shelf,*

*Taking account of the provisions of that Convention,*

*Affirming that matters not regulated by this Protocol continue to be governed by the rules and principles of general international law,*

*Have agreed as follows:*

### *Article 1*

1. The provisions of articles 5 and 7 and of articles 10 to 16 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (hereinafter referred to as “the Convention”) shall also apply *mutatis mutandis* to the offences set forth in article 2 of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf.

2. In cases where this Protocol does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State in whose internal waters or territorial sea the fixed platform is located.

3. For the purposes of this Protocol, “fixed platform” means an artificial island, installation or structure permanently attached to the sea bed for the purpose of exploration or exploitation of resources or for other economic purposes.

### *Article 2*

1. Any person commits an offence if that person unlawfully and intentionally:

- (a) Seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or
- (b) Performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or
- (c) Destroys a fixed platform or causes damage to it which is likely to endanger its safety; or
- (d) Places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety; or
- (e) Injures or kills any person in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (d).

2. Any person also commits an offence if that person:

- (a) Attempts to commit any of the offences set forth in paragraph 1; or
- (b) Abets the commission of any such offences perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or
- (c) Threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b) and (c), if that threat is likely to endanger the safety of the fixed platform.

### *Article 3*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when the offence is committed:

- (a) Against or on board a fixed platform while it is located on the continental shelf of that State; or
- (b) By a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

- (a) It is committed by a stateless person whose habitual residence is in that State;
- (b) During its commission a national of that State is seized, threatened, injured or killed; or
- (c) It is committed in an attempt to compel that State to do or abstain from doing any act.

3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary General of the International

Maritime Organization (hereinafter referred to as “the Secretary General”). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary General.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

5. This Protocol does not exclude any criminal jurisdiction exercised in accordance with national law.

#### *Article 4*

Nothing in this Protocol shall affect in any way the rules of international law pertaining to fixed platforms located on the continental shelf.

#### *Article 5*

1. This Protocol shall be open for signature at Rome on 10 March 1988 and at the Headquarters of the International Maritime Organization (hereinafter referred to as “the Organization”) from 14 March 1988 to 9 March 1989 by any State which has signed the Convention. It shall thereafter remain open for accession.

2. States may express their consent to be bound by this Protocol by:

(a) Signature without reservation as to ratification, acceptance or approval; or

(b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) Accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary General.

4. Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention may become a Party to this Protocol.

#### *Article 6*

1. This Protocol shall enter into force ninety days following the date on which three States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof. However, this Protocol shall not enter into force before the Convention has entered into force.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

*Article 7*

1. This Protocol may be denounced by any State Party at any time after the expiry of one year from the date on which this Protocol enters into force for that State.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary General.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary General.

4. A denunciation of the Convention by a State Party shall be deemed to be a denunciation of this Protocol by that Party.

*Article 8*

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2. The Secretary General shall convene a conference of the States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.

3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

*Article 9*

1. This Protocol shall be deposited with the Secretary General.

2. The Secretary General shall:

(a) Inform all States which have signed this Protocol or acceded thereto, and all Members of the Organization, of:

- (i) Each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
- (ii) The date of entry into force of this Protocol;
- (iii) The deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;



(iv) The receipt of any declaration or notification made under this Protocol or under the Convention, concerning this Protocol;

(b) Transmit certified true copies of this Protocol to all States which have signed this Protocol or acceded thereto.

3. As soon as this Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary General of the United Nations for registration and publication in accordance with article 102 of the Charter of the United Nations.

*Article 10*

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

DONE at Rome this tenth day of March one thousand nine hundred and eighty eight.

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

*Signed in London on 14 October 2005*

*Entry into force: in accordance with article 9 of the Protocol*

*United Nations, Treaty Series, vol. 1678, No. 29004*

*Depositary: Secretary-General of the International Maritime Organization*

*The States Parties to this Protocol,*

*Being Parties to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf done at Rome on 10 March 1988,*

*Recognizing that the reasons for which the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation was elaborated also apply to fixed platforms located on the continental shelf,*

*Taking account of the provisions of those Protocols,*

*Have agreed as follows:*

### *Article 1*

For the purposes of this Protocol:

1. “1988 Protocol” means the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.
2. “Organization” means the International Maritime Organization.
3. “Secretary-General” means the Secretary-General of the Organization.

### *Article 2*

Article 1, paragraph 1, of the 1988 Protocol is replaced by the following text:

1. The provisions of article 1, paragraphs 1 (c), (d), (e), (f), (g), (h) and 2 (a), of articles 2 *bis*, 5, 5 *bis* and 7, and of articles 10 to 16, including articles 11 *bis*, 11 *ter* and 12 *bis*, of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, as amended by the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, shall also apply *mutatis mutandis* to the offences set forth in articles 2, 2 *bis* and 2 *ter* of this

Protocol where such offences are committed on board or against fixed platforms located on the continental shelf.

*Article 3*

1. Article 2, paragraph 1 (d) of the 1988 Protocol is replaced by the following text:

(d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety.

2. Article 2, paragraph 1 (e) of the 1988 Protocol is deleted.

3. Article 2, paragraph 2 of the 1988 Protocol is replaced by the following text:

2. Any person also commits an offence if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraphs 1 (b) and (c), if that threat is likely to endanger the safety of the fixed platform.

*Article 4*

1. The following text is inserted as article 2 *bis*:

*Article 2 bis*

Any person commits an offence within the meaning of this Protocol if that person unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act:

(a) uses against or on a fixed platform or discharges from a fixed platform any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or

(b) discharges, from a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or

(c) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a) or (b).

2. The following text is inserted as article 2 *ter*:

*Article 2 ter*

Any person also commits an offence within the meaning of this Protocol if that person:

(a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in article 2, paragraph 1, or article 2 *bis*; or

(b) attempts to commit an offence set forth in article 2, paragraph 1, article 2 *bis*, subparagraph (a) or (b), or subparagraph (a) of this article; or

(c) participates as an accomplice in an offence set forth in article 2, article 2 *bis* or subparagraph (a) or (b) of this article; or

(d) organizes or directs others to commit an offence set forth in article 2, article 2 *bis* or subparagraph (a) or (b) of this article; or

(e) contributes to the commission of one or more offences set forth in article 2, article 2 *bis* or subparagraph (a) or (b) of this article, by a group of persons acting with a common purpose, intentionally and either:

(i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in article 2 or 2 *bis*; or

(ii) in the knowledge of the intention of the group to commit an offence set forth in article 2 or 2 *bis*.

#### Article 5

1. Article 3, paragraph 1 of the 1988 Protocol is replaced by the following text:

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 2 *bis* and 2 *ter* when the offence is committed:

(a) against or on board a fixed platform while it is located on the continental shelf of that State; or

(b) by a national of that State.

2. Article 3, paragraph 3 of the 1988 Protocol is replaced by the following text:

3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

3. Article 3, paragraph 4 of the 1988 Protocol is replaced by the following text:

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 2 *bis* and 2 *ter* in cases where the alleged offender is present in its territory and it does not extradite the alleged offender to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2.

*Article 6*

*Interpretation and application*

1. The 1988 Protocol and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2. Articles 1 to 4 of the 1988 Protocol, as revised by this Protocol, together with articles 8 to 13 of this Protocol shall constitute and be called the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005 (2005 SUA Fixed Platforms Protocol).

*Article 7*

The following text is added as article 4 *bis* of the Protocol:

*Final clauses of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005*

The final clauses of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005, shall be articles 8 to 13 of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. References in this Protocol to States Parties shall be taken to mean references to States Parties to the 2005 Protocol.

FINAL CLAUSES

*Article 8*

*Signature, ratification, acceptance, approval and accession*

1. This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.

2. States may express their consent to be bound by this Protocol by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4. Only a State which has signed the 1988 Protocol without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the 1988 Protocol may become a Party to this Protocol.

*Article 9*

*Entry into force*

1. This Protocol shall enter into force ninety days following the date on which three States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General. However, this Protocol shall not enter into force before the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation has entered into force.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions in paragraph 1 for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

*Article 10*

*Denunciation*

1. This Protocol may be denounced by any State Party at any time after the date on which this Protocol enters into force for that State.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the deposit of the instrument with the Secretary-General.

*Article 11*

*Revision and amendment*

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2. The Secretary-General shall convene a conference of States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.

3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

*Article 12*

*Depositary*

1. This Protocol and any amendments adopted under article 11 shall be deposited with the Secretary-General.
2. The Secretary-General shall:
  - (a) inform all States which have signed this Protocol or acceded to this Protocol of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
    - (ii) the date of the entry into force of this Protocol;
    - (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
    - (iv) any communication called for by any article of this Protocol; and
  - (b) transmit certified true copies of this Protocol to all States which have signed or acceded to this Protocol.
3. As soon as this Protocol enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations for registration and publication in accordance with article 102 of the Charter of the United Nations.

*Article 13*

*Languages*

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE at London this fourteenth day of October two thousand and five.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.





**PART II**

**REGIONAL INSTRUMENTS**



## AFRICAN UNION

### 20. African Union Convention on the Prevention and Combating of Terrorism<sup>1</sup>

*Adopted at Algiers on 14 July 1999*

*In force on 6 December 2002*

*United Nations, Treaty Series, vol. 2219, No. 39464*

*Depositary: Chairperson of the African Union Commission*

*The Member States of the Organization of African Unity:*

*Considering* the purposes and principles enshrined in the Charter of the Organization of African Unity, in particular its clauses relating to the security, stability, development of friendly relations and cooperation among its Member States;

*Recalling* the provisions of the Declaration on the Code of Conduct for Inter-African Relations, adopted by the Thirtieth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity, held in Tunis, Tunisia, from 13 to 15 June 1994;

*Aware* of the need to promote human and moral values based on tolerance and rejection of all forms of terrorism irrespective of their motivations;

*Believing* in the principles of international law, the provisions of the Charters of the Organization of African Unity and of the United Nations and the latter's relevant resolutions on measures aimed at combating international terrorism and, in particular, resolution 49/60 of the General Assembly of 9 December 1994, together with the annexed Declaration on Measures to Eliminate International Terrorism as well as resolution 51/210 of the General Assembly of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, annexed thereto;

*Deeply concerned* over the scope and seriousness of the phenomenon of terrorism and the dangers it poses to the stability and security of States;

*Desirous* of strengthening cooperation among Member States in order to forestall and combat terrorism;

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<sup>1</sup> Adopted when the AU was the Organization of African Unity and depositary was the Secretary-General of the Organization of African Unity

*Reaffirming* the legitimate right of peoples for self-determination and independence pursuant to the principles of international law and the provisions of the Charters of the Organization of African Unity and the United Nations as well as the African Charter on Human and Peoples' Rights;

*Concerned* that the lives of innocent women and children are most adversely affected by terrorism;

*Convinced* that terrorism constitutes a serious violation of human rights and, in particular, the rights to physical integrity, life, freedom and security, and impedes socio-economic development through destabilization of States;

*Convinced further* that terrorism cannot be justified under any circumstances and, consequently, should be combated in all its forms and manifestations, including those in which States are involved directly or indirectly, without regard to its origin, causes and objectives;

*Aware* of the growing links between terrorism and organized crime, including the illicit traffic of arms, drugs and money laundering;

*Determined* to eliminate terrorism in all its forms and manifestations;

*Have agreed as follows:*

## PART I. SCOPE OF APPLICATION

### *Article 1*

For the purposes of this Convention:

1. "Convention" means the OAU Convention on the Prevention and Combating of Terrorism.

2. "State Party" means any Member State of the Organization of African Unity which has ratified or acceded to this Convention and has deposited its instrument of ratification or accession with the Secretary General of the Organization of African Unity.

3. "Terrorist act" means:

(a) Any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:

(i) Intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or

- (ii) Disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
  - (iii) Create general insurrection in a State;
- (b) Any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in paragraph (a) (i) to (iii).

#### *Article 2*

States Parties undertake to:

- (a) Review their national laws and establish criminal offences for terrorist acts as defined in this Convention and make such acts punishable by appropriate penalties that take into account the grave nature of such offences;
- (b) Consider, as a matter of priority, the signing or ratification of, or accession to, the international instruments listed in the Annexure, which they have not yet signed, ratified or acceded to; and
- (c) Implement the actions, including enactment of legislation and the establishment as criminal offences of certain acts as required in terms of the international instruments referred to in paragraph (b) and that States have ratified and acceded to and make such acts punishable by appropriate penalties which take into account the grave nature of those offences;
- (d) Notify the Secretary General of the OAU of all the legislative measures it has taken and the penalties imposed on terrorist acts within one year of its ratification of, or accession to, the Convention.

#### *Article 3*

1. Notwithstanding the provisions of article 1, the struggle waged by peoples in accordance with the principles of international law for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not be considered as terrorist acts.

2. Political, philosophical, ideological, racial, ethnic, religious or other motives shall not be a justifiable defence against a terrorist act.

### PART II. AREAS OF COOPERATION

#### *Article 4*

1. States Parties undertake to refrain from any acts aimed at organizing, supporting, financing, committing or inciting to commit terrorist acts, or providing havens for terrorists, directly or indirectly,

including the provision of weapons and their stockpiling in their countries and the issuing of visas and travel documents.

2. States Parties shall adopt any legitimate measures aimed at preventing and combating terrorist acts in accordance with the provisions of this Convention and their respective national legislation, in particular, they shall do the following:

- (a) Prevent their territories from being used as a base for the planning, organization or execution of terrorist acts or for the participation or collaboration in these acts in any form whatsoever;
- (b) Develop and strengthen methods of monitoring and detecting plans or activities aimed at the illegal cross-border transportation, importation, export, stockpiling and use of arms, ammunition and explosives and other materials and means of committing terrorist acts;
- (c) Develop and strengthen methods of controlling and monitoring land, sea and air borders and customs and immigration check-points in order to pre-empt any infiltration by individuals or groups involved in the planning, organization and execution of terrorist acts;
- (d) Strengthen the protection and security of persons, diplomatic and consular missions, premises of regional and international organizations accredited to a State Party, in accordance with the relevant conventions and rules of international law;
- (e) Promote the exchange of information and expertise on terrorist acts and establish data bases for the collection and analysis of information and data on terrorist elements, groups, movements and organizations;
- (f) Take all necessary measures to prevent the establishment of terrorist support networks in any form whatsoever;
- (g) Ascertain, when granting asylum, that the asylum seeker is not involved in any terrorist act;
- (h) Arrest the perpetrators of terrorist acts and try them in accordance with national legislation, or extradite them in accordance with the provisions of this Convention or extradition treaties concluded between the requesting State and the requested State and, in the absence of a treaty, consider facilitating the extradition of persons suspected of having committed terrorist acts; and
- (i) Establish effective cooperation between relevant domestic security officials and services and the citizens of the States Parties in a bid to enhance public awareness of the scourge of terrorist acts and the need to combat such acts, by providing guarantees and incentives that will encourage the population to give information on ter-

rorist acts or other acts which may help to uncover such acts and arrest their perpetrators.

*Article 5*

States Parties shall co-operate among themselves in preventing and combating terrorist acts in conformity with national legislation and procedures of each State in the following areas:

1. States Parties undertake to strengthen the exchange of information among them regarding:

(a) Acts and crimes committed by terrorist groups, their leaders and elements, their headquarters and training camps, their means and sources of funding and acquisition of arms, the types of arms, ammunition and explosives used, and other means in their possession;

(b) The communication and propaganda methods and techniques used by the terrorists groups, the behaviour of these groups, the movement of their leaders and elements, as well as their travel documents.

2. States Parties undertake to exchange any information that leads to:

(a) The arrest of any person charged with a terrorist act against the interests of a State Party or against its nationals, or attempted to commit such an act or participated in it as an accomplice or an instigator;

(b) The seizure and confiscation of any type of arms, ammunition, explosives, devices or funds or other instrumentalities of crime used to commit a terrorist act or intended for that purpose.

3. States Parties undertake to respect the confidentiality of the information exchanged among them and not to provide such information to another State that is not party to this Convention, or to a third State Party, without the prior consent of the State from where such information originated.

4. States Parties undertake to promote cooperation among themselves and to help each other with regard to procedures relating to the investigation and arrest of persons suspected of, charged with or convicted of terrorist acts, in conformity with the national law of each State.

5. States Parties shall co-operate among themselves in conducting and exchanging studies and researches on how to combat terrorist acts and to exchange expertise relating to control of terrorist acts.

6. States Parties shall co-operate among themselves, where possible, in providing any available technical assistance in drawing up programmes or organizing, where necessary and for the benefit of their

personnel, joint training courses involving one or several States Parties in the area of control of terrorist acts, in order to improve their scientific, technical and operational capacities to prevent and combat such acts.

### PART III. STATE JURISDICTION

#### *Article 6*

1. Each State Party has jurisdiction over terrorist acts as defined in article 1 when:

- (a) The act is committed in the territory of that State and the perpetrator of the act is arrested in its territory or outside it if this is punishable by its national law;
- (b) The act is committed on board a vessel or a ship flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or
- (c) The act is committed by a national or a group of nationals of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

- (a) The act is committed against a national of that State; or
- (b) The act is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises, and any other property, of that State; or
- (c) The act is committed by a stateless person who has his or her habitual residence in the territory of that State; or
- (d) The act is committed on board an aircraft which is operated by any carrier of that State; and
- (e) The act is committed against the security of the State Party.

3. Upon ratifying or acceding to this Convention, each State Party shall notify the Secretary General of the Organization of African Unity of the jurisdiction it has established in accordance with paragraph 2 under its national law. Should any change take place, the State Party concerned shall immediately notify the Secretary General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the acts set forth in article 1 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 or 2.



*Article 7*

1. Upon receiving information that a person who has committed or who is alleged to have committed any terrorist act as defined in article 1 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its national law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution.

3. Any person against whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in whose territory that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be assisted by a lawyer of his or her choice;

(d) Be informed of his or her rights under sub-paragraphs (a), (b) and (c).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the national law of the State in whose territory the offender or alleged offender is present, subject to the provision that the said laws must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

PART IV. EXTRADITION

*Article 8*

1. Subject to the provisions of paragraphs 2 and 3 of this article, the States Parties shall undertake to extradite any person charged with or convicted of any terrorist act carried out on the territory of another State Party and whose extradition is requested by one of the States Parties in conformity with the rules and conditions provided for in this Convention or under extradition agreements between the States Parties and within the limits of their national laws.

2. Any State Party may, at the time of the deposit of its instrument of ratification or accession, transmit to the Secretary General of the OAU the grounds on which extradition may not be granted and shall at the same time indicate the legal basis in its national legislation

or international conventions to which it is a party which excludes such extradition. The Secretary General shall forward these grounds to the States Parties.

3. Extradition shall not be granted if final judgement has been passed by a competent authority of the requested State upon the person in respect of the terrorist act or acts for which extradition is requested. Extradition may also be refused if the competent authority of the requested State has decided either not to institute or terminate proceedings in respect of the same act or acts.

4. A State Party in whose territory an alleged offender is present shall be obliged, whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution if it does not extradite that person.

#### *Article 9*

Each State Party undertakes to include as an extraditable offence any terrorist act as defined in article 1, in any extradition treaty existing between any of the States Parties before or after the entry into force of this Convention.

#### *Article 10*

Exchange of extradition requests between the States Parties to this Convention shall be effected directly either through diplomatic channels or other appropriate organs in the concerned States.

#### *Article 11*

Extradition requests shall be in writing, and shall be accompanied in particular by the following:

- (a) An original or authenticated copy of the sentence, warrant of arrest or any order or other judicial decision made, in accordance with the procedures laid down in the laws of the requesting State;
- (b) A statement describing the offences for which extradition is being requested, indicating the date and place of its commission, the offence committed, any convictions made and a copy of the provisions of the applicable law; and
- (c) As comprehensive a description as possible of the wanted person together with any other information which may assist in establishing the person's identity and nationality.

#### *Article 12*

In urgent cases, the competent authority of the State making the extradition may, in writing, request that the State seized of the

extradition request arrest the person in question provisionally. Such provisional arrest shall be for a reasonable period in accordance with the national law of the requested State.

*Article 13*

1. Where a State Party receives several extradition requests from different States Parties in respect of the same suspect and for the same or different terrorist acts, it shall decide on these requests having regard to all the prevailing circumstances, particularly the possibility of subsequent extradition, the respective dates of receipt of the requests, and the degree of seriousness of the crime.

2. Upon agreeing to extradite, States Parties shall seize and transmit all funds and related materials purportedly used in the commission of the terrorist act to the requesting State as well as relevant incriminating evidence.

3. Such funds, incriminating evidence and related materials, upon confirmation of their use in the terrorist act by the requested State, shall be transmitted to the requesting State even if, for reasons of death or escape of the accused, the extradition in question cannot take place.

4. The provisions in paragraphs 1, 2 and 3 of this article shall not affect the rights of any of the States Parties or bona fide third parties regarding the materials or revenues mentioned above.

PART V. EXTRATERRITORIAL INVESTIGATIONS  
(*COMMISSION ROGATOIRE*) AND MUTUAL LEGAL  
ASSISTANCE

*Article 14*

1. Any State Party may, while recognizing the sovereign rights of States Parties in matters of criminal investigation, request any other State Party to carry out, with its assistance and cooperation, on the latter's territory, criminal investigations related to any judicial proceedings concerning alleged terrorist acts and, in particular:

- (a) The examination of witnesses and transcripts of statements made as evidence;
- (b) The opening of judicial information;
- (c) The initiation of investigation processes;
- (d) The collection of documents and recordings or, in their absence, authenticated copies thereof;
- (e) Conducting inspections and tracing of assets for evidentiary purposes;
- (f) Executing searches and seizures; and

(g) Service of judicial documents.

*Article 15*

A *commission rogatoire* may be refused:

- (a) Where each of the States Parties has to execute a *commission rogatoire* relating to the same terrorist acts;
- (b) If that request may affect efforts to expose crimes, impede investigations or the indictment of the accused in the country requesting the *commission rogatoire*; or
- (c) If the execution of the request would affect the sovereignty of the requested State, its security or public order.

*Article 16*

The extraterritorial investigation (*commission rogatoire*) shall be executed in compliance with the provisions of national laws of the requested State. The request for an extraterritorial investigation (*commission rogatoire*) relating to a terrorist act shall not be rejected on the grounds of the principle of confidentiality of bank operations or financial institutions, where applicable.

*Article 17*

The States Parties shall extend to each other the best possible mutual police and judicial assistance for any investigation, criminal prosecution or extradition proceedings relating to the terrorist acts as set forth in this Convention.

*Article 18*

The States Parties undertake to develop, if necessary, especially by concluding bilateral and multilateral agreements and arrangements, mutual legal assistance procedures aimed at facilitating and speeding up investigations and collecting evidence, as well as cooperation between law enforcement agencies in order to detect and prevent terrorist acts.

PART VI. FINAL PROVISIONS

*Article 19*

1. This Convention shall be open to signature, ratification or accession by the Member States of the Organization of African Unity.
2. The instruments of ratification or accession to the present Convention shall be deposited with the Secretary General of the Organization of African Unity.

3. The Secretary General of the Organization of African Unity shall inform Member States of the Organization of the deposit of each instrument of ratification or accession.

4. No State Party may enter a reservation which is incompatible with the object and purposes of this Convention.

5. No State Party may withdraw from this Convention except on the basis of a written request addressed to the Secretary General of the Organization of African Unity. The withdrawal shall take effect six months after the date of receipt of the written request by the Secretary General of the Organization of African Unity.

*Article 20*

1. This Convention shall enter into force thirty days after the deposit of the fifteenth instrument of ratification with the Secretary General of the Organization of African Unity.

2. For each of the States that shall ratify or accede to this Convention shall enter into force thirty days after the date of the deposit by that State Party of its instrument of ratification or accession.

*Article 21*

1. Special protocols or agreements may, if necessary, supplement the provisions of this Convention.

2. This Convention may be amended if a State Party makes a written request to that effect to the Secretary General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the proposed amendment after all the States Parties have been duly informed of it at least three months in advance.

3. The amendment shall be approved by a simple majority of the States Parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedures three months after the Secretary General has received notice of the acceptance.

*Article 22*

1. Nothing in this Convention shall be interpreted as derogating from the general principles of international law, in particular the principles of international humanitarian law, as well as the African Charter on Human and Peoples' Rights.

2. Any dispute that may arise between the States Parties regarding the interpretation or application of this Convention shall be amicably settled by direct agreement between them. Failing such settlement, any one of the States Parties may refer the dispute to the International

Court of Justice in conformity with the Statute of the Court or by arbitration by other States Parties to this Convention.

*Article 23*

The original of this Convention, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Secretary General of the Organization of African Unity.

ANNEX

**List of international instruments**

- (a) Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft of 1963;
- (b) Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1971 and the Protocol thereto of 1984;
- (c) New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 1973;
- (d) International Convention against the Taking of Hostages of 1979;
- (e) Convention on the Physical Protection of Nuclear Material of 1979;
- (f) United Nations Convention on the Law of the Sea 1982;
- (g) 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 of 1988;
- (h) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf of 1988;
- (i) Convention for the Suppression of Unlawful Acts against Maritime Navigation of 1988;
- (j) Convention on the Marking of Plastic Explosives of 1991;
- (k) International Convention for the Suppression of Terrorist Explosive Bombs of 1997;
- (l) Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction of 1997.

## **21. Protocol to the African Union Convention on the Prevention and Combating of Terrorism**

*Signed in Addis Ababa on 8 July 2004*

*Entry into force: On 26 February 2014, in accordance with article 10 of the Protocol*

*Depositary: Chairperson of the African Union Commission*

*We, the Heads of State and Government of the Member States of the African Union;*

*Gravely concerned* at the increasing incidence of terrorist acts worldwide, including in Africa, and the growing risks of linkages between terrorism and mercenarism, weapons of mass destruction, drug trafficking, corruption, transnational organized crimes, money laundering, and the illicit proliferation of small arms;

*Determined* to combat terrorism in all its forms and manifestations and any support thereto in Africa;

*Aware* of the capabilities of the perpetrators of terrorist acts to use sophisticated technology and communication systems for organizing and carrying out their terrorist acts;

*Bearing in mind* that the root causes of terrorism are complex and need to be addressed in a comprehensive manner;

*Convinced* that acts of terrorism cannot be justified under any circumstances;

*Determined* to ensure Africa's active participation, cooperation and coordination with the international community in its determined efforts to combat and eradicate terrorism;

*Guided* by the principles and regulations enshrined in international conventions and the relevant decisions of the United Nations (UN) to prevent and combat terrorism, including resolution 1373 adopted by the Security Council on 28 September 2001, and the relevant General Assembly resolutions;

*Reaffirming* our commitment to the OAU Convention for the Elimination of Mercenarism in Africa, adopted in Libreville, Gabon, in July 1977;

*Reaffirming* our commitment to the Code of Conduct for Inter-African Relations adopted by the Thirtieth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity (OAU) held in Tunis, Tunisia, from 13 to 15 June 1994;

*Reaffirming* our commitment to the OAU Convention on the Prevention and Combating of Terrorism adopted by the 35th OAU Summit in Algiers, Algeria, in July 1999;

*Recalling* the Dakar Declaration against terrorism adopted by the African Summit meeting, held in Dakar, Senegal, in October 2001;

*Further recalling* the Plan of Action for the Prevention and Combating of Terrorism adopted by the Intergovernmental High Level Meeting of Member States of the African Union, held in Algiers, Algeria, in September 2002;

*Considering* the Constitutive Act of the African Union, as well as the Protocol Relating to the Establishment of the Peace and Security Council of the African Union adopted by the Inaugural Summit of the Union in Durban, South Africa, in July 2002;

*Reiterating* our conviction that terrorism constitutes a serious violation of human rights and a threat to peace, security, development, and democracy;

*Stressing* the imperative for all Member States of the African Union to take all necessary measures to protect their populations from acts of terrorism and to implement all relevant continental and international humanitarian and human rights instruments; and

*Desirous of ensuring* the effective implementation of the OAU Convention on the Prevention and Combating of Terrorism;

*Hereby agree as follows:*

#### *Article 1*

##### *Definitions*

1. "Assembly" means the Assembly of Heads of State and Government of the African Union;
2. "Chairperson" means the Chairperson of the African Union;
3. "Commission" means the Commission of the African Union;
4. "Commissioner" means the Commissioner in charge of peace and security issues at the Commission of the African Union;
5. "Convention" means the OAU Convention on the Prevention and Combating of Terrorism adopted by the 35th OAU Summit in Algiers in July 1999;
6. "Member State" means any Member State of the African Union;
7. "Peace and Security Council (PSC)" means the Peace and Security Council of the African Union;
8. "Plan of Action" means the African Union Plan of Action on the Prevention and Combating of Terrorism in Africa;
9. "Protocol" means this Protocol to the Convention;
10. "Regional Mechanisms" means the African Regional Mechanisms for conflict prevention, management and resolution as established by the Regional Economic Communities;



11. “State Party” means any Member State of the African Union which has ratified or acceded to this Protocol;
12. “Terrorist Act” means any act as defined in articles 1 and 3 of the Convention;
13. “Union” means the African Union;
14. “Weapons of Mass Destruction (WMD)” means biological, chemical and nuclear devices and explosives and their means of delivery.

## *Article 2*

### *Purpose*

1. This Protocol is adopted pursuant to article 21 of the Convention as a supplement to the Convention.
2. Its main purpose is to enhance the effective implementation of the Convention and to give effect to article 3 (d) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, on the need to coordinate and harmonize continental efforts in the prevention and combating of terrorism in all its aspects, as well as the implementation of other relevant international instruments.

## *Article 3*

### *Commitments by States Parties*

1. States Parties commit themselves to implement fully the provisions of the Convention. They also undertake, among other things, to:
  - (a) Take all necessary measures to protect the fundamental human rights of their populations against all acts of terrorism;
  - (b) Prevent the entry into, and the training of terrorist groups on their territories;
  - (c) Identify, detect, confiscate and freeze or seize any funds and any other assets used or allocated for the purpose of committing a terrorist act, and to establish a mechanism to use such funds to compensate victims of terrorist acts or their families;
  - (d) Establish national contact points in order to facilitate the timely exchange and sharing of information on terrorist groups and activities at the regional, continental and international levels, including the cooperation of States for suppressing the financing of terrorism;
  - (e) Take appropriate actions against the perpetrators of mercenarism as defined in the OAU Convention for the Elimination of Mercenarism in Africa, adopted in Libreville, in 1977, and other relevant applicable international instruments;

- (f) Strengthen national and regional measures in conformity with relevant continental and international Conventions and Treaties, to prevent the perpetrators of terrorist acts from acquiring weapons of mass destruction;
- (g) Cooperate with the international community in the implementation of continental and international instruments related to weapons of mass destruction;
- (h) Submit reports to the PSC on an annual basis, or at such regular intervals as shall be determined by the PSC, on measures taken to prevent and combat terrorism as provided for in the Convention, the AU Plan of Action and in this Protocol;
- (i) Report to the PSC all terrorist activities in their countries as soon as they occur;
- (j) Become parties to all continental and international instruments on the prevention and combating of terrorism; and
- (k) Outlaw torture and other degrading and inhumane treatment, including discriminatory and racist treatment of terrorist suspects, which are inconsistent with international law.

2. States Parties shall implement the provisions of paragraph 1 above on the basis of all relevant African and international Conventions and Treaties, in conformity with article 22 of the Convention.

#### *Article 4*

##### *Mechanism for implementation*

The Peace and Security Council (PSC) shall be responsible for harmonizing and coordinating continental efforts in the prevention and combating of terrorism. In pursuing this endeavor, the PSC shall:

- (a) Establish operating procedures for information gathering, processing and dissemination;
- (b) Establish mechanisms to facilitate the exchange of information among States Parties on patterns and trends in terrorist acts and the activities of terrorist groups and on successful practices on combating terrorism;
- (c) Present an annual report to the Assembly of the Union on the situation of terrorism on the Continent;
- (d) Monitor, evaluate and make recommendations on the implementation of the Plan of Action and programmes adopted by the African Union;
- (e) Examine all reports submitted by States Parties on the implementation of the provisions of this Protocol; and

- (f) Establish an information network with national, regional and international focal points on terrorism.

*Article 5*

*The role of the Commission*

1. Under the leadership of the Chairperson of the Commission, and in conformity with article 10 paragraph 4 of the Protocol Relating to the Establishment of the Peace and Security Council, the Commissioner in charge of Peace and Security shall be entrusted with the task of following-up on matters relating to the prevention and combating of terrorism.

2. The Commissioner shall be assisted by the Unit established within the Peace and Security Department of the Commission and the African Centre for the Study and Research on Terrorism, and shall, among other things:

- (a) Provide technical assistance on legal and law enforcement matters, including on matters relating to combating the financing of terrorism, the preparation of model laws and guidelines to help Member States to formulate legislation and related measures for the prevention and combating of terrorism;
- (b) Follow-up with Member States and with regional mechanisms on the implementation of decisions taken by the PSC and other Organs of the Union on terrorism related matters;
- (c) Review and make recommendations on up-dating the programmes of the Union for the prevention and combating of terrorism and the activities of the African Centre for the Study and Research on Terrorism;
- (d) Develop and maintain a database on a range of issues relating to terrorism including experts and technical assistance available;
- (e) Maintain contacts with regional and international organizations and other entities dealing with issues of terrorism; and
- (f) Provide advice and recommendations to Member States on a needs basis, on how to secure technical and financial assistance in the implementation of continental and international measures against terrorism.

*Article 6*

*The role of regional mechanisms*

Regional mechanisms shall play a complementary role in the implementation of this Protocol and the Convention. They shall among other activities undertake the following:

- (a) Establish contact points on terrorism at the regional level;

- (b) Liaise with the Commission in developing measures for the prevention and combating of terrorism;
- (c) Promote cooperation at the regional level, in the implementation of all aspects of this Protocol and the Convention, in accordance with article 4 of the Convention;
- (d) Harmonize and coordinate national measures to prevent and combat terrorism in their respective Regions;
- (e) Establish modalities for sharing information on the activities of the perpetrators of terrorist acts and on the best practices for the prevention and combating of terrorism;
- (f) Assist Member States to implement regional, continental and international instruments for the prevention and combating of terrorism; and
- (g) Report regularly to the Commission on measures taken at the regional level to prevent and combat terrorist acts.

#### *Article 7*

##### *Settlement of disputes*

1. Any dispute or differences between States Parties arising from interpretation or application of the provisions of this Protocol shall be resolved amicably through direct consultations between the States Parties concerned.
2. In the event of failure to settle the dispute under subparagraph 1 above, either State Party may refer the dispute to the Assembly through the Chairperson, pending the entry into force of the Court of Justice of the African Union, which shall have jurisdiction over such disputes.
3. In the case where either or both States Parties are not Members of the Court of Justice of the African Union, either or both State Parties may refer the dispute to the International Court of Justice for a settlement in conformity with its Statutes.

#### *Article 8*

##### *Extradition*

1. The Convention shall constitute an adequate legal basis for extradition for States Parties that do not have extradition arrangements.
2. Should any dispute arise between State Parties on the interpretation or applicability of any existing bilateral extradition agreement or arrangement, the provisions of the Convention shall prevail with respect to extradition.

*Article 9*

*Signature, ratification and accession*

1. The present Protocol shall be open for signature, ratification or accession by the Member States of the Union in accordance with their respective constitutional procedures.

2. The ratification of or accession to this Protocol shall require the prior ratification of or accession to the Convention by Member States concerned.

*Article 10*

*Entry into force*

This Protocol shall enter into force thirty days after the deposit of the fifteenth (15th) instrument of ratification or accession.

*Article 11*

*Amendments*

1. Any State Party may propose amendment(s) to this Protocol by submitting a written request to the Commission, which shall circulate the said proposed amendments to all States Parties thereof.

2. The amendment(s) shall be approved by a simple majority of States Parties.

3. The amendment(s) approved shall enter into force for each State Party which has accepted it, in accordance with its constitutional procedures, three months after the Chairperson of the Commission has received notice of the acceptance.

*Article 12*

*Depositary authority*

This Protocol and all instruments of ratification or accession shall be deposited with the Chairperson of the Commission, who shall transmit certified true copies to all Member States and notify them of the dates of deposit of instruments of ratification by Member States and shall register it with the United Nations and any other Organization as may be decided by the Union.

*Adopted by the third ordinary session of  
the assembly of the African Union  
Addis Ababa, 8 July 2004*

## ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)

### 22. Association of Southeast Asian Nations (ASEAN) Convention on Counter-Terrorism

*Signed in Cebu on 13 January 2007*

*Entry into force: In accordance with article XXI of the Convention*

*Depositary: Secretary General of the ASEAN*

*Member Countries of the Association of Southeast Asian Nations (ASEAN)—Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam, hereinafter referred to as "the Parties";*

*Recalling* the Charter of the United Nations and relevant principles of international law, the relevant international conventions and protocols relating to counter terrorism and relevant resolutions of the United Nations on measures aimed at countering international terrorism, and reaffirming our commitment to protect human rights, fair treatment, the rule of law, and due process as well as the principles enshrined in the Treaty of Amity and Cooperation in Southeast Asia done at Bali on 24 February 1976;

*Reaffirming* that terrorism cannot and should not be associated with any religion, nationality, civilisation or ethnic group;

*Recalling* also the ASEAN Declaration on Joint Action to Counter Terrorism and the Declaration on Terrorism adopted at the ASEAN Summits in 2001 and 2002 respectively;

*Reaffirming* our commitment to the Vientiane Action Programme done at Vientiane on 29 November 2004, particularly its thrust on "shaping and sharing of norms" and the need, among others, to work towards the conclusion of an ASEAN Mutual Legal Assistance Agreement, and an ASEAN Convention on Counter Terrorism, and the establishment of an ASEAN Extradition Treaty as envisaged by the 1976 Declaration of ASEAN Concord;

*Deeply concerned* over the grave danger posed by terrorism to innocent lives, infrastructure and the environment, regional and international peace and stability as well as to economic development;

*Realising* the importance of identifying and effectively addressing the root causes of terrorism in the formulation of any counter-terrorism measures;

*Reiterating* that terrorism, in all its forms and manifestations, committed wherever, whenever, and by whomsoever, is a profound threat to international peace and security and a direct challenge to the attainment of peace, progress and prosperity for ASEAN and the realisation of ASEAN Vision 2020;

*Reaffirming* our strong commitment to enhance cooperation in countering terrorism which covers the prevention and suppression of all forms of terrorist acts;

*Reiterating* the need to improve regional cooperation on counter-terrorism and undertake effective measures through deepening cooperation among ASEAN law enforcement agencies and relevant authorities in countering terrorism;

*Encouraging* the Parties to become parties as soon as possible to the relevant international conventions and protocols relating to counter-terrorism;

*Have agreed as follows:*

#### *Article I*

##### *Objective*

This Convention shall provide for the framework for regional cooperation to counter, prevent and suppress terrorism in all its forms and manifestations and to deepen cooperation among law enforcement agencies and relevant authorities of the Parties in countering terrorism.

#### *Article II*

##### *Criminal acts of terrorism*

1. For the purposes of this Convention, “offence” means any of the offences within the scope of and as defined in any of the treaties listed as follows:

- (a) Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- (b) Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;
- (c) Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted in New York on 14 December 1973;
- (d) International Convention Against the Taking of Hostages, adopted in New York on 17 December 1979;

- (e) Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 26 October 1979;
- (f) 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, done at Montreal on 24 February 1988;
- (g) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;
- (h) Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;
- (i) International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997;
- (j) International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999;
- (k) International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in New York on 13 April 2005;
- (l) Amendment to the Convention on the Physical Protection of Nuclear Material, done at Vienna on 8 July 2005;
- (m) Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at London on 14 October 2005; and
- (n) Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at London on 14 October 2005.

2. On depositing its instrument of ratification or approval, a Party which is not a Party to a treaty listed in paragraph 1 of this article may declare that, in the application of this Convention to that Party, that treaty shall be deemed not to be included in paragraph 1 of this article. This declaration shall cease to have an effect as soon as the treaty enters into force for the Party having made such a declaration, which shall notify the depositary as stated in paragraph 2 of article XX of this entry into force.

3. When a Party ceases to be a party to a treaty listed in paragraph 1 of this article, it may make a declaration as provided for in this article, with respect to that treaty.

### *Article III*

#### *Sovereign equality, territorial integrity and non-interference*

The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and



territorial integrity of States and that of non-interference in the internal affairs of other Parties.

*Article IV*

*Preservation of sovereignty*

Nothing in this Convention entitles a Party to undertake, in the territory of another Party, the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other Party by its domestic laws.

*Article V*

*Non-application*

This Convention shall not apply where the offence is committed within a single Party, the alleged offender and the victims are nationals of that Party, the alleged offender is found in the territory of that Party and no other Party has a basis under this Convention to exercise jurisdiction.

*Article VI*

*Areas of cooperation*

1. The areas of cooperation under this Convention may, in conformity with the domestic laws of the respective Parties, include appropriate measures, among others, to:

- (a) Take the necessary steps to prevent the commission of terrorist acts, including by the provision of early warning to the other Parties through the exchange of information;
- (b) Prevent those who finance, plan, facilitate, or commit terrorist acts from using their respective territories for those purposes against the other Parties and/or the citizens of the other Parties;
- (c) Prevent and suppress the financing of terrorist acts;
- (d) Prevent the movement of terrorists or terrorist groups by effective border control and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;
- (e) Promote capacity-building including trainings and technical cooperation and the holding of regional meetings;
- (f) Promote public awareness and participation in efforts to counter terrorism, as well as enhance inter-faith and intra-faith dialogue and dialogue among civilisations;
- (g) Enhance cross-border cooperation;

- (h) Enhance intelligence exchange and sharing of information;
- (i) Enhance existing cooperation towards developing regional databases under the purview of the relevant ASEAN bodies;
- (j) Strengthen capability and readiness to deal with chemical, biological, radiological, nuclear (CBRN) terrorism, cyberterrorism and any new forms of terrorism;
- (k) Undertake research and development on measures to counter terrorism;
- (l) Encourage the use of video conference or teleconference facilities for court proceedings, where appropriate; and
- (m) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice.

2. Subject to the consent of the Parties concerned, Parties shall cooperate to address the root causes of terrorism and conditions conducive to the spread of terrorism to prevent the perpetration of terrorist acts and the propagation of terrorist cells.

#### *Article VII*

##### *State jurisdiction*

1. A Party shall take such measures as may be necessary to establish its jurisdiction over the offences covered in article II of this Convention when:

- (a) The offence is committed in the territory of that Party; or
- (b) The offence is committed on board a vessel flying the flag of that Party or an aircraft which is registered under the laws of that Party at the time the offence is committed; or
- (c) The offence is committed by a national of that Party.

2. A Party may also establish its jurisdiction over any such offence when:

- (a) The offence is committed against a national of that Party; or
- (b) The offence is committed against a state or government facility of that Party abroad, including its embassy or other diplomatic or consular premises; or
- (c) The offence is committed in an attempt to compel that Party to do or to abstain from doing any act; or
- (d) The offence is committed by a stateless person with habitual residence in the territory of that Party.

3. A Party shall likewise establish its jurisdiction over the offences covered in article II of this Convention in cases where the alleged offender is present in its territory and it does not extradite that person to

any of the Parties that have established their jurisdiction in accordance with paragraph 1 or 2 of this article.

4. This Convention does not exclude the exercise of any criminal jurisdiction established by a Party in accordance with its domestic laws.

### *Article VIII*

#### *Fair treatment*

1. Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the laws of the Party in the territory of which that person is present and applicable provisions of international law, including international human rights law.

2. Upon receiving information that a person who has committed or who is alleged to have committed an offence covered in article II of this Convention may be present in its territory, the Party concerned shall take such measures as may be necessary under its domestic laws to investigate the facts contained in the information.

3. Upon being satisfied that the circumstances so warrant, the Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic laws so as to ensure that person's presence for the purpose of prosecution or extradition.

4. Any person regarding whom measures referred to in paragraph 3 of this article are being taken shall be entitled:

- (a) To communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights;
- (b) To be visited by a representative of that State;
- (c) To be informed of that person's rights under subparagraphs (a) and (b) of paragraph 4 of this article.

5. The rights referred to in paragraph 4 of this article shall be exercised in conformity with the laws and regulations of the Party in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 4 of this article are intended.

6. When a Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of ASEAN, the Parties which have established jurisdiction in accordance with paragraph 1 or 2 of article VII, and, if it considers it advisable, any other interested Parties, of the fact that such person is in custody and of the circumstances which warrant that person's

detention. The Party which is carrying out the investigation referred to in paragraph 2 of this article shall promptly inform the said Parties of its findings and shall indicate whether it intends to exercise jurisdiction over the said person.

### *Article IX*

#### *General provisions*

1. The Parties shall adopt such measures as may be necessary, including, where appropriate, national legislation, to ensure that offences covered in article II of this Convention, especially when it is intended to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

2. Pursuant to article VI of this Convention, the Parties shall, where possible, establish channels of communication between their competent agencies to facilitate the exchange of information to prevent the commission of offences covered in article II of this Convention.

3. The Party where the alleged offender is prosecuted shall, upon the request of the other Parties claiming jurisdiction over the same, communicate the status of the case at any stage of the proceedings to those other Parties.

### *Article X*

#### *Status of refugees*

The Parties shall take appropriate measures, in conformity with the relevant provisions of their respective domestic laws and applicable international law, including international standards of human rights, before granting refugee status, where the Parties recognise and grant such status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts.

### *Article XI*

#### *Rehabilitative programmes*

The Parties shall endeavour to promote the sharing of best practices on rehabilitative programmes including, where appropriate, social reintegration of persons involved in the commission of any of the offences covered in article II of this Convention with the objective of preventing the perpetration of terrorist acts.

*Article XII*

*Mutual legal assistance in criminal matters*

1. The Parties shall, in conformity with their respective domestic laws, afford the widest measure of assistance in connection with investigations or criminal proceedings brought in respect of the offences covered in article II of this Convention.

2. The Parties shall, where they are parties to the Treaty on Mutual Legal Assistance in Criminal Matters done in Kuala Lumpur on 29 November 2004, carry out their obligations under paragraph 1 of this article in conformity with that Treaty.

*Article XIII*

*Extradition*

1. The Party in the territory of which the alleged offender is present shall, in cases to which article VII of this Convention applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the domestic laws of that Party. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the domestic laws of that Party.

2. The offences covered in article II of this Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties before the entry into force of this Convention. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

3. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party may, at its option, and in conformity with its domestic laws, consider this Convention as a legal basis for extradition in respect of the offences covered in article II of this Convention.

*Article XIV*

*Political offences exception*

None of the offences covered in article II of this Convention shall be regarded for the purposes of extradition under article XIII of this Convention or mutual legal assistance in criminal matters under article XII of this Convention as a political offence or as an offence connected with

a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance in criminal matters based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

*Article XV*

*Designation of central authorities or coordinating structures*

Each Party shall designate, as appropriate, a central authority or coordinating structure to enhance cooperation under this Convention.

*Article XVI*

*Implementation, monitoring and review*

The relevant ASEAN sectoral bodies involved in ASEAN cooperation on countering terrorism shall be responsible for monitoring and reviewing the implementation of this Convention.

*Article XVII*

*Confidentiality*

1. Each Party shall preserve the confidentiality and secrecy of documents, records and other information received from any other Party, including the source thereof.
2. No document, record or other information obtained pursuant to this Convention shall be disclosed to or shared with any other Party, State or person except with the prior written consent of the Party which provided such document, record or information.

*Article XVIII*

*Relationship with other international instruments*

This Convention shall not derogate from obligations subsisting between the Parties pursuant to other international agreements nor, where the Parties agree, shall it prevent the Parties from providing assistance to each other pursuant to other international agreements or the provisions of their respective domestic laws.

*Article XIX*

*Settlement of disputes*

Any difference or dispute between the Parties arising from the interpretation or application of the provisions of this Convention shall

be settled amicably through consultation and negotiation between the Parties through diplomatic channels or any other peaceful means for the settlement of disputes as agreed upon between the Parties.

*Article XX*

*Ratification, approval and depositary*

1. This Convention shall be subject to ratification or approval in accordance with the internal procedures of the Parties.
2. The instruments of ratification or approval shall be deposited with the Secretary-General of ASEAN who shall promptly inform the other Parties of such deposit.

*Article XXI*

*Entry into force and amendment*

1. This Convention shall enter into force on the 30th (thirtieth) day following the date of the deposit of the 6th (sixth) instrument of ratification or approval with the Secretary-General of ASEAN in respect of those Parties that have submitted their instruments of ratification or approval.
2. For any Party ratifying or approving this Convention after the deposit of the 6th (sixth) instrument of ratification or approval, but before the day the Convention enters into force, the Convention shall also apply to that Party on the date the Convention enters into force.
3. In respect of a Party ratifying or approving this Convention subsequent to its entry into force pursuant to paragraph 1, it shall enter into force for that Party on the date its instrument of ratification or approval is deposited.
4. This Convention may be modified or amended at any time by mutual written consent of the Parties. Such modification or amendment shall enter into force on such date as shall be mutually agreed upon by Parties and shall form part of this Convention.
5. Any modification or amendment shall not affect the rights and obligations of the Parties arising from or based on the provisions of this Convention before the entry into force of such modification or amendment.

*Article XXII*

*Withdrawal*

1. Any Party may withdraw from this Convention at any time after the date of the entry into force of this Convention for that Party.
2. The withdrawal shall be notified by an instrument of withdrawal to the Secretary-General of ASEAN.

3. The withdrawal shall take effect 180 (one hundred and eighty) days after the receipt of the instrument of withdrawal by the Secretary-General of ASEAN.

4. The Secretary-General of ASEAN shall promptly notify all the other Parties of any withdrawal.

*Article XXIII*

*Registration*

This Convention shall be registered by the Secretary-General of ASEAN to the United Nations Secretariat pursuant to article 102 of the Charter of the United Nations.

DONE at Cebu, Philippines, this Thirteenth Day of January in the Year Two Thousand and Seven, in a single original copy in the English language.



## CENTRAL AFRICAN ECONOMIC AND MONETARY COMMUNITY

### 23. Convention on the Fight against Terrorism in Central Africa<sup>2</sup>

*Done at Libreville on 27 May 2004.*

*Entry into force: In accordance with article 7*

*Depositary: The Gabonese Republic*

The Council of Ministers,

*Having regard* to the Treaty establishing the Central African Economic and Monetary Community (CEMAC) of 16 March 1994 and the Addendum thereto of 26 July 1996 concerning the Community's legal and institutional system,

*Having regard* to the Convention governing the Central African Economic Union,

*Having regard* to Regulation No. 11/99-UEAC-025-CM-02 on the rules for the organization and functioning of the Council of Ministers,

*Having regard* to CEMAC Additional Act No. 9 of 14 December 2000 making the Central African Police Chiefs Committee (CCPAC) a specialized organ of the Community,

*Considering* that cooperation on criminal police matters among the States of Central Africa will help to ensure that the goals of CEMAC are achieved in conditions of security,

*Bearing in mind* the international environment, the recurrent threats of terrorism and the need to prevent and combat the phenomenon of terrorism in all its forms and manifestations in Central Africa,

*On the proposal* of the Executive Secretary,

*Having consulted* the Inter-State Committee,

At its meeting on 5 February 2005

Hereby adopts

The following Regulation:

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<sup>2</sup> Regulation No. 08/05-UEAC-057-CM-13 to which the Convention is attached was signed in Libreville, 7 February 2005

*Article 1*

The Convention between the States members of the Central African Police Chiefs Committee on the Fight against Terrorism, annexed hereto, is hereby adopted.

*Article 2*

The present Regulation shall enter into force on the date of its signature and shall be published in the Official Gazette of the Community.

Libreville, 7 February 2005

President

Paul Toungui

CONVENTION BETWEEN THE STATES MEMBERS OF THE  
CENTRAL AFRICAN POLICE CHIEFS COMMITTEE ON THE  
FIGHT AGAINST TERRORISM

PREAMBLE

The Government of the Republic of Cameroon,  
The Government of the Central African Republic,  
The Government of the Republic of Chad,  
The Government of the Republic of the Congo,  
The Government of the Democratic Republic of the Congo,  
The Government of the Republic of Equatorial Guinea,  
The Government of the Gabonese Republic,  
The Government of the Democratic Republic of Sao Tome and Principe,  
Hereinafter referred to as “the States Parties”,

Considering the Agreement on Cooperation on Criminal Police Matters between the States of Central Africa,

Considering the Statute and the rules of procedure of the Central African Police Chiefs Committee (CCPAC),

*Considering* the Treaty establishing the Central African Economic and Monetary Community (CEMAC),

*Considering* the Cooperation Agreement between the Economic and Monetary Community of Central Africa and the International Criminal Police Organization-INTERPOL of 26 March 2001,

*Considering* CEMAC Additional Act No. 9 of 14 December 2000 making CCPAC a specialized organ of the Community,

*Considering* the Extradition Agreement between the States members of CEMAC,

*Considering* the Agreement on Judicial Cooperation between the States members of CEMAC,

Considering the Regulation on the Prevention and Suppression of Money-Laundering and of the Financing of Terrorism in Central Africa,

Bearing in mind the provisions of the Charter of the United Nations, the Constitutive Act of the African Union and all other international treaties and agreements to which the States Parties are signatories,

Bearing in mind the international environment and the recurrent threats of terrorism,

Determined to effectively prevent and combat terrorism in all its forms and manifestations in Central Africa,

*Hereby agree as follows:*

#### CHAPTER 1: DEFINITIONS AND SCOPE

##### *Article 1: Definitions*

Under the present Convention:

1. "State Party" means a State member of the Central African Police Chiefs Committee (CCPAC), as defined in the Agreement on Cooperation on Criminal Police Matters between the States of Central Africa and the Statute of CCPAC, or a State that has expressed its consent to be bound by the present Convention.

2. "Terrorist act" means:

(a) Any act or threat that is a violation of the criminal laws of a State Party and that may endanger the life, physical integrity or freedom of a person or group of persons or that causes or may cause damage to public or private property, natural resources, the environment or cultural heritage and is intended:

(i) To intimidate or provoke terror or to force, coerce or induce any government, body or institution, or the general public or any segment thereof, to do or abstain from doing any act or to adopt or abandon a particular position or to act according to certain principles; or

(ii) To disrupt the normal functioning of public services or the delivery of essential services to the public or to create a public emergency; or

(iii) To create general insurrection in a State Party;

(b) Any promotion, financing, contribution, order, aid, incitement, encouragement, attempt, threat, conspiracy, organization or pro-

curement by any person with the intent to commit any act referred to in subparagraph (a) (i) to (iii).

*Article 2: Scope*

The present Convention shall apply to all the States Parties; its purpose shall be to prevent and suppress all terrorist acts as defined in article 1, paragraph 2, above, including the offences referred to in the international legal instruments listed below, apart from exclusions mentioned in the laws of the States Parties:

- The Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963)
- The Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970)
- The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971) and the additional protocol thereto (Montreal, 1988)
- The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (New York, 1973)
- The International Convention against the Taking of Hostages (1979)
- The United Nations Convention on the Law of the Sea (1982) and the United Nations Convention against Transnational Organized Crime and the Protocols thereto
- The Organization of African Unity Convention on the Prevention and Combating of Terrorism.

CHAPTER 2: COUNTER-TERRORISM MEASURES AND COOPERATION MEASURES

*Article 3: Measures to combat terrorist offences*

In order to combat the terrorist threat in a coordinated and effective manner, the States Parties shall:

1. Use all means to prevent, in their respective territories, the preparation, financing and commission of terrorist acts or the establishment of organizations considered by the United Nations to be terrorist organizations;

2. Prohibit, in their territories, all forms of propaganda for or advocacy of crime in general and terrorism in particular and all forms of support for terrorist organizations, as referred to in subparagraph 1 above;

3. Implement the CEMAC Regulation on the Prevention and Suppression of Money-Laundering and of the Financing of Terrorism in Central Africa;

4. Establish, within each State Party, special operational units and strengthen the existing arrangements with regard to roads, national maritime areas and airspace, in accordance with each Party's border control and protection procedures;

5. In the case of States that have not yet done so, adapt their domestic laws to the current context of international crime, taking into account the phenomenon of terrorism, which is at increasing risk of spreading in Africa;

6. Initiate specialized training programmes for the staff of authorities responsible for combating terrorism;

7. Initiate any action that may contribute to the effective implementation of the present Convention.

*Article 4: Cooperation to combat terrorist offences*

In order to combat terrorist offences effectively, the States Parties shall, in accordance with their domestic laws and procedures:

1. Provide each other, through their competent authorities, with all forms of assistance set out in the CEMAC Agreement on Mutual Legal Assistance, the Agreement on Cooperation on Criminal Police Matters between the States of Central Africa and any other legal instrument in force among them;

2. Establish, through the Central African Police Chiefs Committee (CCPAC), a joint databank relating to persons under investigation for terrorism and terrorist groups, movements and organizations, as referred to in article 2 above;

3. Detain and bring before their competent courts persons who have committed or attempted to commit terrorist offences as defined above;

4. Extradite to the requesting State the perpetrators of terrorist offences, in accordance with the CEMAC Extradition Agreement or any other agreements to which the requesting State and the requested State are parties;

5. Hand over, from police force to police force, subject to the agreement of the competent judicial authorities, persons detained in connection with terrorism and also objects (arms, ammunition, explosives, vehicles, procedural files or documents, judicial acts or decisions) seized during such procedures, in accordance with the relevant provisions of the Agreement on Cooperation on Criminal Police Matters between the States of Central Africa and the provisions of the Extradition Agreement

between the States members of CEMAC and the Agreement on Judicial Cooperation between the States members of CEMAC;

6. Establish effective cooperation between the counter-terrorism authorities and the public;

7. Guarantee the right to defence, making assistance to suspects mandatory;

8. Promote a policy and culture of assistance to victims of terrorism;

9. Exchange all information concerning terrorist offences that have been committed or are in preparation in the territory of a State Party;

10. Conduct studies and research on terrorism, share the results and exchange experiences regarding the prevention of this form of crime.

### CHAPTER 3: MUTUAL LEGAL ASSISTANCE

#### *Article 5: Extradition of criminals*

1. In accordance with article 4, paragraph 2, above, each State Party shall extradite any individual who is wanted for a terrorist offence and whose extradition is requested by any other State Party.

2. The extradition of persons under investigation for terrorism shall be effected in accordance with the CEMAC Extradition Agreement, multilateral or bilateral agreements, and the relevant domestic rules and procedures of each State concerned. However, extradition may not take place:

(a) If the individual whose extradition is sought is a national of the requested State. In such cases, the requesting State may request that the individual be prosecuted in the requested State;

(b) If, before the submission of the extradition request, the requested State has already begun an investigation or judicial proceedings in the same case;

(c) If the case has already been tried and an enforceable court decision has been handed down in the requested State or in another State Party;

(d) If, at the time of transmission of the extradition request to the requested State, the individual whose extradition is sought is serving a sentence for another conviction. In such cases, the individual shall not be extradited until the end of his or her sentence;

(e) If the act in question is not an offence in the requested State;

(f) If an amnesty has been granted to an individual who has committed one or more offences in the requesting State.

3. Where the individual whose extradition is sought is under investigation for or has been convicted of another offence in the requested State, his or her extradition must be deferred until the

investigation is completed or the sentence has been served. In such circumstances, the requested State may extradite the individual temporarily to the requesting State for the purposes of an investigation, provided that the individual is returned before the enforcement of the sentence that has been imposed in the requested State.

4. Under the present Convention, persons under investigation for terrorism may be extradited only if the offence is punishable by imprisonment for a term of at least one year under the law of both States concerned.

*Article 6: Representation in legal proceedings*

1. Each State Party may ask any other State Party to represent it in any legal proceedings initiated following the commission of a terrorist offence, in particular to:

- (a) Hear witnesses;
- (b) Produce legal documents;
- (c) Carry out inspections and confiscations;
- (d) Conduct interviews and examine evidence;
- (e) Obtain necessary documents or records or certified true copies of such documents or records.

2. Pursuant to the provisions of the present Convention, acts carried out through legal representation have the same executory value as if they were carried out by the competent authorities of the State that has requested representation.

CHAPTER 4: FINAL PROVISIONS

*Article 7: Entry into force*

The present Convention shall enter into force upon completion by the States Parties of the formalities required under their domestic law and notification through diplomatic channels of the completion of those formalities by at least five (05) States Parties to the Gabonese Republic, the depositary State of the present Convention.

*Article 8: Amendments*

1. Any State Party may submit proposed amendments or revisions to the present Convention. Such proposals must be sent to the depositary State, which shall make them known to the other Parties.

2. Proposed amendments or revisions shall be considered by the Forum of Ministers of Security.

3. Proposed amendments or revisions must be approved by at least two thirds of the States Parties. These amendments or revisions shall enter into force in the manner set forth in article 7 above.

*Article 9: Withdrawal*

1. The provisions of the present Convention are hereby accepted by the States Parties, and no Party may withdraw without submitting written notification to the depositary State, which shall inform the other States Parties.

2. Withdrawal shall take effect only after the expiration of a period of six (06) months from the date of the notification mentioned in the preceding paragraph.

*Article 10: Settlement of disputes*

Any dispute arising from the application or interpretation of the present Convention shall be settled by negotiation between the Parties.

IN WITNESS WHEREOF the undersigned have signed the present Convention in three (3) original copies in the English, French and Spanish languages, all three (3) texts being equally authentic.

DONE at Libreville on 27 May 2004

The Government of the Republic of Cameroon

The Government of the Central African Republic

The Government of the Republic of Chad

The Government of the Republic of the Congo

The Government of the Democratic Republic of the Congo

The Government of the Republic of Equatorial Guinea

The Government of the Gabonese Republic

The Government of the Democratic Republic of Sao Tome and Principe



## COMMONWEALTH OF INDEPENDENT STATES

### 24. Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism

*Done at Minsk on 4 June 1999*

*Entry into force on 3 October 2000 for Tajikistan; on 5 December 2000 for Kazakhstan; on 6 February 2001 for Kyrgyzstan; on 22 August 2001 for the Republic of Moldova; on 28 December 2001 for Armenia; on 18 April 2004 for Belarus; and on 13 January 2005 for the Russian Federation.*

*Depositary: Executive Committee of the Commonwealth of Independent States*

*The States Parties to this Treaty, in the person of their Governments, hereinafter referred to as the Parties,*

*Aware of the danger posed by acts of terrorism,*

*Bearing in mind the instruments adopted within the United Nations and the Commonwealth of Independent States, as well as other international instruments, relating to combating the various manifestations of terrorism,*

*Wishing to render one another the broadest possible assistance in increasing the effectiveness of cooperation in this field,*

*Have agreed as follows:*

#### *Article 1*

For purposes of this Treaty, the terms used in it mean:

“Terrorism”—an illegal act punishable under criminal law committed for the purpose of undermining public safety, influencing decision-making by the authorities or terrorizing the population, and taking the form of:

Violence or the threat of violence against natural or juridical persons;

Destroying (damaging) or threatening to destroy (damage) property and other material objects so as to endanger people’s lives;

Causing substantial harm to property or the occurrence of other consequences dangerous to society;

Threatening the life of a statesman or public figure for the purpose of putting an end to his State or other public activity or in revenge for such activity;

Attacking a representative of a foreign State or an internationally protected staff member of an international organization, as well as the business premises or vehicles of internationally protected persons;

Other acts classified as terrorist under the national legislation of the Parties or under universally recognized international legal instruments aimed at combating terrorism;

“Technological terrorism”—the use or threat of the use of nuclear, radiological, chemical or bacteriological (biological) weapons or their components, pathogenic micro-organisms, radioactive substances or other substances harmful to human health, including the seizure, putting out of operation or destruction of nuclear, chemical or other facilities posing an increased technological and environmental danger and the utility systems of towns and other inhabited localities, if these acts are committed for the purpose of undermining public safety, terrorizing the population or influencing the decisions of the authorities in order to achieve political, mercenary or any other ends, as well as attempts to commit one of the crimes listed above for the same purposes and leading, financing or acting as the instigator, accessory or accomplice of a person who commits or attempts to commit such a crime;

“Facilities posing an increased technological and environmental danger”—enterprises, installations, plant and other facilities whose inoperability may lead to loss of human life, the impairment of human health, pollution of the environment or destabilization of the situation in a given region or a given State as a whole;

“Special anti-terrorist units”—groups of specialists formed by the Parties in accordance with their national legislation to combat acts of terrorism;

“Special items and supplies”—materials, machinery and vehicles, personal equipment for members of special anti-terrorist units including weapons and ammunition, and special items and equipment.

## *Article 2*

The Parties shall cooperate in preventing, uncovering, halting and investigating acts of terrorism in accordance with this Treaty, their national legislation and their international obligations.

## *Article 3*

1. Each of the Parties shall, on signing this Treaty or carrying out the domestic procedures required for its entry into force, indicate

its competent authorities responsible for implementing the provisions of this Treaty.

The Parties shall immediately notify the depositary of any changes with regard to their competent authority.

2. In implementing the provisions of this Treaty, the competent authorities of the Parties shall maintain direct relations with one another.

#### *Article 4*

1. In cooperating in combating acts of terrorism, including in relation to the extradition of persons committing them, the Parties shall not regard the acts involved as other than criminal.

2. The nationality of a person accused of an act of terrorism shall be deemed to be his nationality at the time of commission of the act.

#### *Article 5*

1. The competent authorities of the Party shall, in accordance with this Treaty, other international agreements and national legislation, cooperate and assist one another by:

- (a) Exchanging information;
- (b) Responding to enquiries regarding the conduct of investigations;
- (c) Developing and adopting agreed measures for preventing, uncovering, halting or investigating acts of terrorism, and informing one another about such measures;
- (d) Adopting measures to prevent and halt preparations in their territory for the commission of acts of terrorism in the territory of another Party;
- (e) Assisting in assessing the condition of the system for physical protection of facilities posing an increased technological and environmental danger, and developing and implementing measures to improve that system;
- (f) Exchanging legislative texts and materials on the practice with respect to their application;
- (g) Sending, by agreement between interested Parties, special anti-terrorist units to render practical assistance in halting acts of terrorism and combating their consequences;
- (h) Exchanging experience on the prevention and combating of terrorist acts, including the holding of training courses, seminars, consultations and workshops;
- (i) Training and further specialized training of personnel;
- (j) Joint financing, by agreement between Parties, and conduct of research and development work on systems for and means of

physically protecting facilities posing an increased technological and environmental danger;

(k) Implementation on a contractual basis of deliveries of special items, technology and equipment for anti-terrorist activity.

2. The procedure for sending and executing requests for extradition, for the provision of legal aid in criminal cases and for the institution of criminal proceedings shall be determined by the international agreements to which the Parties concerned are parties.

#### *Article 6*

The Parties shall, through joint consultations, jointly draw up recommendations for achieving concerted approaches to the legal regulation of issues relating to the prevention and combating of terrorist acts.

#### *Article 7*

1. Cooperation under this Treaty shall be conducted on the basis of requests by an interested Party for assistance to be rendered, or on the initiative of a Party which believes such assistance to be of interest to another Party.

2. The request for the rendering of assistance shall be made in writing. In urgent cases, requests may be transmitted orally, but must be confirmed in writing not later than 72 hours thereafter, including through the use of technical text transmission facilities.

If doubt arises as to the genuineness or content of a request, additional confirmation may be requested.

Requests shall contain:

(a) The name of the competent authority requesting assistance and of the authority requested; a statement of the substance of the matter; the purpose of and justification for the request; and a description of the nature of the assistance requested;

(b) Any other information that may be useful for the proper fulfilment of the request.

3. A request for the rendering of assistance transmitted or confirmed in writing shall be signed by the head of the requesting competent authority or his deputy and shall be certified by the seal of the competent authority.

#### *Article 8*

1. The requested Party shall take all necessary measures to ensure the prompt and fullest possible fulfilment of the request.

The requesting Party shall be immediately notified of circumstances that prevent or will substantially delay the fulfilment of the request.

2. If the fulfilment of the request does not fall within the competence of the requested competent authority, it shall transmit the request to an authority of its State which is competent to fulfil it, and shall immediately so inform the requesting competent authority.

3. The requested Party shall be entitled to request additional information that is in its view needed for the proper fulfilment of the request.

4. In fulfilling a request, the legislation of the requested Party shall be applied; however, at the request of the requesting Party, its legislation may be applied if that does not contradict fundamental principles of the legislation of the requested Party or its international obligations.

5. If the requested Party considers that immediate fulfilment of the request may impede a criminal prosecution or other proceedings taking place on its territory, it may postpone fulfilment of the request or tie its fulfilment to compliance with conditions determined to be necessary following consultations with the requesting Party. If the requesting Party agrees that assistance shall be rendered to it on the proposed terms, it shall comply with those terms.

6. The requested Party shall at the request of the requesting Party take the necessary measures to ensure confidentiality of the fact that the request has been received, the content of the request and accompanying documents, and the rendering of assistance.

If it is impossible to fulfil the request without maintaining confidentiality, the requested Party shall so inform the requesting Party, which shall decide whether the request should be fulfilled under those conditions.

7. The requested Party shall inform the requesting Party as soon as possible about the results of the fulfilment of the request.

#### *Article 9*

1. The rendering of assistance under this Treaty shall be denied in whole or in part if the requested Party believes that fulfilment of the request may impair its sovereignty, security, social order or other vital interests or is in contravention of its legislation or international obligations.

2. The rendering of assistance may be denied if the act in relation to which the request was made is not a crime under the legislation of the requested Party.

3. The requesting Party shall be notified in writing of a refusal to fulfil a request in whole or in part, with an indication of the reasons for refusal listed in paragraph 1 of this article.

*Article 10*

1. Each Party shall ensure confidentiality of information and documents received from another Party if they are classified as restricted or the transmitting Party considers it undesirable that they should be made public. The level of security classification of such information and documents shall be determined by the transmitting Party.

2. Results of the fulfilment of a request obtained on the basis of this Treaty may not without the consent of the Party providing them be used for purposes other than those for which they were requested and provided.

3. Transmission to a third party of information obtained by one Party on the basis of this Treaty shall require the prior consent of the Party providing the information.

*Article 11*

The competent authorities of the Parties shall exchange information on issues of mutual interest, including:

- (a) Materials distributed in the territory of their States containing information on terrorist threats, terrorist acts in the course of preparation or committed and the identified intentions of given persons, groups of persons or organizations to commit acts of terrorism;
- (b) Acts of terrorism in the course of preparation that are directed against heads of State, internationally protected persons, staff of diplomatic missions, consular institutions and international organizations of the Parties and participants in State visits and international and national political, sporting and other activities;
- (c) Instances of illegal circulation of nuclear materials, chemical, bacteriological (biological) weapons or their components, highly toxic chemicals and pathogenic micro-organisms;
- (d) Terrorist organizations, groups and individuals that present a threat to the State security of the Parties and the establishment of contacts between terrorist organizations, groups or individuals;
- (e) Illegal armed formations employing methods of terrorist activity, their structure, members, aims and objectives;
- (f) Ways, means and methods of terrorist action they have identified;
- (g) Supplies and equipment that may be provided by the Parties to one another to the extent of their ability;
- (h) Practice with respect to the legal and other regulatory settlement of issues related to the subject of this Treaty;
- (i) Identified and presumed channels for the financing and illegal delivery to the territory of their States of weapons and other means of committing terrorist acts;

(j) Terrorist encroachments aimed at violating the sovereignty and territorial integrity of Parties;

Other issues of interest to the Parties.

*Article 12*

1. The Parties may, at the request or with the consent of the Party concerned, send representatives of their competent authorities, including special anti-terrorist units, to provide procedural, advisory or practical aid in accordance with this Treaty.

In such cases, the receiving Party shall notify the other Party in writing of the place and time of and procedure for crossing its State border and the nature of the problems to be dealt with, and shall promote and facilitate the necessary conditions for their effective solution, including unimpeded carriage of persons and special items and supplies and cost-free accommodation, food and use of the transport infrastructure of the receiving Party.

Any movement of a special anti-terrorist unit or of individual members of such a unit within the territory of the receiving Party shall be possible only with special permission from and under the control of the head of the competent authority of the receiving Party.

2. The procedure for the use of air, road, rail, river and maritime transport to provide aid shall be determined by the competent authorities of the Parties in agreement with the relevant ministries and departments of the receiving Party.

*Article 13*

1. For purposes of the effective and timely provision of aid, the Parties shall, when special anti-terrorist units cross the State border, ensure accelerated conduct of the formalities established by national legislation.

2. At the border crossing point, the commanding officer of a special anti-terrorist unit shall present the nominal role of members of the group and list of special items and supplies certified by the competent authorities of the sending Party, together with an indication of the purposes of the Unit's arrival in the territory of the receiving Party, while all members of the group shall present their national passports and documents confirming that they belong to competent authorities for combating terrorism.

3. Special items and supplies shall be exempt from customs duties and payments and must be either used during the operation for the provision of aid or removed from the territory of the receiving Party upon its conclusion.

If special circumstances make it impossible to remove the special items and supplies, the competent authorities of the sending Party shall hand them over to the competent authorities of the receiving Party.

*Article 14*

The decision on the procedure for conducting special measures under this Treaty shall be taken by the competent authority of the receiving Party, taking into account the views of the commanding officer of the incoming anti-terrorist unit of the other Party. If these views are not taken into account, the commanding officer shall be entitled to refuse to participate in the conduct of the special measure.

*Article 15*

1. The receiving Party shall refrain from any claims against a Party providing aid, including with regard to compensation for damages arising out of death, bodily injury or any other harm caused to the lives, health and property of natural persons located in the territory of the receiving Party, and also to juridical persons and the receiving Party itself, if such harm was inflicted during the performance of activities associated with the implementation of this Treaty.

2. If a participant in the special anti-terrorist unit of the sending Party inflicts harm on some person or organization while performing activities associated with the implementation of this Treaty in the territory of the receiving Party, the receiving Party shall make compensation for the harm in accordance with the provisions of national legislation which would be applied in the case of harm being inflicted by members of anti-terrorist units of the receiving Party in similar circumstances.

3. The procedure for repayment of expenses incurred by the sending Party, including expenses associated with the loss or complete or partial destruction of imported special items and supplies, shall be established by agreement between the Parties concerned.

4. If one of the Parties considers the damage caused by the actions of the special anti-terrorist unit to be disproportionate to the purposes of the operation, the differences of opinion that arise shall be settled at the bilateral level by the Parties concerned.

*Article 16*

For purposes of the implementation of this Treaty, the competent authorities of the Parties may where necessary hold consultations and working meetings.



*Article 17*

The Parties may, by mutual agreement and on the basis of separate agreements, conduct joint exercises of special anti-terrorist units and, on a reciprocal basis, organize training for representatives of another Party in their national anti-terrorist detachments.

*Article 18*

1. Materials, special items, technology and equipment received by the competent authorities of the Parties pursuant to this Agreement may be transferred to a third party only with the consent of and on the terms specified by the competent authority which provided such materials, special items, technology and equipment.

2. Information on the investigation methods of special anti-terrorist units and on the characteristics of special forces and of items and supplies used in providing aid under this Agreement may not be disclosed.

*Article 19*

The Parties concerned shall where necessary agree on the financial, organizational and technical and other conditions for the provision of assistance under this Agreement.

*Article 20*

1. This Treaty shall not limit the right of the Parties to conclude bilateral international agreements on issues which are the subject of this Treaty, and shall not affect the rights and obligations of Parties arising out of other international agreements to which they are parties.

2. The competent authorities of the Parties may conclude with one another agreements that regulate in more detail the procedure for implementation of this Treaty.

*Article 21*

Disputes arising out of the interpretation or application of this Treaty shall be resolved through consultations and negotiations between the Parties.

*Article 22*

This Treaty shall enter into force on the date of its signature, and for Parties whose legislation requires the completion of domestic procedures for its entry into force on the date of submission to the depositary of the relevant notification. The Parties shall notify the depositary

within three months from the signature of this Treaty of the need to complete such procedures.

*Article 23*

This Treaty shall remain in force for five years from the date of its entry into force, and shall be automatically extended for further five-year periods unless the Parties adopt another procedure.

Each of the Parties may withdraw from this Treaty by sending written notification thereof to the depositary not less than six months prior to its withdrawal and after settling financial and other obligations that arose during the period for which this Treaty was in force.

The provisions of article 18 of this Treaty shall continue to be applicable for a Party which withdraws from the Treaty for a further 10 years, and those of article 10 indefinitely.

*Article 24*

Following the entry into force of this Treaty, it may with the consent of the Parties be acceded to by other States, including States which are not members of the Commonwealth of Independent States, by means of the transmission to the depositary of instruments of accession. Accession shall be deemed to take effect upon the expiry of 30 days from the date of receipt by the depositary of the latest notification by the Parties of consent to such accession.

*Article 25*

The depositary shall immediately notify the Parties of an accession to this Treaty or of the completion of domestic procedures required for its entry into force, of the date of entry into force of the Treaty and of the receipt by it of other notifications and documents.

DONE at Minsk on 4 June 1999 in one original in the Russian language. The original shall be kept in the Executive Committee of the Commonwealth of Independent States, which shall send to each State signing this Treaty a true copy thereof.

## **25. Protocol approving Regulations on the Procedure for Organizing and Conducting Joint Counter-terrorism Activities in the Territories of States Members of the Commonwealth of Independent States**

*Done at Chisinau on 7 October 2002*

*Depository: Executive Committee of the Commonwealth of Independent States*

*The States Parties to the present Protocol, hereinafter referred to as the Parties,*

*Cognizant of the danger that terrorism poses to human life and health,*

*Taking into account international counter-terrorism instruments,*

*Attaching great importance to conducting joint counter-terrorism operations in the territories of the member States of the Commonwealth of Independent States,*

*Have agreed as follows:*

1. To ratify the Regulations on procedures for organizing and conducting joint counter-terrorism operations in the territories of the member States of the Commonwealth of Independent States, hereinafter, the Regulations (attached), which shall form an integral part of the present Protocol.
2. The present Protocol shall enter into force on the date of receipt by the depositary of the third notification of completion by Parties of the requisite domestic procedures. For States which complete such procedures at a later date, it shall enter into force on the date of receipt by the depositary of the relevant notifications.
3. Modifications and additions may be made to the Protocol by means of a separate protocol that shall enter into force in accordance with the procedures set out in paragraph 2 of the present Protocol.
4. Following its entry into force, the present Protocol shall be open for accession by other States. For acceding States, it shall enter into force 30 days after receipt by the depositary of the relevant notification.
5. The present Protocol shall be valid for five years after its entry into force. At the end of that period, the present Protocol shall automatically be renewed for successive periods of five years, unless the Parties decide otherwise.

6. Any of the Parties may withdraw from the present Protocol by sending written notification thereof to the depositary at least six months prior to withdrawal. Withdrawal from the present Protocol shall not release a State from financial commitments that it assumed while party to the present Protocol.

DONE at Chisinau on 7 October 2002 in one original copy in the Russian language. The original copy is deposited with the Executive Committee of the Commonwealth of Independent States, which will send to each State that has signed the present Protocol its certified copy.

#### ANNEX

Annex to the Protocol ratifying the Regulations on procedures for organizing and conducting joint counter-terrorism operations in the territories of the member States of the Commonwealth of Independent States of 7 October 2002

The present Regulations establish the organizational basis and procedures for conducting joint counter-terrorism operations in the territories of the member States of the Commonwealth of Independent States (hereinafter, the Parties).

#### 1. General provisions

1.1 The terms used in the present Regulations shall have the following meanings:

Joint counter-terrorism operations—operations to address terrorism, conducted by competent agencies of the Parties as part of a joint, coordinated undertaking and plan by special counter-terrorism units in the territories of the requested Parties;

Special counter-terrorism units—groups of professionals assembled by the Parties in accordance with their domestic counter-terrorism legislation;

Participants in joint counter-terrorism operations—the personnel of special counter-terrorism units, the staff of the joint counter-terrorism operations supervisory body and other individuals participating in these operations;

Requesting Party—a Party that requests the dispatch of special counter-terrorism units for joint counter-terrorism operations in its territory (hereinafter, assistance request);

Requested Party—a Party that receives a request from a requesting Party to dispatch special counter-terrorism units for joint counter-terrorism operations;

Competent agency—an agency of a Party responsible for addressing terrorism in accordance with domestic legislation and for conducting joint counter-terrorism operations;

Special resources and supplies—materials, technical equipment, vehicles and special counter-terrorism gear, including weapons, ammunition, special resources and other equipment;

Centre—the Anti-Terrorism Centre of the member States of the Commonwealth of Independent States.

1.2 The legal underpinning of the joint counter-terrorism operations consists of universally recognized principles and norms of international law, the Parties' international obligations and their domestic legislation, as well as the present Regulations.

1.3 The purpose of joint counter-terrorism operations is to suppress terrorist activity. Joint counter-terrorism operations shall include:

Freeing hostages seized by terrorists;

Deactivating high-power explosives and other complex destructive devices;

Retaking facilities seized by terrorists that include high-risk technological or environmental sites, nuclear, transport, energy or chemical facilities and other locations (such as buildings and premises where diplomatic missions are housed, et al.);

Detaining terrorists and eliminating terrorist groups and units.

1.4 During preparations for joint counter-terrorism operations and while they are being conducted, members of special counter-terrorism units of the requested Party should respect universally accepted principles and norms of international law and the domestic legislation of the requesting Party.

1.5 Disputes arising from the interpretation and application of the present Regulations shall be resolved through consultations and negotiations among the Parties.

## *2. Procedures for organizing joint counter-terrorism operations*

2.1 In accordance with their domestic legislation, the Parties shall determine the competent agencies that will oversee the joint counter-terrorism operations, advising the depositary accordingly when submitting notifications that they have completed the requisite domestic procedures for the entry into force of the Protocol ratifying the present Regulations. The Parties shall also inform the depositary of any changes to the names of the competent agencies.

The competent agencies of the Parties shall inform the Centre regarding the composition of the special counter-terrorism units assigned to conduct the joint counter-terrorism operations.

2.2 The personnel of special counter-terrorism units shall undergo additional training programmes developed by agreement between the competent agencies of the Parties with the participation of

the Centre, both at their own national training facilities and at those of other Parties.

Joint training of the Parties' special counter-terrorism units shall be conducted in the context of command post and strategic exercises organized by the Centre. The Parties may arrange among themselves to hold joint exercises for their special counter-terrorism units and organize training assignments or placements for representatives of other Parties in units of their own competent agencies.

2.3 The decision to host joint counter-terrorism operations shall be taken by the requesting Party subject to agreement with the requested Party.

If preparations for joint counter-terrorism operations or the operations themselves affect the interests of a non-participating Party, then a decision on those operations shall be taken by the Council of Heads of State of the Commonwealth of Independent States, at the request of the Party concerned.

2.4 On the basis of the decision referred to in subparagraph 2.3, the competent agency of the requesting Party shall send to the competent agency of the requested Party a request for assistance and shall inform the Centre accordingly.

The request shall be in writing. It may be drafted and sent electronically.

The request shall bear the signature of the director of the competent agency of the requesting Party or of a person deputizing for the director, together with the official agency seal.

Should any doubts arise as to a request's authenticity or its content, the requested Party may solicit additional information.

2.5 The request for additional information should include the following:

The names of the competent agencies of the requesting and requested Parties;

A summary of the matter and the purpose and grounds for the request;

A description of the type of assistance requested;

Information on how and under what conditions the special counter-terrorism unit of the requested Party will travel to the site of joint counter-terrorism operations and return to its country of residence, including information on the location, time and procedures for crossing the national border of the requesting Party;

Any other information which may be of use in fulfilling the request appropriately.

2.6 The requesting Party shall make the necessary provisions for the transport of special counter-terrorism unit personnel, special resources and supplies to the site of special counter-terrorism operations.

The requesting Party shall bear the costs of lodging, meals, transport, medical care and communications, including special communications.

2.7 Travel by the special counter-terrorism unit or individual members thereof to the territory of the requesting Party shall be by special permission and shall be overseen by the director of the competent agency of the requesting Party.

Travel by the special counter-terrorism unit or individual members thereof within the territory of the requesting Party shall be overseen by an official representative of the competent agency of the requesting Party.

2.8 To make joint counter-terrorism operations more effective and efficient, the Parties shall introduce a fast-track system for special counter-terrorism units completing the border-crossing formalities prescribed by their domestic law.

2.9 At the border crossing, the head of the special counter-terrorism unit shall submit the names of its members and a list of its special resources and supplies. These documents must be certified by the competent agencies of the requested Party. All members of the unit shall present identification documents.

2.10 Special resources and supplies of the requested Party's special counter-terrorism unit that are being transported to the site of joint counter-terrorism operations and then returned to their point of origin shall be exempt from customs and other charges and fees.

### *3. Procedures for joint counter-terrorism operations*

3.1 For purposes of direct supervision of the special counter-terrorism units during joint counter-terrorism operations, the requesting Party shall establish a supervisory body.

The head of the supervisory body shall be appointed by the requesting Party.

The head of the supervisory body shall determine the structure of the supervisory body and the tasks and responsibilities of its various divisions, in the light of the objectives of the joint counter-terrorism operations. The supervisory body's documentation shall be conducted in Russian.

The heads of the special counter-terrorism units participating in the joint counter-terrorism operations and representatives of the competent agencies of the Parties and the Centre shall be part of the supervisory body's executive team.

Management of the joint counter-terrorism operations may be delegated to the Centre by decision of the Council of Heads of State of the Commonwealth of Independent States, or, as necessary, by decision of the Heads of the Commonwealth member States concerned. In such cases, the supervisory body shall be established by the head of the Centre.

3.2 Persons involved in joint counter-terrorism operations shall report to the head of the supervisory body.

3.3 The head of the supervisory body shall:

Oversee preparations for joint counter-terrorism operations as well as those operations themselves;

Take decisions on the use of forces and resources brought in for joint counter-terrorism operations and the use by those forces of special resources and supplies;

Appoint officials to the supervisory body;

Approve the joint counter-terrorism operations plan;

Clear individuals to negotiate with terrorists;

Advise the heads of the requesting Party's State agencies and media on the progress and outcomes of joint counter-terrorism operations and on the extent and consequences of terrorist acts;

Propose to the requesting Party that joint counter-terrorism operations be concluded and submit an outcome report to the Parties' competent agencies.

3.4 Intervention in the management of joint counter-terrorism operations shall not be permitted unless authorized by the Head of the requesting State.

3.5 During joint counter-terrorism operations, the supervisory body's main functions shall be the following:

Collection of situational data; information assessment, synthesis and review; transmission of information to special counter-terrorism units and other divisions involved in the joint counter-terrorism operation; and preparation of proposals for decision-making by the head of the supervisory body;

Elaboration of a joint counter-terrorism operation plan;

Management of training and use of forces, special resources and supplies and adoption of measures to prevent possible negative outcomes;

Elaboration of negotiation tactics and organization (as necessary) of negotiations with individuals who are the targets of joint counter-terrorism operations;

Collaboration with State and local authorities;

Operational investigations and detective work;

Final review of operations.



3.6 The head of the supervisory body shall take decisions on procedures for conducting joint counter-terrorism operations, including on the use of forces, special resources and supplies, in coordination with the head of the special counter-terrorism unit of the requested Party. Decisions shall be in the form of written instructions issued by the head of the supervisory body.

The head of the special counter-terrorism unit of the requested Party may, by agreement with the competent agency of the requested Party, withhold the participation in a given operation by the division which he or she heads, if his or her views are not taken into consideration.

The decision by the head of a unit of the requested Party to withhold the participation of that unit in a joint counter-terrorism operation shall be submitted in writing to the head of the supervisory body.

3.7 Should there be a threat to the security of a Commonwealth State that is contiguous with the requesting Party, the supervisory body shall inform the competent agencies of that State of the nature and scope of the threat and shall also develop threat containment proposals.

3.8 The extent to which the public is informed of terrorist acts during joint counter-terrorism operations and the means by which it is informed shall be determined by the head of the supervisory body or his or her representative who is responsible for public relations, in accordance with the domestic legislation of the requesting Party.

3.9 Information fomenting and justifying terrorism and extremism may not be disseminated. Dissemination of the following information shall also be prohibited:

On members of special counter-terrorism units, supervisory body officials and persons assisting with joint counter-terrorism operations;

Revealing special joint counter-terrorism techniques and tactics;

On the specifications of forces, special resources and supplies used in joint counter-terrorism operations;

That could complicate joint counter-terrorism operations and cause threats to human life and health.

#### *4. Procedures for concluding counter-terrorism operations and resolving disputes*

4.1 Decisions to conclude joint counter-terrorism operations and close down the supervisory body shall be taken by the requesting Party in coordination with the requested Party. In cases where the Centre was entrusted with managing joint counter-terrorism operations, the Centre shall also participate in these decisions.

The requesting Party shall inform the Council of Heads of State of the Commonwealth of Independent States of the conclusion of joint counter-terrorism operations.

The head of the supervisory body shall issue an order to conclude joint counter-terrorism operations and close down the supervisory body.

A plan and timelines for withdrawal of special counter-terrorism units from the territory of the requesting Party shall be drawn up and ratified by the competent agency of the requesting Party in coordination with the competent agency of the requested Party.

4.2 The requesting Party shall provide for the return travel of personnel and the shipment of special resources and supplies belonging to the special counter-terrorism units of the requested Party.

Unused special resources and supplies belonging to the special counter-terrorism unit of the requested Party should be removed by that Party from the territory of the requesting Party upon the conclusion of joint counter-terrorism operations.

If special circumstances prevent the removal of special resources and supplies, the requested Party may arrange with the requesting Party to transfer their ownership to that Party.

4.3 The requesting Party shall refrain from lodging claims against the requested Party that is participating in joint counter-terrorism operations, including for compensation for damage caused to natural or legal entities in the territory of the requesting Party (hereinafter, damage), if it is caused in the performance of tasks set by the supervisory body.

If, in the performance of tasks set by the supervisory body as part of joint counter-terrorism operations in the territory of the requesting Party, damage is caused by participants from the requested Party, compensation for such damage shall be paid by the requesting Party in accordance with the domestic legislation that would apply in the case of damage caused by members of its own counter-terrorism units under analogous circumstances.

4.4 Procedures for the reimbursement of expenses borne by the requested Party, including expenditures related to the loss or complete or partial destruction of special imported resources and supplies shall be established by agreement between the Parties concerned.

4.5 Should one of the Parties deem damage caused by the actions of a special counter-terrorism unit to be disproportionate to the tasks set by the supervisory body, any ensuing dispute shall be resolved by the Parties concerned through consultation and negotiation.

4.6 Compensation for damage caused by members of the special counter-terrorism units of the requested Party in the territory of the requesting Party in cases not covered by paragraph 4.3 of the present Regulations shall be paid by agreement between the Parties concerned.

5. *Legal status of participants in joint counter-terrorism operations*

5.1 The requesting Party shall compensate participants in joint counter-terrorism operations and members of their families for expenses related to injury, dismemberment or death, according to procedures and in amounts provided for under the legislation of the requesting Party. Participants in joint counter-terrorism operations of the requested Party and their family members shall also retain all benefits, guarantees and compensation provided for under the legislation of the requested Party.

This procedure shall be applied in cases where damage was incurred while participants in the joint counter-terrorism operations were in the territory of the requesting Party.

5.2 Each Party shall respect the legal status of participants in joint counter-terrorism operations and guarantee their civil rights and liberties in full, in accordance with universally accepted norms of international law.

5.3 In jurisdictional matters related to the temporary presence of special counter-terrorism units in the territory of the requesting Party, the Parties shall adhere to the following principles:

A participant in joint counter-terrorism operations who commits a legal offence shall be liable under the legislation of the requested Party;

Each of the Parties shall undertake to prosecute under its domestic legislation any members of its special counter-terrorism units participating in joint counter-terrorism operations who are suspected (or accused) of offences against another Party or Parties;

The Parties shall comply with their domestic legislation and international commitments in conducting court proceedings and providing legal assistance.

## **26. Treaty of States of States Members of the Commonwealth of Independent States on Combating the Legalization of the Proceeds of Crime (Money-laundering) and the Financing of Terrorism**

*Dushanbe, 5 October 2007*

*Depositary: Executive Committee of the Commonwealth of Independent States*

*The States members of the Commonwealth of Independent States, hereinafter referred to as the Parties,*

*Recognizing that efforts to combat organized crime, corruption, terrorism and other serious and very serious offences require the use of modern and efficient tools, methods and resources,*

*Considering that one of these methods is to deprive offenders of the proceeds of criminal activities and of other resources used for the commission of offences,*

*Guided by the universally recognized principles and norms of international law,*

*Aiming to improve the legal framework for countering the legalization (laundering) of the proceeds of crime and the financing of terrorism and to promote cooperation in this area,*

*Have agreed as follows:*

### **Section I. General provisions**

#### *Article 1*

Pursuant to the present Agreement, international commitments and domestic law, the Parties shall cooperate, coordinate their activities and combine the efforts of their government bodies, public and other associations and organizations, and their citizens with a view to countering the legalization (laundering) of the proceeds of crime and the financing of terrorism.

#### *Article 2*

For the purposes of the present Agreement, the following basic concepts shall be used:

- (a) "Proceeds of crime" shall mean money and/or other property resulting from the commission of an offence;

- (b) “Resources” (or “property”) shall mean assets of any kind, movable or immovable, however acquired, and legal documents or instruments evidencing title to such assets or participation in them;
- (c) “Financing of terrorism” shall mean providing or collecting funds or rendering financial services in the knowledge that these are intended to finance the organization, preparation or commission of at least one of the offences of a terrorist nature, or for the benefit of an organized group, unlawful armed formation or criminal association (criminal organization), already created or in the process of being created for the commission of at least one such offence;
- (d) “Legalization (laundering) of the proceeds of crime” shall mean actions designed to lend the appearance of legitimacy to the possession, use or disposal of the proceeds of crime;
- (e) “Principal offence” shall mean a criminal offence punishable by law, which results in criminal proceeds whose legalization (laundering) incurs criminal liability under the law of the Parties;
- (e) “Transactions with money or other property” shall mean actions by individuals and/or legal entities involving money or other property, regardless of the form and manner in which they are carried out, aimed at the establishment, modification or termination of their associated civil rights and obligations;
- (g) “Suspicious transactions” shall mean transactions with money or other property in respect of which there are ground to suspect that they are being performed for the purpose of legalizing (laundering) the proceeds of crime and the financing of terrorism;
- (h) “Forfeiture” shall mean the seizure of property without compensation by decision of a court;
- (i) “Competent authorities” shall mean the public authorities of the Parties exercising their powers in implementation of the present Agreement within their competence as established by law;
- (j) “Authorized agency” shall mean the competent authority of the Party responsible, in accordance with its law, for receiving and analysing reports of transactions subject to mandatory monitoring and of reports of suspicious transactions, and also for providing law-enforcement authorities with information relating to possible cases of the legalization (laundering) of the proceeds of crime and the financing of terrorism.

### *Article 3*

1. For the implementation of the present Agreement, cooperation between the Parties shall include the following principal areas and take the following forms: harmonization of legislation; furnishing of legal

assistance, including the service of documents, seizure of the proceeds of crime and the financing of terrorism and conduct of forfeiture operations; exchange of information; performance of detective work; provision of advice; and exchange of representatives.

2. The present Agreement shall not preclude the Parties from identifying and developing other mutually acceptable areas and forms of cooperation.

3. Cooperation of the Parties under the present Agreement shall be pursued on the basis of commissions for the provision of legal assistance (hereinafter, "commissions") and in response to requests for assistance (hereinafter, "requests").

#### *Article 4*

1. Each Party shall, in accordance with its domestic law, draw up a list of competent authorities with an indication in that list of the authorized agency and shall transmit it to the depositary together with its reports on the completion of internal procedures necessary for the entry into force of the present Agreement. The Parties shall, within one month, notify the depositary of any changes to their competent authorities and authorized agencies.

2. On the basis of notifications received from the Parties, the depositary shall draw up a list of competent authorities and circulate it to all Parties to the Agreement, and it shall also report on all changes to this list based on notifications received from the Parties.

3. The competent authorities of the Parties shall cooperate directly with each other on matters covered by the present Agreement that lie within their purview as defined by their respective legislation.

#### *Article 5*

Documents transmitted in accordance with the present Agreement and considered to be official documents in the territory of one Party shall have legal effect as official documents in the territory of the other Parties and shall not require legalization, unless otherwise provided by the law of the Parties receiving such documents.

#### *Article 6*

The costs of complying with a request (commission) shall be borne by the Party in whose territory such costs have been incurred, unless otherwise agreed in any specific case.

## Section II. Formation of a regulatory and legal framework

### *Article 7*

The Parties shall take the necessary measures to bring their domestic law into line with international law relating to efforts to counter the legalization (laundering) of the proceeds of crime and the financing of terrorism.

### *Article 8*

1. The Parties shall adopt laws and regulations that enable their competent authorities to identify and detect the proceeds of crime and resources used to finance terrorism, to prevent and suppress operations and transactions with such proceeds and resources, their transfer or their disposal in any other manner.

2. The Parties shall each adopt legal and regulatory instruments that authorize their competent authorities to seek information necessary for the adoption of measures to counter the legalization (laundering) of the proceeds of crime and the financing of terrorism.

### *Article 9*

1. The Parties shall adopt laws and regulations that require organizations performing operations with money or other property to take steps to counter the legalization (laundering) of the proceeds of crime and the financing of terrorism, which should include, in particular:

- (a) Verifying the identity of clients and beneficiaries;
- (b) Documenting the details of clients and beneficiaries, and also of transactions with money or other property;
- (c) Conserving documents recording information about transactions with money and/or other property and the beneficiaries of such transactions for at least five years, and client information for at least five years from the date of termination of the relationship with the client;
- (d) Suspending operations with money or other property in cases and in accordance with a procedure stipulated by legislation of the Party;
- (e) Submitting information to the authorized agency on transactions with money or other property, the elements of which shall be determined in accordance with paragraph 2 of this article;
- (f) Prohibiting the disclosure to clients and other persons of measures taken to counter the legalization (laundering) of the proceeds of crime and the financing of terrorism;

(g) Refusing to conclude agreements to open bank accounts (for deposits) or to carry out certain operations where the circumstances specified by the legislation of the Parties are evident.

2. The Parties shall adopt laws and regulations defining the distinguishing features of operations with money or other property which should be reported to the authorized agency.

3. The Parties shall determine the government agencies responsible for monitoring the implementation by organizations performing operations with money or other property of the measures referred to in paragraph 1 of this article, and shall vest in these agencies the authority to issue rules, which shall be binding on the organizations under their supervision, on countering the legalization (laundering) of the proceeds of crime and the financing of terrorism.

4. The Parties shall adopt laws and regulations that spell out the liability of organizations performing operations with money or other property for failing to provide or for concealing information, and also for failure to fulfil other obligations pursuant to paragraph 1 of this article.

#### *Article 10*

Each Party shall adopt laws and regulations pursuant to which banking and/or trade secrecy shall not impede its government agencies from obtaining the information necessary for the adoption of measures to counter the legalization (laundering) of the proceeds of crime and the financing of terrorism.

#### *Article 11*

The Parties shall adopt laws and regulations that enable them to seize the proceeds of crime, including property obtained through the legalization (laundering) of the proceeds of crime, and also funds used for the financing of terrorism.

#### *Article 12*

The Parties, subject to observance of the core principles of their respective legal systems, shall adopt the necessary legislative and other measures so that the following acts are categorized as criminal offences:

(a) Conversion of property, and also any transactions with such property, in the knowledge that the property represents the proceeds of crime, and where such conversion or transactions are conducted for the purpose of concealing or disguising the illicit origin of the property or of helping any persons involved in the commission of the original offence to evade responsibility for their actions;



(b) Concealment or disguise of the true nature, source, location, means of disposal, or transfer of the property, or of its title or its ownership, if it is known that the property represents the proceeds of crime;

(c) Acquisition, possession or use of property, in the knowledge that such property represents the proceeds of crime;

(d) Complicity in any of the offences categorized as such in accordance with the present article, and also the attempted commission or preparation for the commission of such an offence;

(e) Financing of terrorism.

### **Section III. Exchange of information and execution of requests (commissions)**

#### *Article 13*

1. The competent authorities shall, in response to a request (commission), or on their own initiative, provide each other with information (documents, materials and other details) on countering the legalization (laundering) of the proceeds of crime and the financing of terrorism.

2. Information transfers shall take place if they are not detrimental to the national security of the transmitting Party and are not inconsistent with its laws.

3. The information referred to in paragraph 1 of this article shall be provided on condition that it will not be used for purposes other than those for which it is transmitted without the prior consent of the transmitting Party.

4. Exchanges of information between the competent authorities shall take place in accordance with article 23 of the present Agreement.

#### *Article 14*

The competent authorities shall not disclose the fact that a request (commission) has been made or reveal its substance, unless otherwise stipulated by the competent authorities of the requesting Party, and shall protect the confidentiality of information sent by the requested Party and use it only to the extent necessary to carry out an investigation or trial, or for the performance of procedures stipulated in the request (commission).

#### *Article 15*

1. The execution of requests (commissions) shall proceed in accordance with the provisions of the present Agreement, other international treaties and the law of the requested Party. If so requested by

the competent authority of the requesting Party, the legislation of that Party may be applied in the execution of a request (commission), unless otherwise stipulated by the law of the requested Party or the international obligations of that Party.

2. The competent authorities shall execute requests for the conduct of detective work to locate the proceeds of crime and to identify persons suspected of involvement in the legalization (laundering) of such proceeds and in the financing of terrorism.

3. The procedure for the issuance and execution of commissions for the provision of legal assistance shall be determined by international agreements to which the Parties are party.

#### *Article 16*

1. The competent authorities of the requested Party may defer execution of the request, by arranging with the competent authorities of the requesting Party either that they will only execute the request partially or subject to conditions deemed necessary by the competent authorities of the requested Party if execution of the request would prejudice their conduct of detective work, the pre-trial proceedings or the trial itself.

2. The competent authorities of the requested Party may refuse to execute a request if it is contrary to its national interests, or law and international obligations, and if the request does not comply with the provisions of the present Agreement.

#### *Article 17*

1. Requests shall be drawn up and transmitted in writing. Electronic means of communication may be used if followed immediately by a written confirmation.

2. Requests shall be signed by the head of the competent authority of the requesting Party, or by that person's deputy, and shall be sealed with the official seal, unless otherwise agreed by the competent authorities.

3. Requests shall be executed as promptly as possible but no later than 30 days after their receipt, unless otherwise agreed by the Parties.

#### *Article 18*

Requests shall contain:

- (a) The name of the competent authorities of the requesting and requested Parties;
- (b) The substance of the request and the justification therefore;
- (c) The nature of the case (offence) in respect of which detective work is being conducted, except in cases concerning the delivery of official documents;

(d) The text of relevant regulations, together with a statement to the effect that the requested measure or any other measure designed to achieve a comparable outcome may be taken in the territory of the requesting Party in accordance with its law;

(e) If necessary, and to the extent possible:

Information about the person (for individuals: surname, first name, place of birth and nationality, domicile and residential address, identity document details; for legal entities: legal name and physical address, State registration number and place of registration);

Information about the property or proceeds which form the subject of the request (their location, connection with the person or persons in question and with the offence, and any available information about the rights of other persons to such property or proceeds);

Specific procedure which, at the request of the requesting Party, should be followed.

#### *Article 19*

A commission for the enforcement of a forfeiture order shall include:

(a) Certified copy of the forfeiture order handed down by a court of the requesting Party and an indication of the extent to which it is to be enforced;

(b) Documents confirming whether or not third parties might assert rights to the property subject to forfeiture.

#### *Article 20*

If the information provided in the request (commission) is not sufficient for its execution, the requested Party may request additional information and set a time limit for its submission.

#### *Article 21*

In the event of multiple requests being submitted pursuant to the present Agreement by several Parties, all of which relate to the same circumstances, the requested Party shall, on its own authority, determine which of the requests is to be executed as a matter of priority, if necessary after consulting the requesting Parties.

#### *Article 22*

1. The requested Party shall inform the requesting Party:

(a) Of the action taken in response to the request and of its outcome;

(b) Of any refusal, deferral or conditions for execution of the request (or part thereof), with an indication of the grounds therefor;

- (c) Of those provisions of its domestic law which automatically require it to set aside the requested enforcement measures.
2. The requesting Party shall promptly inform the requested Party of any circumstances which significantly affect execution of the request.

*Article 23*

1. The competent authorities shall exchange information among themselves at the stages of gathering, processing and analysing information at their disposal on suspicious transactions and on the activities of individuals and/or legal entities involved in the conduct of these operations.

2. Information exchange shall take place on the initiative or at the request of one of the authorized agencies. A request for information should contain a brief justification.

3. The information provided may only be transmitted or disclosed to third parties, or used for investigative or judicial purposes, with the prior written consent of the authorized agency that provided it. At the same time this information may only be used in cases associated with the legalization (laundering) of the proceeds of crime and the financing of terrorism, unless otherwise determined by the authorized agency that provided the information.

4. Information received pursuant to the present Article shall be confidential and subject to the protection arrangements stipulated by the law of the receiving Party in respect of comparable information from domestic sources.

**Section IV. Forfeiture**

*Article 24*

Each Party shall, in response to a commission from another Party, take all feasible measures to effect the forfeiture of the proceeds of crime and/or funds used for the financing of terrorism.

*Article 25*

Requested Parties shall give requesting Parties advance notice of the possible annulment of enforcement measures applied in pursuance of the present Agreement.

*Article 26*

1. The Party receiving a commission for the enforcement of a court order for forfeiture of the proceeds of crime and/or funds for the financing of terrorism which are located in its territory shall proceed to

carry out such forfeiture in accordance with its domestic law and the international treaties to which both the requesting and the requested Parties are party.

2. If any Party should, on the basis of a single order, initiate forfeiture proceedings involving several other Parties, it shall notify each of those Parties accordingly.

3. The requesting Party shall promptly inform the requested Party of any circumstances under which some or all of the provisions of a forfeiture order will be rendered void.

#### *Article 27*

The Parties may enter into agreements with one another or, in any specific case, agree on a division of property obtained by one Party through execution of a commission for the enforcement of a forfeiture order, or of funds realized from the sale of forfeited property.

### **Section V. Final provisions**

#### *Article 28*

The provisions of the present Agreement shall not affect the rights and obligations of the Parties under other international agreements to which they are party.

#### *Article 29*

For the purpose of extending the provisions of the present Agreement, the competent authorities may conclude inter-agency agreements with one another.

#### *Article 30*

In their cooperation under the present Agreement, the Parties shall use Russian as their working language.

#### *Article 31*

1. The present Agreement shall enter into force on the date of deposit of the third notification of completion by its signatory Parties of the domestic procedures necessary for its entry into force.

2. For those Parties which complete their domestic procedures subsequent to that date, the present Agreement shall enter into force on the date of deposit of the corresponding documents with the depositary.

*Article 32*

The present Agreement shall be open to accession by other States which support its provisions by giving notice to the depositary of such accession. For such acceding States, the Agreement shall enter into force on the date of receipt by the depositary of the corresponding notification, subject to the provisions of article 31, paragraph 1, above.

*Article 33*

The Parties may by mutual agreement make changes and additions to the present Agreement, which shall be formalized by a protocol which shall enter into force in accordance with the procedure provided for in article 31 above, unless otherwise agreed by the Parties.

*Article 34*

Disputes between the Parties concerning the application or interpretation of the present Agreement shall be settled through consultations and negotiations between the Parties concerned.

*Article 35*

1. Any Party may withdraw from the present Agreement by giving written notification to the depositary not later than six months before the proposed date of withdrawal.
2. By the date of withdrawal the Party must have settled all material, financial and other obligations arising in connection with its participation in the present Agreement.

DONE at Dushanbe, on 5 October 2007, in one original copy in Russian. The original copy shall be kept in the Executive Committee of the Commonwealth of Independent States, which shall send to each State that has signed the present Agreement a certified copy thereof.

## COOPERATION COUNCIL FOR THE ARAB STATES OF THE GULF

### 27. Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism<sup>3</sup>

*Signed in Kuwait on 4 May 2004*

*Entry into force: In accordance with article 46 of the Convention*

*Depositary: General Secretariat of the Cooperation Council for the Arab States in the Gulf*

*The States Members of the Cooperation Council for the Arab States of the Gulf,*

*Considering* the basic values and principles set out in the Council Statute and reaffirming the resolutions of the Supreme Council relating to the fight against terrorism,

*Pursuant* to the tenets of religion and morality and to the norms governing the human cultural heritage of the international community and of the Arab and Islamic peoples, and to the values and traditions of Gulf society, which call for the rejection of violence and terrorism in all their forms and manifestations,

*Reaffirming* their commitment to international treaties, in particular with the Charter of the League of Arab States and the Charter of the United Nations,

*Aware* of the growing scale of the phenomenon of terrorism, the threat it poses to the international community and to civilian life and its repercussions in the region,

*Aware also* of their shared responsibility for maintaining security and stability on the basis of the principle of collective security and the fact that the States members of the Council form an indissociable whole,

*Desiring* to protect their communities, peoples, cultural and historical heritage and interests from the threat of terrorism,

*Reaffirming* the right of peoples to struggle by various means against foreign occupation and against aggression,

*Reaffirming* also their commitment to addressing and collectively combating terrorism and their desire to extend and strengthen their

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<sup>3</sup> The English version is based on the French translation of the original Arabic, which have both been made by the Secretariat of the United Nations.

coordination and to ensure that their actions are comprehensive and mutually complementary,

*Reaffirming* further their respect for human rights,

*Concerned* by terrorism, which constitutes a grave violation of human rights, threatens the stability of States, disrupts international relations and hinders social, economic, cultural and intellectual development,

*Convinced* that terrorism cannot be justified under any circumstances, notwithstanding its motives or objectives, and should therefore be combated in all its forms and manifestations, irrespective of its origin, causes or objectives,

*Determined* to eliminate all forms of terrorism, related activities and the means used to support it, and to ensure that terrorists and terrorist organizations do not have access to any source of financing or assistance,

*Have agreed as follows:*

## CHAPTER I. DEFINITIONS AND GENERAL PROVISIONS

### *Article 1*

For the purposes of the present Convention, the following definitions shall apply:

1. “Contracting State” means any State member of the Cooperation Council for the Arab States of the Gulf that has ratified this Convention and deposited its instrument of ratification with the Secretary-General of the Council.

2. “Terrorist act” means any act of violence or threat thereof, notwithstanding its motives or intentions, perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing or harming people or imperilling their lives, freedom or security, or endangering the environment, any facility or any public or private property or occupying or seizing them, or attacking a national resource.

3. “Terrorist offence” means any offence or criminal attempt committed in order to realize a terrorist objective in any of the Contracting States or against its assets or interests, or its nationals or their property, and punishable under the domestic law of that State, or incitement to commit a terrorist act or the promotion or defence of such acts, or the promotion, printing, publication or possession of any documents or recordings of whatsoever nature intended for distribution or shown to others with a view to promoting or defending such offences.

The supply or collection of funds of any kind with the aim of financing terrorist acts shall also be considered a terrorist offence.

The offences provided for in the following conventions are also considered terrorist offences, with the exception of those excluded by



the legislation of Contracting States or States that have not ratified those conventions:

- (a) Convention of the Organization of the Islamic Conference on Combating International Terrorism;
- (b) Arab Convention on the Suppression of Terrorism;
- (c) Tokyo Convention (Convention on Offences and Certain Other Acts Committed on Board Aircraft), signed in 1963;
- (d) Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague in 1970;
- (e) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal in 1971, and the Protocol supplementary to the Convention, signed in 1988 (Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the aforementioned Convention (with Final Act), concluded at Montreal on 24 February 1988);
- (f) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations, at New York, on 14 December 1973;
- (g) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;
- (h) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979 and opened for signature at Vienna and New York on 3 March 1980;
- (i) United Nations Convention on the Law of the Sea, adopted in 1983, and the provisions therein relating to piracy;
- (j) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, signed at Rome in 1988;
- (k) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, signed at Rome in 1988;
- (l) International Convention for the Suppression of Terrorist Bombings, signed at New York in 1997;
- (m) Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal in 1991;
- (n) International Convention for the Suppression of the Financing of Terrorism, adopted in 1999.

4. "Activity to support and finance terrorism" means any activity involving the collection, receipt, delivery, allocation, transportation or transfer of funds or of the proceeds of such funds with a view

to facilitating the commission by an individual or group of a terrorist act within or outside the territory of a country, or banking or commercial transactions carried out in support of such acts or the perpetrators thereof, or the direct or indirect acquisition of funds with a view to drawing benefit from such acts, defending or promoting ideas, setting up training camps or supplying weapons or false documents, or providing any other type of assistance or funds in full knowledge of the purposes for which they are intended.

5. "Funds" means assets of every kind, whether tangible or intangible, movable or immovable, and legal documents or instruments in any form, including electronic or digital, bank credits, cheques of every kind, money orders, shares, securities, bonds, drafts and letters of credit.

### Article 2

(a) Struggle by various means, including armed struggle, against foreign occupation and aggression and aimed at liberation and self-determination in accordance with the principles of international law shall not be considered an offence, with the exception of acts against the territorial integrity of any Contracting State;

(b) None of the terrorist offences provided for in the preceding article shall be considered a political offence.

For the purposes of this Convention, the following offences shall not be considered political offences even when politically motivated:

1. Aggression against kings and heads of State of Contracting States or against their spouses, ascendants or descendants.

2. Aggression against crown princes, vice-presidents, heads of government or ministers of any Contracting State.

3. Aggression against persons afforded international protection, including ambassadors and diplomats of Contracting States or those accredited to them.

4. Premeditated murder or robbery involving violence against individuals, authorities or means of transport and communications.

5. Acts of sabotage and destruction of public or private property for public use, even if such property belongs to another Contracting State.

6. The manufacture, smuggling or possession of arms, ammunition, explosives or other materials used to commit terrorist offences.

CHAPTER II. COOPERATION AND COORDINATION OF  
SECURITY MEASURES

*Article 3*

Contracting States shall endeavour to coordinate their plans and measures aimed at preventing, combating and suppressing terrorism.

*Article 4*

Contracting States shall undertake to cooperate by lending the necessary support and assistance in the field of security to any Contracting State that is threatened by or has suffered terrorist offences or is suffering the consequences of terrorism, account being taken of the needs and circumstances of each State.

*Article 5*

Contracting States shall endeavour to strengthen surveillance measures, assess security problems as well as terrorist threats and risks, conduct the requisite predictive analyses and studies and prospective research, and draw up security plans with a view to preventing and suppressing terrorism and thwarting terrorist designs.

*Article 6*

Contracting States shall make every effort to prevent terrorist elements from entering or infiltrating their territory and to prevent their citizens from being induced to join illegal groups or to participate in terrorist activities, whatever their circumstances or motives.

*Article 7*

Contracting States shall adopt such preventive (interdiction) measures as may be necessary to prevent the use of their territory as a base for the planning, organization or commission of terrorist offences or acts, or for active or passive participation in such activities, and shall undertake to develop and strengthen systems for border surveillance, security and control with a view to preventing infiltration or circumvention of security measures.

*Article 8*

Contracting States shall adopt such measures and make such arrangements as may be necessary to protect persons and public and private property and to strengthen systems for the protection and security of facilities, means of transport, diplomatic and consular missions,

and the regional and international organizations and agencies that cooperate with them.

*Article 9*

For the purposes of this Convention, the Contracting States shall undertake to:

1. Exchange without delay information and data concerning terrorist threats and dangers and the probability of terrorist offences.
2. Identify terrorist elements or persons suspected of having contacts or links with such elements.
3. Exchange without delay information and documents concerning any terrorist offence targeting any Contracting State, irrespective of whether it is carried out within or beyond the borders of that State, as well as the results of investigations or inquiries carried out, and to establish the identity of those involved.
4. Proceed without delay with regular exchange of information on the methods and instrumentalities used to commit terrorist offences and on the measures taken to detect, thwart or counter such activities, and to exchange expertise and experience relating to the technical and security measures taken to combat terrorism.
5. Organize, on a periodical basis and whenever necessary, personal talks, meetings and exchange visits between heads of counter-terrorism agencies.
6. Compile a shared, comprehensive and advanced database on the suppression of terrorism, and set up links to the database for access by the competent security services.
7. Undertake research and studies and organize advanced training courses and traineeships for the various security services responsible for combating terrorism.
8. Take such measures as are necessary and sufficient to protect persons working in the field of counter-terrorism and their family members.

*Article 10*

Contracting States shall undertake to make such arrangements and adopt such measures as are necessary to protect the confidentiality of any information, data or documents that they exchange relating to terrorism. Such information shall not be transmitted to any non-Contracting State without the prior agreement of the State of origin.

*Article 11*

Contracting States shall undertake to promptly adopt such measures as are necessary to identify, pursue and detain those responsible for

terrorist offences committed on their territory, to judge such persons in accordance with national legislation and to afford adequate protection to persons working in criminal justice institutions as well as full protection to those who come forward with information relating to terrorist offences and to witnesses and experts.

*Article 12*

Contracting States shall endeavour to coordinate their efforts and seek common positions on the problems and questions relating to terrorism that are included on the agendas of regional and international conferences and meetings.

*Article 13*

Contracting States shall endeavour to raise awareness with regard to questions of security and law by conducting effective awareness campaigns aimed at strengthening active cooperation between individuals and agencies responsible for combating terrorism, and shall draw up protection measures to encourage the reporting of information that may help in the detection of terrorist offences and the identification and tracing of the perpetrators.

CHAPTER III. SPECIAL COOPERATION TO PREVENT THE SUPPORT AND FINANCING OF TERRORISM

*Article 14*

Contracting States shall adopt such measures and make such arrangements as are necessary to monitor the financial activities of individuals and institutions and to detect activities for the support or financing of terrorism that are conducted on their territory, in accordance with their laws and regulations.

*Article 15*

Contracting States shall do their utmost to prevent the entry, movement, transfer or exit of funds that are suspected of being used to finance or support terrorism, and to prevent their nationals and public and private institutions or individuals or such institutions located on their territory from engaging in such activities.

*Article 16*

Contracting States shall undertake to exchange without delay any information or data relating to activities for the support or financing of

terrorism and to preventive measures taken in that regard and to report such activities.

*Article 17*

Contracting States shall exchange experience and information regarding the methods used in activities for the support and financing of terrorism and on the scientific and police methods for their detection, including the use of telecommunications, electronic systems and international information networks, the holding of personal talks and meetings and the establishment of a joint database.

*Article 18*

Each Contracting State shall take such measures, in accordance with its laws and regulations, as are necessary to identify, detect, freeze or seize funds and the proceeds thereof that are used or intended to be used for activities for the support or financing of terrorism, with a view to confiscating or exchanging such funds or proceeds or sharing them with other Contracting States if the funds are linked to a terrorist activity that has targeted its territory or harmed its interests, provided such measure is necessary to detect the terrorist activity in question.

CHAPTER IV. COOPERATION AND MUTUAL LEGAL ASSISTANCE

*Article 19*

Contracting States shall undertake to extradite persons accused or convicted of terrorist offences in a Contracting State and whose extradition is sought by that State in accordance with the provisions of this Convention.

*Article 20*

Extradition shall not be possible in the following cases:

- (a) If the offence for which extradition is sought is deemed a political offence under the law of the State concerned;
- (b) If the offence for which extradition is sought relates solely to a dereliction of military obligations;
- (c) If the offence for which extradition is sought was committed on the territory of the requested Contracting State, unless the offence has harmed the interests of the requesting State, and the law of that State provides that the perpetrators of such offences shall be prosecuted and punished, and the requested State has not commenced the investigation or trial;

- (d) If a final judgement having the force of *res judicata* has been pronounced by the competent authorities of the requested State or of a third Contracting State;
- (e) If the request is received after the expiry of the time limit for prosecution or if the penalty is no longer applicable after the expiry of the period provided for by the law of the requesting State;
- (f) If the offence was committed outside the territory of the requesting Contracting State by a national of another State and the law of the requested State provides that that type of offence, when committed outside its territory by a foreigner, may not be prosecuted;
- (g) If an amnesty applicable to the perpetrators of such offences has been granted by the requesting Contracting State;
- (h) If the law of the requested State prohibits it from extraditing its nationals. In this case, the requested State shall undertake to convict a national who has committed a terrorist offence in any other Contracting State if the offence is punishable by deprivation of liberty of at least one year in both States. The nationality of the person whose extradition is sought shall be deemed to be the nationality as at the date of the commission of the offence for which extradition is sought, on the basis of investigations conducted by the requesting State.

#### *Article 21*

If the person whose extradition is sought is the subject of an investigation, trial or conviction in connection with another offence in the requested State, his or her extradition shall be postponed until the investigation or trial is completed or the penalty has been enforced. The requested State may extradite a person provisionally in order to allow the investigation to be conducted or the judgement to be pronounced, provided that the person extradited is returned to the extraditing State before the enforcement of the judgement pronounced against him or her in the requesting State.

#### *Article 22*

For the purposes of the extradition of the perpetrators of offences in accordance with this Convention, no account shall be taken of juridical differences that may exist between the domestic laws of the Contracting States with regard to the classification of the act as a serious or ordinary offence or the classification of the penalty incurred, provided that the penalty, in both States, consists of deprivation of liberty for at least one year.

*Article 23*

Contracting States shall undertake to provide such juridical and legal assistance as may be necessary for judicial investigations, inquiries or proceedings relating to terrorist offences.

*Article 24*

Contracting States shall undertake to provide the aid and assistance necessary to obtain evidence and for the purpose of investigations relating to terrorist offences that have targeted one of them, at the request of the State concerned.

*Article 25*

Contracting States shall undertake to act, to the extent possible, on any rogatory commission relating to criminal proceedings connected with a terrorist offence, in accordance with the Convention adopted by the member States of the Cooperation Council for the Arab States of the Gulf on the enforcement of judgements, rogatory commissions and notifications.

*Article 26*

Contracting States shall cooperate for the purpose of seizing the instrumentalities and proceeds of a terrorist offence or the objects used in the commission of or in connection with the offence and for the purpose of handing them over to the requesting State, whether such objects and proceeds are in the possession of the persons whose extradition is sought or of another person and whether or not such persons have been extradited, without prejudice to the rights of any Contracting State or third party acting in good faith.

*Article 27*

A State which is requested to hand over the instrumentalities or proceeds referred to in the previous article shall take all the measures and precautions necessary to effect the handover and may, for the purposes of domestic criminal proceedings, keep such instrumentalities or proceeds temporarily or ask the requesting State to which it handed them over to return them.

*Article 28*

Contracting States may examine evidence connected with any terrorist offence committed on their territory against any other Contracting State and take the measures necessary to preserve such evidence and



to establish its legal validity. They may communicate the outcome to the State against whose interests the offence was committed if that State so requests, but may not communicate it to any third State without the prior consent of the two States concerned.

## CHAPTER V. COMPETENCE

### *Article 29*

Each Contracting State shall adopt such legislative measures as may be necessary to establish its jurisdiction over the offences referred to in this Convention when:

- (a) The offence is committed on its territory;
- (b) The offence is committed on board a vessel that is flying the flag of that State or an aircraft registered under its laws at the time that the offence is committed;
- (c) The offence is committed by one of its nationals.

### *Article 30*

A Contracting State may also establish its jurisdiction over any terrorist offence referred to in this Convention when:

- (a) The offence is committed against one of its nationals;
- (b) The offence is prepared and planned outside its territory with a view to commission on its territory;
- (c) The offence is committed by a stateless person whose habitual residence is on its territory;
- (d) The offence is committed against one of its State or public facilities abroad.

### *Article 31*

Each Contracting State shall adopt such measures as may be necessary to establish its jurisdiction over the offences referred to in this Convention when the alleged perpetrator is on its territory or shall extradite him or her to another Contracting State at the request of that State.

### *Article 32*

Whenever a Contracting State that has jurisdiction over an offence referred to in this Convention is notified or advised by any other means that one or more Contracting States have instituted an investigation or a trial concerning such offences, measures shall be taken by the competent authorities of the States concerned with a view to coordinating the action to be taken.

CHAPTER VI. IMPLEMENTATION MECHANISMS

*Article 33*

The exchange of requests for extradition and for police or legal assistance or judicial authority, the exchange of documents, objects and proceeds and the summoning of witnesses and experts shall be effected directly between the competent authorities of the Contracting States, either through the Ministry of the Interior or the Ministry of Justice or their representatives, or through diplomatic channels.

Requests and the documents which accompany them or relate to them shall conform to the legal procedures provided for by the laws and regulations of the requesting State and the requested State and by the treaties and conventions to which they are party.

*Article 34*

Extradition requests shall be submitted in writing and supported by the following documentation:

- The original or a certified true copy of the judgement, warrant for arraignment or arrest, or any other court decision pronounced in accordance with the procedure provided for in the domestic law of the requesting State;
- The statement setting out the facts of the case and specifying the offence committed, the date and place of commission of the acts, the legal classification and a reference to and copy of the applicable laws; and
- Information that is as detailed as possible about the person to be extradited and any other information that may facilitate the identification of such person and the establishment of his or her nationality.

*Article 35*

1. The judicial authorities of the requesting State may ask the requested State, in writing, to place the person in question in pre-trial detention (under pre-trial arrest) pending receipt of the extradition request.

2. In such a case, the requested State may place the person in pre-trial detention. If the extradition request was not supported by the documentation referred to in the previous article, the period of detention may not exceed 30 days from the date of arrest.

*Article 36*

The requesting State shall attach to its request the documentation referred to in article 34 of this Convention. If the requested State recognizes the validity of the request, it shall instruct its competent authorities to act on the request in accordance with its domestic law and shall notify the requesting State without delay of the procedure followed.

*Article 37*

1. In the cases referred to in the two previous articles, the period of pre-trial detention may not exceed 60 days from the date of arrest.

2. The person in question may be released on bail during the period referred to in the previous paragraph, provided that the requested State takes the measures it deems necessary to prevent the person from escaping.

3. Release of the person in question shall not prevent his or her re-arrest or extradition if the request is received later.

*Article 38*

If the requested State considers that it needs additional information in order to be sure that the requirements set out in this chapter are fulfilled, it shall notify the requesting State and shall set, in conjunction with that State, a deadline for receipt of the desired information.

*Article 39*

When a Contracting State is seized of a number of extradition requests from various other Contracting States concerning the same act or different acts, it is the responsibility of that State to take a decision on the requests, bearing in mind all the circumstances, such as the possibility of subsequent extradition, the date of receipt of requests, the gravity of the offences and the place where they were committed.

*Article 40*

Subject to the laws or regulations in force, Contracting States shall make witnesses and experts available to the competent authorities of the requesting State and shall not take any action against or impose any penalty or coercive measure on witnesses or experts who refuse to go to the requesting State. If the witness or expert voluntarily goes to the requesting State, he or she shall appear before the courts in accordance with the laws or regulations of the requesting State.

The witness or expert, irrespective of his or her nationality, may not be prosecuted or deprived of his or her liberty for acts or judgements pre-dating his or her arrival.

The witness or expert shall forfeit the protection provided for in the previous paragraphs, while still having the option of leaving the requesting State, if he or she stays in that State for more than 30 days after the completion of his or her tasks or if he or she returns to the territory of that State after leaving it.

The requesting State shall undertake to take all such measures as may be necessary to provide legal and police protection for witnesses.

*Article 41*

Each State shall pay its share of the costs associated with the implementation of this Convention.

The requesting State shall pay the costs associated with the handover of wanted persons or of objects and proceeds connected with the offence, and costs associated with the appearance of witnesses and experts.

*Article 42*

The Secretariat-General of the Cooperation Council for the Arab States of the Gulf shall establish, in agreement with the Contracting States, the mechanisms, measures and operating arrangements necessary for the implementation of this Convention.

## COUNCIL OF EUROPE

### 28. **European Convention on the Suppression of Terrorism**

*Done at Strasbourg on 27 January 1977*

*Entry into force of the Convention on 4 August 1978*

*United Nations, Treaty Series, vol. 1137, No. 17828, and European Treaty Series ETS No. 90*

*Depositary: Secretary General of the Council of Europe*

The member States of the Council of Europe, signatory hereto,

*Considering* that the aim of the Council of Europe is to achieve a greater unity between its members;

*Aware* of the growing concern caused by the increase in acts of terrorism;

*Wishing* to take effective measures to ensure that the perpetrators of such acts do not escape prosecution and punishment;

*Convinced* that extradition is a particularly effective measure for achieving this result,

*Have agreed as follows;*

#### *Article 1*

For the purposes of extradition between Contracting States, none of the following offences shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:

- (a) an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- (b) an offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;
- (c) a serious offence involving an attack against the life, physical integrity or liberty of internationally protected persons, including diplomatic agents;
- (d) an offence involving kidnapping, the taking of a hostage or serious unlawful detention;

- (e) an offence involving the use of a bomb, grenade, rocket, automatic firearm or letter or parcel bomb if this use endangers persons;
- (f) an attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

#### *Article 2*

1. For the purpose of extradition between Contracting States, a Contracting State may decide not to regard as a political offence or as an offence connected with a political offence or as an offence inspired by political motives a serious offence involving an act of violence, other than one covered by Article 1, against the life, physical integrity or liberty of a person.

2. The same shall apply to a serious offence involving an act against property, other than one covered by Article 1, if the act created a collective danger for persons.

3. The same shall apply to an attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

#### *Article 3*

The provisions of all extradition treaties and arrangements applicable between Contracting States, including the European Convention on Extradition, are modified as between Contracting States to the extent that they are incompatible with this Convention.

#### *Article 4*

For the purpose of this Convention and to the extent that any offence mentioned in Article 1 or 2 is not listed as an extraditable offence in any extradition convention or treaty existing between Contracting States, it shall be deemed to be included as such therein.

#### *Article 5*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State has substantial grounds for believing that the request for extradition for an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

*Article 6*

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over an offence mentioned in Article 1 in the case where the suspected offender is present in its territory and it does not extradite him after receiving a request for extradition from a Contracting State whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested State.

2. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

*Article 7*

A Contracting State in whose territory a person suspected to have committed an offence mentioned in Article 1 is found and which has received a request for extradition under the conditions mentioned in Article 6, paragraph 1, shall, if it does not extradite that person, submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

*Article 8*

1. Contracting States shall afford one another the widest measure of mutual assistance in criminal matters in connection with proceedings brought in respect of the offences mentioned in Article 1 or 2. The law of the requested State concerning mutual assistance in criminal matters shall apply in all cases. Nevertheless this assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual assistance if the requested State has substantial grounds for believing that the request for mutual assistance in respect of an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion or that that person's position may be prejudiced for any of these reasons.

3. The provisions of all treaties and arrangements concerning mutual assistance in criminal matters applicable between Contracting States, including the European Convention on Mutual Assistance in Criminal Matters, are modified as between Contracting States to the extent that they are incompatible with this Convention.

*Article 9*

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention.

It shall do whatever is needed to facilitate a friendly settlement of any difficulty which may arise out of its execution.

*Article 10*

Any dispute between Contracting States concerning the interpretation or application of this Convention, which has not been settled in the framework of Article 9, paragraph 2, shall, at the request of any Party to the dispute, be referred to arbitration. Each Party shall nominate an arbitrator and the two arbitrators shall nominate a referee. If any Party has not nominated its arbitrator within the three months following the request for arbitration, he shall be nominated at the request of the other Party by the President of the European Court of Human Rights. If the latter should be a national of one of the Parties to the dispute, this duty shall be carried out by the Vice-President of the Court or if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court not being a national of one of the Parties to the dispute. The same procedure shall be observed if the arbitrators cannot agree on the choice of referee.

The arbitration tribunal shall lay down its own procedure. Its decisions shall be taken by majority vote. Its award shall be final.

*Article 11*

1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or approval.

3. In respect of a signatory State ratifying, accepting or approving subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance or approval.

*Article 12*

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.



2. Any State may, when depositing its instrument of ratification, acceptance or approval or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect immediately or at such later date as may be specified in the notification.

#### *Article 13*

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, declare that it reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives, provided that it undertakes to take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:

- (a) that it created a collective danger to the life, physical integrity or liberty of persons; or
- (b) that it affected persons foreign to the motives behind it; or
- (c) that cruel or vicious means have been used in the commission of the offence.

2. Any State may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

3. A State which has made a reservation in accordance with paragraph 1 of this article may not claim the application of Article 1 by any other State; it may, however, if its reservation is partial or conditional, claim the application of that article in so far as it has itself accepted it.

#### *Article 14*

Any Contracting State may denounce this Convention by means of a written notification addressed to the Secretary General of the Council of Europe. Any such denunciation shall take effect immediately or at such later date as may be specified in the notification.

*Article 15*

This Convention ceases to have effect in respect of any Contracting State which withdraws from or ceases to be a member of the Council of Europe.

*Article 16*

The Secretary General of the Council of Europe shall notify the member States of the Council of:

- (a) any signature;
- (b) any deposit of an instrument of ratification, acceptance or approval;
- (c) any date of entry into force of this Convention in accordance with Article 11 thereof;
- (d) any declaration or notification received in pursuance of the provisions of Article 12;
- (e) any reservation made in pursuance of the provisions of Article 13, paragraph 1;
- (f) the withdrawal of any reservation effected in pursuance of the provisions of Article 13, paragraph 2;
- (g) any notification received in pursuance of Article 14 and the date on which denunciation takes effect;
- (h) any cessation of the effects of the Convention pursuant to Article 15.

IN WITNESS THEREOF, the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Strasbourg, this 27th day of January 1977, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.

## **29. Protocol amending the European Convention on the Suppression of Terrorism**

*Done at Strasbourg on 15 March 2003*

*Entry into force upon expression of consent to be bound by all Parties to the European Convention on the Suppression of Terrorism*

*European Treaty Series ETS No. 190*

*Depositary: Secretary General of the Council of Europe*

*The member States of the Council of Europe, signatory to this Protocol,*

*Bearing in mind the Committee of Ministers of the Council of Europe's Declaration of 12 September 2001 and its Decision of 21 September 2001 on the Fight against International Terrorism, and the Vilnius Declaration on Regional Cooperation and the Consolidation of Democratic Stability in Greater Europe adopted by the Committee of Ministers at its 110th Session in Vilnius on 3 May 2002;*

*Bearing in mind the Parliamentary Assembly of the Council of Europe's Recommendation 1550 (2002) on Combating terrorism and respect for human rights;*

*Bearing in mind the General Assembly of the United Nations Resolution A/RES/51/210 on measures to eliminate international terrorism and the annexed Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, and its Resolution A/RES/49/60 on measures to eliminate international terrorism and the Declaration on Measures to Eliminate International Terrorism annexed thereto;*

*Wishing to strengthen the fight against terrorism while respecting human rights, and mindful of the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers of the Council of Europe on 11 July 2002;*

*Considering for that purpose that it would be appropriate to amend the European Convention on the Suppression of Terrorism (ETS No. 90) opened for signature in Strasbourg on 27 January 1977, hereinafter referred to as "the Convention";*

*Considering that it would be appropriate to update the list of international conventions in Article 1 of the Convention and to provide for a simplified procedure to subsequently update it as required;*

*Considering that it would be appropriate to strengthen the follow-up of the implementation of the Convention;*

*Considering that it would be appropriate to review the reservation regime;*

Considering that it would be appropriate to open the Convention to the signature of all interested States,

*Have agreed as follows:*

*Article 1*

1. The introductory paragraph to Article 1 of the Convention shall become paragraph 1 of this article. In sub-paragraph b of this paragraph, the term “signed” shall be replaced by the term “concluded” and sub-paragraphs c, d, e and f of this paragraph shall be replaced by the following sub-paragraphs:

(c) an offence within the scope of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted at New York on 14 December 1973;

(d) an offence within the scope of the International Convention Against the Taking of Hostages, adopted at New York on 17 December 1979;

(e) an offence within the scope of the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;

(f) an offence within the scope of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;”.

2. Paragraph 1 of Article 1 of the Convention shall be supplemented by the following four sub-paragraphs:

(g) an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;

(h) an offence within the scope of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;

(i) an offence within the scope of the International Convention for the Suppression of Terrorist Bombings, adopted at New York on 15 December 1997;

(j) an offence within the scope of the International Convention for the Suppression of the Financing of Terrorism, adopted at New York on 9 December 1999.”.

3. The text of Article 1 of the Convention shall be supplemented by the following paragraph:

“2. Insofar as they are not covered by the conventions listed under paragraph 1, the same shall apply, for the purpose of extradition between Contracting States, not only to the commission of those principal offences as a perpetrator but also to:

(a) the attempt to commit any of these principal offences;

(b) the participation as an accomplice in the perpetration of any of these principal offences or in an attempt to commit any of them;

(c) organising the perpetration of, or directing others to commit or attempt to commit, any of these principal offences.”

#### *Article 2*

Paragraph 3 of Article 2 of the Convention shall be amended to read as follows:

“3. The same shall apply to:

(a) the attempt to commit any of the foregoing offences;

(b) the participation as an accomplice in any of the foregoing offences or in an attempt to commit any such offence;

(c) organising the perpetration of, or directing others to commit or attempt to commit, any of the foregoing offences.”

#### *Article 3*

1. The text of Article 4 of the Convention shall become paragraph 1 of this article and a new sentence shall be added at the end of this paragraph as follows: “Contracting States undertake to consider such offences as extraditable offences in every extradition treaty subsequently concluded between them.”

2. The text of Article 4 of the Convention shall be supplemented by the following paragraph:

“2. When a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested Contracting State may, at its discretion, consider this Convention as a legal basis for extradition in relation to any of the offences mentioned in Articles 1 or 2.”

#### *Article 4*

1. The text of Article 5 of the Convention shall become paragraph 1 of this article.

2. The text of Article 5 of the Convention shall be supplemented by the following paragraphs:

“2. Nothing in this Convention shall be interpreted as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to torture.

3. Nothing in this Convention shall be interpreted either as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to the death penalty or, where

the law of the requested State does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested State is under the obligation to extradite if the requesting State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.”

*Article 5*

A new article shall be inserted after Article 8 of the Convention and shall read as follows:

*“Article 9*

The Contracting States may conclude between themselves bilateral or multilateral agreements in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.”

*Article 6*

1. Article 9 of the Convention shall become Article 10.
2. Paragraph 1 of new Article 10 shall be amended to read as follows:  
“The European Committee on Crime Problems (CDPC) is responsible for following the application of the Convention. The CDPC:
  - (a) shall be kept informed regarding the application of the Convention;
  - (b) shall make proposals with a view to facilitating or improving the application of the Convention;
  - (c) shall make recommendations to the Committee of Ministers concerning the proposals for amendments to the Convention, and shall give its opinion on any proposals for amendments to the Convention submitted by a Contracting State in accordance with Articles 12 and 13;
  - (d) shall, at the request of a Contracting State, express an opinion on any question concerning the application of the Convention;
  - (e) shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of the execution of the Convention;
  - (f) shall make recommendations to the Committee of Ministers concerning non-member States of the Council of Europe to be invited to accede to the Convention in accordance with Article 14, paragraph 3;
  - (g) shall submit every year to the Committee of Ministers of the Council of Europe a report on the follow-up given to this article in the application of the Convention.”
3. Paragraph 2 of new Article 10 shall be deleted.

### Article 7

1. Article 10 of the Convention shall become Article 11.
2. In the first sentence of paragraph 1 of new Article 11, the terms “Article 9, paragraph 2” shall be replaced by the terms “Article 10.e, or by negotiation”. In the second sentence of this paragraph, the term “two” shall be deleted. The remaining sentences of this paragraph shall be deleted.
3. Paragraph 2 of new Article 11 shall become paragraph 6 of this article. The sentence “Where a majority cannot be reached, the referee shall have a casting vote” shall be added after the second sentence and in the last sentence the terms “Its award” shall be replaced by the terms “The tribunal’s judgement”.
4. The text of new Article 11 shall be supplemented by the following paragraphs:
  - “2. In the case of disputes involving Parties which are member States of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the European Court of Human Rights at the request of the other Party.
  3. In the case of disputes involving any Party which is not a member of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the International Court of Justice at the request of the other Party.
  4. In the cases covered by paragraphs 2 and 3 of this article, where the President of the Court concerned is a national of one of the Parties to the dispute, this duty shall be carried out by the Vice-President of the Court, or if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court who is not a national of one of the Parties to the dispute.
  5. The procedures referred to in paragraphs 2 or 3 and 4 above apply, *mutatis mutandis*, where the arbitrators fail to agree on the nomination of a referee in accordance with paragraph 1 of this article.”.

### Article 8

A new article shall be introduced after new Article 11 and shall read as follows:

#### “Article 12

1. Amendments to this Convention may be proposed by any Contracting State, or by the Committee of Ministers. Proposals for amendment shall be communicated by the Secretary General of the Council of Europe to the Contracting States.

2. After having consulted the non-member Contracting States and, if necessary, the CDPC, the Committee of Ministers may adopt the amendment in accordance with the majority provided for in Article 20.d of the Statute of the Council of Europe. The Secretary General of the Council of Europe shall submit any amendments adopted to the Contracting States for acceptance.

3. Any amendment adopted in accordance with the above paragraph shall enter into force on the thirtieth day following notification by all the Parties to the Secretary General of their acceptance thereof.”

#### *Article 9*

A new article shall be introduced after new Article 12 and shall read as follows:

#### *“Article 13*

1. In order to update the list of treaties in Article 1, paragraph 1, amendments may be proposed by any Contracting State or by the Committee of Ministers. These proposals for amendment shall only concern treaties concluded within the United Nations Organisation dealing specifically with international terrorism and having entered into force. They shall be communicated by the Secretary General of the Council of Europe to the Contracting States.

2. After having consulted the non-member Contracting States and, if necessary the CDPC, the Committee of Ministers may adopt a proposed amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Contracting States. During this period, any Contracting State may notify the Secretary General of any objection to the entry into force of the amendment in its respect.

3. If one-third of the Contracting States notifies the Secretary General of an objection to the entry into force of the amendment, the amendment shall not enter into force.

4. If less than one-third of the Contracting States notifies an objection, the amendment shall enter into force for those Contracting States which have not notified an objection.

5. Once an amendment has entered into force in accordance with paragraph 2 of this article and a Contracting State has notified an objection to it, this amendment shall come into force in respect of the Contracting State concerned on the first day of the month following the date on which it has notified the Secretary General of the Council of Europe of its acceptance.”



*Article 10*

1. Article 11 of the Convention shall become Article 14.
2. In the first sentence of paragraph 1 of new Article 14 the terms “member States of the Council of Europe” shall be replaced by the terms “member States of and Observer States to the Council of Europe” and in the second and third sentences, the terms “or approval” shall be replaced by the terms “, approval or accession”.
3. The text of new Article 14 shall be supplemented by the following paragraph:

“3. The Committee of Ministers of the Council of Europe, after consulting the CDPC, may invite any State not a member of the Council of Europe, other than those referred to under paragraph 1 of this article, to accede to the Convention. The decision shall be taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.”
4. Paragraph 3 of new Article 14 shall become paragraph 4 of this article, and the terms “or approving” and “or approval” shall be replaced respectively by the terms “, approving or acceding” and “, approval or accession”.

*Article 11*

1. Article 12 of the Convention shall become Article 15.
2. In the first sentence of paragraph 1 of new Article 15, the terms “or approval” shall be replaced by the terms “, approval or accession”.
3. In the first sentence of paragraph 2 of new Article 15, the terms “or approval” are replaced by the terms “, approval or accession”.

*Article 12*

1. Reservations to the Convention made prior to the opening for signature of the present Protocol shall not be applicable to the Convention as amended by the present Protocol.
2. Article 13 of the Convention shall become Article 16.
3. In the first sentence of paragraph 1 of new Article 16 the terms “Party to the Convention on 15 May 2003” shall be added before the term “may” and the terms “of the Protocol amending the Convention” shall be added after the term “approval”. A second sentence shall be added after the terms “political motives” and shall read: “The Contracting State undertakes to apply this reservation on a case-by-case basis, through a duly reasoned decision and taking into due consideration, when evaluating the character of the offence, any particularly serious

aspects of the offence, including:”. The remainder of the first sentence shall be deleted, with the exception of sub-paragraphs *a*, *b* and *c*.

4. The text of new Article 16 shall be supplemented by the following paragraph:

“2. When applying paragraph 1 of this article, a Contracting State shall indicate the offences to which its reservation applies.”.

5. Paragraph 2 of new Article 16 shall become paragraph 3 of this article. In the first sentence of this paragraph, the term “Contracting” shall be added before the term “State” and the terms “the foregoing paragraph” shall be replaced by the terms “paragraph 1.”.

6. Paragraph 3 of new Article 16 shall become paragraph 4 of this article. In the first sentence of this paragraph, the term “Contracting” shall be added before the term “State”.

7. The text of new Article 16 shall be supplemented by the following paragraphs:

“5. The reservations referred to in paragraph 1 of this article shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such reservations may be renewed for periods of the same duration.

6. Twelve months before the date of expiry of the reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the Contracting State concerned. No later than three months before expiry, the Contracting State shall notify the Secretary General of the Council of Europe that it is upholding, amending or withdrawing its reservation. Where a Contracting State notifies the Secretary General of the Council of Europe that it is upholding its reservation, it shall provide an explanation of the grounds justifying its continuance. In the absence of notification by the Contracting State concerned, the Secretary General of the Council of Europe shall inform that Contracting State that its reservation is considered to have been extended automatically for a period of six months. Failure by the Contracting State concerned to notify its intention to uphold or modify its reservation before the expiry of that period shall cause the reservation to lapse.

7. Where a Contracting State does not extradite a person, in application of a reservation made in accordance with paragraph 1 of this article, after receiving a request for extradition from another Contracting State, it shall submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution, unless the requesting State and the requested State otherwise agree. The competent authorities, for the purpose of prosecution in the requested State, shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State. The requested State shall communicate, without undue delay, the final outcome of the proceedings to

the requesting State and to the Secretary General of the Council of Europe, who shall forward it to the Conference provided for in Article 17.

8. The decision to refuse the extradition request, on the basis of a reservation made in accordance with paragraph 1 of this article, shall be forwarded promptly to the requesting State. If within a reasonable time no judicial decision on the merits has been taken in the requested State according to paragraph 7, the requesting State may communicate this fact to the Secretary General of the Council of Europe, who shall submit the matter to the Conference provided for in Article 17. This Conference shall consider the matter and issue an opinion on the conformity of the refusal with the Convention and shall submit it to the Committee of Ministers for the purpose of issuing a declaration thereon. When performing its functions under this paragraph, the Committee of Ministers shall meet in its composition restricted to the Contracting States.”.

### *Article 13*

A new article shall be introduced after new Article 16 of the Convention, and shall read as follows:

### *“Article 17*

1. Without prejudice to the application of Article 10, there shall be a Conference of States Parties against Terrorism (hereinafter referred to as the “COSTER”) responsible for ensuring:

(a) the effective use and operation of this Convention including the identification of any problems therein, in close contact with the CDPC;

(b) the examination of reservations made in accordance with Article 16 and in particular the procedure provided in Article 16, paragraph 8;

(c) the exchange of information on significant legal and policy developments pertaining to the fight against terrorism;

(d) the examination, at the request of the Committee of Ministers, of measures adopted within the Council of Europe in the field of the fight against terrorism and, where appropriate, the elaboration of proposals for additional measures necessary to improve international cooperation in the area of the fight against terrorism and, where cooperation in criminal matters is concerned, in consultation with the CDPC;

(e) the preparation of opinions in the area of the fight against terrorism and the execution of the terms of reference given by the Committee of Ministers.

2. The COSTER shall be composed of one expert appointed by each of the Contracting States. It will meet once a year on a regular basis, and on an extraordinary basis at the request of the Secretary General of the Council of Europe or of at least one-third of the Contracting States.

3. The COSTER will adopt its own Rules of Procedure. The expenses for the participation of Contracting States which are member States of the Council of Europe shall be borne by the Council of Europe. The Secretariat of the Council of Europe will assist the COSTER in carrying out its functions pursuant to this article.

4. The CDPC shall be kept periodically informed about the work of the COSTER.”.

*Article 14*

Article 14 of the Convention shall become Article 18.

*Article 15*

Article 15 of the Convention shall be deleted.

*Article 16*

1. Article 16 of the Convention shall become Article 19.

2. In the introductory sentence of new Article 19, the terms “member States of the Council” shall be replaced by the terms “Contracting States”.

3. In paragraph *b* of new Article 19, the terms “or approval” shall be replaced by the terms “, approval or accession”.

4. In paragraph *c* of new Article 19, the number “11” shall read “14”.

5. In paragraph *d* of new Article 19, the number “12” shall read “15”.

6. Paragraphs *e* and *f* of new Article 19 shall be deleted.

7. Paragraph *g* of new Article 19 shall become paragraph *e* of this article and the number “14” shall read “18”.

8. Paragraph *h* of new Article 19 shall be deleted.

*Article 17*

1. This Protocol shall be open for signature by member States of the Council of Europe signatories to the Convention, which may express their consent to be bound by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

*Article 18*

This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which all Parties to the Convention have expressed their consent to be bound by the Protocol, in accordance with the provisions of Article 17.

*Article 19*

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (c) the date of entry into force of this Protocol, in accordance with Article 18;
- (d) any other act, notification or communication relating to this Protocol.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this Protocol.

DONE at Strasbourg, this 15th day of May 2003, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.

### 30. Council of Europe Convention on the Prevention of Terrorism

*Signed in Warsaw on 16 May 2005*

*In force on 1 January 2007*

*European Treaty Series ETS No. 196*

*Depositary: Secretary General of the Council of Europe*

*The member States of the Council of Europe and the other Signatories hereto,*

*Considering* that the aim of the Council of Europe is to achieve greater unity between its members;

*Recognising* the value of reinforcing cooperation with the other Parties to this Convention;

*Wishing* to take effective measures to prevent terrorism and to counter, in particular, public provocation to commit terrorist offences and recruitment and training for terrorism;

*Aware* of the grave concern caused by the increase in terrorist offences and the growing terrorist threat;

*Aware* of the precarious situation faced by those who suffer from terrorism, and in this connection reaffirming their profound solidarity with the victims of terrorism and their families;

*Recognising* that terrorist offences and the offences set forth in this Convention, by whoever perpetrated, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and recalling the obligation of all Parties to prevent such offences and, if not prevented, to prosecute and ensure that they are punishable by penalties which take into account their grave nature;

*Recalling* the need to strengthen the fight against terrorism and reaffirming that all measures taken to prevent or suppress terrorist offences have to respect the rule of law and democratic values, human rights and fundamental freedoms as well as other provisions of international law, including, where applicable, international humanitarian law;

*Recognising* that this Convention is not intended to affect established principles relating to freedom of expression and freedom of association;

*Recalling* that acts of terrorism have the purpose by their nature or context to seriously intimidate a population or unduly compel a government or an international organisation to perform or abstain from performing any act or seriously destabilise or destroy the fundamental

political, constitutional, economic or social structures of a country or an international organisation;

*Have agreed as follows:*

*Article 1*

*Terminology*

1. For the purposes of this Convention, “terrorist offence” means any of the offences within the scope of and as defined in one of the treaties listed in the Appendix.

2. On depositing its instrument of ratification, acceptance, approval or accession, a State or the European Community which is not a party to a treaty listed in the Appendix may declare that, in the application of this Convention to the Party concerned, that treaty shall be deemed not to be included in the Appendix. This declaration shall cease to have effect as soon as the treaty enters into force for the Party having made such a declaration, which shall notify the Secretary General of the Council of Europe of this entry into force.

*Article 2*

*Purpose*

The purpose of the present Convention is to enhance the efforts of Parties in preventing terrorism and its negative effects on the full enjoyment of human rights, in particular the right to life, both by measures to be taken at national level and through international cooperation, with due regard to the existing applicable multilateral or bilateral treaties or agreements between the Parties.

*Article 3*

*National prevention policies*

1. Each Party shall take appropriate measures, particularly in the field of training of law enforcement authorities and other bodies, and in the fields of education, culture, information, media and public awareness raising, with a view to preventing terrorist offences and their negative effects while respecting human rights obligations as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other obligations under international law.

2. Each Party shall take such measures as may be necessary to improve and develop the cooperation among national authorities with a view to preventing terrorist offences and their negative effects by, *inter alia*:

(a) Exchanging information;

- (b) Improving the physical protection of persons and facilities;
- (c) Enhancing training and coordination plans for civil emergencies.

3. Each Party shall promote tolerance by encouraging inter-religious and cross-cultural dialogue involving, where appropriate, non-governmental organisations and other elements of civil society with a view to preventing tensions that might contribute to the commission of terrorist offences.

4. Each Party shall endeavour to promote public awareness regarding the existence, causes and gravity of and the threat posed by terrorist offences and the offences set forth in this Convention and consider encouraging the public to provide factual, specific help to its competent authorities that may contribute to preventing terrorist offences and offences set forth in this Convention.

#### *Article 4*

##### *International cooperation on prevention*

Parties shall, as appropriate and with due regard to their capabilities, assist and support each other with a view to enhancing their capacity to prevent the commission of terrorist offences, including through exchange of information and best practices, as well as through training and other joint efforts of a preventive character.

#### *Article 5*

##### *Public provocation to commit a terrorist offence*

1. For the purposes of this Convention, “public provocation to commit a terrorist offence” means the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of a terrorist offence, where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed.

2. Each Party shall adopt such measures as may be necessary to establish public provocation to commit a terrorist offence, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

#### *Article 6*

##### *Recruitment for terrorism*

1. For the purposes of this Convention, “recruitment for terrorism” means to solicit another person to commit or participate in the commission of a terrorist offence, or to join an association or group, for



the purpose of contributing to the commission of one or more terrorist offences by the association or the group.

2. Each Party shall adopt such measures as may be necessary to establish recruitment for terrorism, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

#### *Article 7*

##### *Training for terrorism*

1. For the purposes of this Convention, “training for terrorism” means to provide instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offence, knowing that the skills provided are intended to be used for this purpose.

2. Each Party shall adopt such measures as may be necessary to establish training for terrorism, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

#### *Article 8*

##### *Irrelevance of the commission of a terrorist offence*

For an act to constitute an offence as set forth in articles 5 to 7 of this Convention, it shall not be necessary that a terrorist offence be actually committed.

#### *Article 9*

##### *Ancillary offences*

1. Each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law:

- (a) Participating as an accomplice in an offence as set forth in articles 5 to 7 of this Convention;
- (b) Organising or directing others to commit an offence as set forth in articles 5 to 7 of this Convention;
- (c) Contributing to the commission of one or more offences as set forth in articles 5 to 7 of this Convention by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
  - (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity

or purpose involves the commission of an offence as set forth in articles 5 to 7 of this Convention; or

- (ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in articles 5 to 7 of this Convention.

2. Each Party shall also adopt such measures as may be necessary to establish as a criminal offence under, and in accordance with, its domestic law the attempt to commit an offence as set forth in articles 6 and 7 of this Convention.

#### *Article 10*

##### *Liability of legal entities*

1. Each Party shall adopt such measures as may be necessary, in accordance with its legal principles, to establish the liability of legal entities for participation in the offences set forth in articles 5 to 7 and 9 of this Convention.

2. Subject to the legal principles of the Party, the liability of legal entities may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

#### *Article 11*

##### *Sanctions and measures*

1. Each Party shall adopt such measures as may be necessary to make the offences set forth in articles 5 to 7 and 9 of this Convention punishable by effective, proportionate and dissuasive penalties.

2. Previous final convictions pronounced in foreign States for offences set forth in the present Convention may, to the extent permitted by domestic law, be taken into account for the purpose of determining the sentence in accordance with domestic law.

3. Each Party shall ensure that legal entities held liable in accordance with article 10 are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

#### *Article 12*

##### *Conditions and safeguards*

1. Each Party shall ensure that the establishment, implementation and application of the criminalisation under articles 5 to 7 and 9 of this Convention are carried out while respecting human rights obligations, in particular the right to freedom of expression, freedom of association

and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other obligations under international law.

2. The establishment, implementation and application of the criminalisation under articles 5 to 7 and 9 of this Convention should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.

### *Article 13*

#### *Protection, compensation and support for victims of terrorism*

Each Party shall adopt such measures as may be necessary to protect and support the victims of terrorism that has been committed within its own territory. These measures may include, through the appropriate national schemes and subject to domestic legislation, *inter alia*, financial assistance and compensation for victims of terrorism and their close family members.

### *Article 14*

#### *Jurisdiction*

1. Each Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in this Convention:

- (a) When the offence is committed in the territory of that Party;
- (b) When the offence is committed on board a ship flying the flag of that Party, or on board an aircraft registered under the laws of that Party;
- (c) When the offence is committed by a national of that Party.

2. Each Party may also establish its jurisdiction over the offences set forth in this Convention:

- (a) When the offence was directed towards or resulted in the carrying out of an offence referred to in article 1 of this Convention, in the territory of or against a national of that Party;
- (b) When the offence was directed towards or resulted in the carrying out of an offence referred to in article 1 of this Convention, against a State or government facility of that Party abroad, including diplomatic or consular premises of that Party;
- (c) When the offence was directed towards or resulted in an offence referred to in article 1 of this Convention, committed in an attempt to compel that Party to do or abstain from doing any act;

(d) When the offence is committed by a stateless person who has his or her habitual residence in the territory of that Party;

(e) When the offence is committed on board an aircraft which is operated by the Government of that Party.

3. Each Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in this Convention in the case where the alleged offender is present in its territory and it does not extradite him or her to a Party whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested Party.

4. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

5. When more than one Party claims jurisdiction over an alleged offence set forth in this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

#### *Article 15*

##### *Duty to investigate*

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in this Convention may be present in its territory, the Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person in respect of whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the Party in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be

given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any Party having a claim of jurisdiction in accordance with article 14, paragraphs 1 (c) and 2 (d) to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

### *Article 16*

#### *Non application of the Convention*

This Convention shall not apply where any of the offences established in accordance with articles 5 to 7 and 9 is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State, and no other State has a basis under article 14, paragraph 1 or 2 of this Convention, to exercise jurisdiction, it being understood that the provisions of articles 17 and 20 to 22 of this Convention shall, as appropriate, apply in those cases.

### *Article 17*

#### *International cooperation in criminal matters*

1. Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in articles 5 to 7 and 9 of this Convention, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other agreements on mutual legal assistance that may exist between them. In the absence of such treaties or agreements, Parties shall afford one another assistance in accordance with their domestic law.

3. Parties shall co-operate with each other to the fullest extent possible under relevant law, treaties, agreements and arrangements of the requested Party with respect to criminal investigations or proceedings in relation to the offences for which a legal entity may be held liable in accordance with article 10 of this Convention in the requesting Party.

4. Each Party may give consideration to establishing additional mechanisms to share with other Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 10.

*Article 18*

*Extradite or prosecute*

1. The Party in the territory of which the alleged offender is present shall, when it has jurisdiction in accordance with article 14, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that Party. Those authorities shall take their decision in the same manner as in the case of any other offence of a serious nature under the law of that Party.

2. Whenever a Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that Party to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this Party and the Party seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

*Article 19*

*Extradition*

1. The offences set forth in articles 5 to 7 and 9 of this Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties before the entry into force of this Convention. Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party may, if it so decides, consider this Convention as a legal basis for extradition in respect of the offences set forth in articles 5 to 7 and 9 of this Convention. Extradition shall be subject to the other conditions provided by the law of the requested Party.

3. Parties which do not make extradition conditional on the existence of a treaty shall recognise the offences set forth in articles 5 to 7 and 9 of this Convention as extraditable offences between themselves, subject to the conditions provided by the law of the requested Party.

4. Where necessary, the offences set forth in articles 5 to 7 and 9 of this Convention shall be treated, for the purposes of extradition between Parties, as if they had been committed not only in the place

in which they occurred but also in the territory of the Parties that have established jurisdiction in accordance with article 14.

5. The provisions of all extradition treaties and agreements concluded between Parties in respect of offences set forth in articles 5 to 7 and 9 of this Convention shall be deemed to be modified as between Parties to the extent that they are incompatible with this Convention.

#### *Article 20*

##### *Exclusion of the political exception clause*

1. None of the offences referred to in articles 5 to 7 and 9 of this Convention, shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence, an offence connected with a political offence, or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Without prejudice to the application of articles 19 to 23 of the Vienna Convention on the Law of Treaties of 23 May 1969 to the other articles of this Convention, any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession of the Convention, declare that it reserves the right to not apply paragraph 1 of this article as far as extradition in respect of an offence set forth in this Convention is concerned. The Party undertakes to apply this reservation on a case-by-case basis, through a duly reasoned decision.

3. Any Party may wholly or partly withdraw a reservation it has made in accordance with paragraph 2 by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

4. A Party which has made a reservation in accordance with paragraph 2 of this article may not claim the application of paragraph 1 of this article by any other Party; it may, however, if its reservation is partial or conditional, claim the application of this article in so far as it has itself accepted it.

5. The reservation shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the Party concerned. However, such reservation may be renewed for periods of the same duration.

6. Twelve months before the date of expiry of the reservation, the Secretary General of the Council of Europe shall give notice of that expiry to the Party concerned. No later than three months before expiry,

the Party shall notify the Secretary General of the Council of Europe that it is upholding, amending or withdrawing its reservation. Where a Party notifies the Secretary General of the Council of Europe that it is upholding its reservation, it shall provide an explanation of the grounds justifying its continuance. In the absence of notification by the Party concerned, the Secretary General of the Council of Europe shall inform that Party that its reservation is considered to have been extended automatically for a period of six months. Failure by the Party concerned to notify its intention to uphold or modify its reservation before the expiry of that period shall cause the reservation to lapse.

7. Where a Party does not extradite a person in application of this reservation, after receiving an extradition request from another Party, it shall submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution, unless the requesting Party and the requested Party agree otherwise. The competent authorities, for the purpose of prosecution in the requested Party, shall take their decision in the same manner as in the case of any offence of a grave nature under the law of that Party. The requested Party shall communicate, without undue delay, the final outcome of the proceedings to the requesting Party and to the Secretary General of the Council of Europe, who shall forward it to the Consultation of the Parties provided for in article 30.

8. The decision to refuse the extradition request on the basis of this reservation shall be forwarded promptly to the requesting Party. If within a reasonable time no judicial decision on the merits has been taken in the requested Party according to paragraph 7, the requesting Party may communicate this fact to the Secretary General of the Council of Europe, who shall submit the matter to the Consultation of the Parties provided for in article 30. This Consultation shall consider the matter and issue an opinion on the conformity of the refusal with the Convention and shall submit it to the Committee of Ministers for the purpose of issuing a declaration thereon. When performing its functions under this paragraph, the Committee of Ministers shall meet in its composition restricted to the States Parties.

#### *Article 21*

##### *Discrimination clause*

1. Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested Party has substantial grounds for believing that the request for extradition for offences set forth in articles 5 to 7 and 9 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's



race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

2. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the person who is the subject of the extradition request risks being exposed to torture or to inhuman or degrading treatment or punishment.

3. Nothing in this Convention shall be interpreted either as imposing an obligation to extradite if the person who is the subject of the extradition request risks being exposed to the death penalty or, where the law of the requested Party does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested Party is under the obligation to extradite if the requesting Party gives such assurance as the requested Party considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.

#### *Article 22*

##### *Spontaneous information*

1. Without prejudice to their own investigations or proceedings, the competent authorities of a Party may, without prior request, forward to the competent authorities of another Party information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the Party receiving the information in initiating or carrying out investigations or proceedings, or might lead to a request by that Party under this Convention.

2. The Party providing the information may, pursuant to its national law, impose conditions on the use of such information by the Party receiving the information.

3. The Party receiving the information shall be bound by those conditions.

4. However, any Party may, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to be bound by the conditions imposed by the Party providing the information under paragraph 2 above, unless it receives prior notice of the nature of the information to be provided and agrees to its transmission.

*Article 23*

*Signature and entry into force*

1. This Convention shall be open for signature by the member States of the Council of Europe, the European Community and by non-member States which have participated in its elaboration.

2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which six Signatories, including at least four member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 2.

4. In respect of any Signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of its consent to be bound by the Convention in accordance with the provisions of paragraph 2.

*Article 24*

*Accession to the Convention*

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting with and obtaining the unanimous consent of the Parties to the Convention, may invite any State which is not a member of the Council of Europe and which has not participated in its elaboration to accede to this Convention. The decision shall be taken by the majority provided for in article 20 (*d*) of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Parties entitled to sit on the Committee of Ministers.

2. In respect of any State acceding to the Convention under paragraph 1 above, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

*Article 25*

*Territorial application*

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

### *Article 26*

#### *Effects of the Convention*

1. The present Convention supplements applicable multilateral or bilateral treaties or agreements between the Parties, including the provisions of the following Council of Europe treaties:

European Convention on Extradition, opened for signature, in Paris, on 13 December 1957 (ETS No. 24);

European Convention on Mutual Assistance in Criminal Matters, opened for signature, in Strasbourg, on 20 April 1959 (ETS No. 30);

European Convention on the Suppression of Terrorism, opened for signature, in Strasbourg, on 27 January 1977 (ETS No. 90);

Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, opened for signature in Strasbourg on 17 March 1978 (ETS No. 99);

Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, opened for signature in Strasbourg on 8 November 2001 (ETS No. 182);

Protocol amending the European Convention on the Suppression of Terrorism, opened for signature in Strasbourg on 15 May 2003 (ETS No. 190).

2. If two or more Parties have already concluded an agreement or treaty on the matters dealt with in this Convention or have otherwise established their relations on such matters, or should they in future do so, they shall also be entitled to apply that agreement or treaty or to regulate those relations accordingly. However, where Parties establish their relations in respect of the matters dealt with in the present Convention other than as regulated therein, they shall do so in a manner that is not inconsistent with the Convention's objectives and principles.

3. Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.

4. Nothing in this Convention shall affect other rights, obligations and responsibilities of a Party and individuals under international law, including international humanitarian law.

5. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by military forces of a Party in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

#### *Article 27*

##### *Amendments to the Convention*

1. Amendments to this Convention may be proposed by any Party, the Committee of Ministers of the Council of Europe or the Consultation of the Parties.

2. Any proposal for amendment shall be communicated by the Secretary General of the Council of Europe to the Parties.

3. Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the Consultation of the Parties, which shall submit to the Committee of Ministers its opinion on the proposed amendment.

4. The Committee of Ministers shall consider the proposed amendment and any opinion submitted by the Consultation of the Parties and may approve the amendment.

5. The text of any amendment approved by the Committee of Ministers in accordance with paragraph 4 shall be forwarded to the Parties for acceptance.

6. Any amendment approved in accordance with paragraph 4 shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

#### *Article 28*

##### *Revision of the Appendix*

1. In order to update the list of treaties in the Appendix, amendments may be proposed by any Party or by the Committee of Ministers.

These proposals for amendment shall only concern universal treaties concluded within the United Nations system dealing specifically with international terrorism and having entered into force. They shall be communicated by the Secretary General of the Council of Europe to the Parties.

2. After having consulted the non-member Parties, the Committee of Ministers may adopt a proposed amendment by the majority provided for in article 20 (d) of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Parties. During this period, any Party may notify the Secretary General of the Council of Europe of any objection to the entry into force of the amendment in respect of that Party.

3. If one third of the Parties notifies the Secretary General of the Council of Europe of an objection to the entry into force of the amendment, the amendment shall not enter into force.

4. If less than one third of the Parties notifies an objection, the amendment shall enter into force for those Parties which have not notified an objection.

5. Once an amendment has entered into force in accordance with paragraph 2 and a Party has notified an objection to it, this amendment shall come into force in respect of the Party concerned on the first day of the month following the date on which it notifies the Secretary General of the Council of Europe of its acceptance.

### *Article 29*

#### *Settlement of disputes*

In the event of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to an arbitral tribunal whose decisions shall be binding upon the Parties to the dispute, or to the International Court of Justice, as agreed upon by the Parties concerned.

### *Article 30*

#### *Consultation of the Parties*

1. The Parties shall consult periodically with a view to:
  - (a) Making proposals to facilitate or improve the effective use and implementation of this Convention, including the identification of any problems and the effects of any declaration made under this Convention;

(b) Formulating its opinion on the conformity of a refusal to extradite which is referred to them in accordance with article 20, paragraph 8;

(c) Making proposals for the amendment of this Convention in accordance with article 27;

(d) Formulating their opinion on any proposal for the amendment of this Convention which is referred to them in accordance with article 27, paragraph 3;

(e) Expressing an opinion on any question concerning the application of this Convention and facilitating the exchange of information on significant legal, policy or technological developments.

2. The Consultation of the Parties shall be convened by the Secretary General of the Council of Europe whenever he finds it necessary and in any case when a majority of the Parties or the Committee of Ministers request its convocation.

3. The Parties shall be assisted by the Secretariat of the Council of Europe in carrying out their functions pursuant to this article.

#### *Article 31*

##### *Denunciation*

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

#### *Article 32*

##### *Notification*

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the European Community, the non-member States which have participated in the elaboration of this Convention as well as any State which has acceded to, or has been invited to accede to, this Convention of:

(a) Any signature;

(b) The deposit of any instrument of ratification, acceptance, approval or accession;

(c) Any date of entry into force of this Convention in accordance with article 23;

(d) Any declaration made under article 1, paragraph 2, 22, paragraph 4, and 25;

(e) Any other act, notification or communication relating to this Convention.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Warsaw, this 16th day of May 2005, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the European Community, to the non-member States which have participated in the elaboration of this Convention, and to any State invited to accede to it.

#### APPENDIX

1. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
2. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;
3. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted in New York on 14 December 1973;
4. International Convention Against the Taking of Hostages, adopted in New York on 17 December 1979;
5. Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 3 March 1980;
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;
7. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;
8. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;
9. International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997;
10. International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999.

### **31. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism**

*Signed in Warsaw on 16 May 2005*

*Entry into force: On 1 May 2008 in accordance with article 49 of the Convention*

*European Treaty Series (ETS) No. 198*

*Depositary: Secretary General of the Council of Europe*

#### PREAMBLE

*The member States of the Council of Europe and the other Signatories hereto,*

*Considering that the aim of the Council of Europe is to achieve a greater unity between its members;*

*Convinced of the need to pursue a common criminal policy aimed at the protection of society;*

*Considering that the fight against serious crime, which has become an increasingly international problem, calls for the use of modern and effective methods on an international scale;*

*Believing that one of these methods consists in depriving criminals of the proceeds from crime and instrumentalities;*

*Considering that for the attainment of this aim a well functioning system of international cooperation also must be established;*

*Bearing in mind the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141—hereinafter referred to as “the 1990 Convention”);*

*Recalling also resolution 1373(2001) on threats to international peace and security caused by terrorist acts adopted by the Security Council of the United Nations on 28 September 2001, and particularly its paragraph 3 (d);*

*Recalling the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999 and particularly its articles 2 and 4, which oblige States Parties to establish the financing of terrorism as a criminal offence;*

*Convinced of the necessity to take immediate steps to ratify and to implement fully the International Convention for the Suppression of the Financing of Terrorism, cited above,*



*Have agreed as follows:*

CHAPTER I. USE OF TERMS

*Article 1*

*Use of terms*

For the purposes of this Convention:

(a) “Proceeds” means any economic advantage, derived from or obtained, directly or indirectly, from criminal offences. It may consist of any property as defined in sub-paragraph (b) of this article;

(b) “Property” includes property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title to or interest in such property;

(c) “Instrumentalities” means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences;

(d) “Confiscation” means a penalty or a measure, ordered by a court following proceedings in relation to a criminal offence or criminal offences resulting in the final deprivation of property;

(e) “Predicate offence” means any criminal offence as a result of which proceeds were generated that may become the subject of an offence as defined in article 9 of this Convention;

(f) “Financial intelligence unit” (hereinafter referred to as “FIU”) means a central, national agency responsible for receiving (and, as permitted, requesting), analysing and disseminating to the competent authorities, disclosures of financial information

(i) Concerning suspected proceeds and potential financing of terrorism, or

(ii) Required by national legislation or regulation,

in order to combat money laundering and financing of terrorism;

(g) “Freezing” or “seizure” means temporarily prohibiting the transfer, destruction, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(h) “Financing of terrorism” means the acts set out in article 2 of the International Convention for the Suppression of the Financing of Terrorism, cited above.

CHAPTER II. FINANCING OF TERRORISM

*Article 2*

*Application of the Convention to the financing of terrorism*

1. Each Party shall adopt such legislative and other measures as may be necessary to enable it to apply the provisions contained in Chapters III, IV and V of this Convention to the financing of terrorism.

2. In particular, each Party shall ensure that it is able to search, trace, identify, freeze, seize and confiscate property, of a licit or illicit origin, used or allocated to be used by any means, in whole or in part, for the financing of terrorism, or the proceeds of this offence, and to provide cooperation to this end to the widest possible extent.

CHAPTER III. MEASURES TO BE TAKEN AT NATIONAL LEVEL

Section 1. General provisions

*Article 3*

*Confiscation measures*

1. Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate instrumentalities and proceeds or property the value of which corresponds to such proceeds and laundered property.

2. Provided that paragraph 1 of this article applies to money laundering and to the categories of offences in the appendix to the Convention, each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article applies:

(a) Only in so far as the offence is punishable by deprivation of liberty or a detention order for a maximum of more than one year. However, each Party may make a declaration on this provision in respect of the confiscation of the proceeds from tax offences for the sole purpose of being able to confiscate such proceeds, both nationally and through international cooperation, under national and international tax-debt recovery legislation; and/or

(b) Only to a list of specified offences.

3. Parties may provide for mandatory confiscation in respect of offences which are subject to the confiscation regime. Parties may in particular include in this provision the offences of money laundering, drug trafficking, trafficking in human beings and any other serious offence.

4. Each Party shall adopt such legislative or other measures as may be necessary to require that, in respect of a serious offence or offences as

defined by national law, an offender demonstrates the origin of alleged proceeds or other property liable to confiscation to the extent that such a requirement is consistent with the principles of its domestic law.

#### *Article 4*

##### *Investigative and provisional measures*

Each Party shall adopt such legislative and other measures as may be necessary to enable it to identify, trace, freeze or seize rapidly property which is liable to confiscation pursuant to article 3, in order in particular to facilitate the enforcement of a later confiscation.

#### *Article 5*

##### *Freezing, seizure and confiscation*

Each Party shall adopt such legislative and other measures as may be necessary to ensure that the measures to freeze, seize and confiscate also encompass:

- (a) The property into which the proceeds have been transformed or converted;
- (b) Property acquired from legitimate sources, if proceeds have been intermingled, in whole or in part, with such property, up to the assessed value of the intermingled proceeds;
- (c) Income or other benefits derived from proceeds, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled, up to the assessed value of the intermingled proceeds, in the same manner and to the same extent as proceeds.

#### *Article 6*

##### *Management of frozen or seized property*

Each Party shall adopt such legislative or other measures as may be necessary to ensure proper management of frozen or seized property in accordance with articles 4 and 5 of this Convention.

#### *Article 7*

##### *Investigative powers and techniques*

1. Each Party shall adopt such legislative and other measures as may be necessary to empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized in order to carry out the actions referred to in articles 3, 4

and 5. A Party shall not decline to act under the provisions of this article on grounds of bank secrecy.

2. Without prejudice to paragraph 1, each Party shall adopt such legislative and other measures as may be necessary to enable it to:

(a) Determine whether a natural or legal person is a holder or beneficial owner of one or more accounts, of whatever nature, in any bank located in its territory and, if so obtain all of the details of the identified accounts;

(b) Obtain the particulars of specified bank accounts and of banking operations which have been carried out during a specified period through one or more specified accounts, including the particulars of any sending or recipient account;

(c) Monitor, during a specified period, the banking operations that are being carried out through one or more identified accounts; and,

(d) Ensure that banks do not disclose to the bank customer concerned or to other third persons that information has been sought or obtained in accordance with sub-paragraphs (a), (b) or (c), or that an investigation is being carried out.

Parties shall consider extending this provision to accounts held in non-bank financial institutions.

3. Each Party shall consider adopting such legislative and other measures as may be necessary to enable it to use special investigative techniques facilitating the identification and tracing of proceeds and the gathering of evidence related thereto, such as observation, interception of telecommunications, access to computer systems and order to produce specific documents.

## *Article 8*

### *Legal remedies*

Each Party shall adopt such legislative and other measures as may be necessary to ensure that interested parties affected by measures under articles 3, 4 and 5 and such other provisions in this Section as are relevant, shall have effective legal remedies in order to preserve their rights.

## *Article 9*

### *Laundering offences*

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as offences under its domestic law, when committed intentionally:

(a) The conversion or transfer of property, knowing that such property is proceeds, for the purpose of concealing or disguising

the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions;

(b) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is proceeds;

And, subject to its constitutional principles and the basic concepts of its legal system;

(c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property was proceeds;

(d) Participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. For the purposes of implementing or applying paragraph 1 of this article:

(a) It shall not matter whether the predicate offence was subject to the criminal jurisdiction of the Party;

(b) It may be provided that the offences set forth in that paragraph do not apply to the persons who committed the predicate offence;

(c) Knowledge, intent or purpose required as an element of an offence set forth in that paragraph may be inferred from objective, factual circumstances.

3. Each Party may adopt such legislative and other measures as may be necessary to establish as an offence under its domestic law all or some of the acts referred to in paragraph 1 of this article, in either or both of the following cases where the offender:

(a) Suspected that the property was proceeds;

(b) Ought to have assumed that the property was proceeds.

4. Provided that paragraph 1 of this article applies to the categories of predicate offences in the appendix to the Convention, each State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article applies:

(a) Only in so far as the predicate offence is punishable by deprivation of liberty or a detention order for a maximum of more than one year, or for those Parties that have a minimum threshold for offences in their legal system, in so far as the offence is punishable by deprivation of liberty or a detention order for a minimum of more than six months; and/or

(b) Only to a list of specified predicate offences; and/or

(c) To a category of serious offences in the national law of the Party.

5. Each Party shall ensure that a prior or simultaneous conviction for the predicate offence is not a prerequisite for a conviction for money laundering.

6. Each Party shall ensure that a conviction for money laundering under this article is possible where it is proved that the property, the object of paragraph 1 (a) or (b) of this article, originated from a predicate offence, without it being necessary to establish precisely which offence.

7. Each Party shall ensure that predicate offences for money laundering extend to conduct that occurred in another State, which constitutes an offence in that State, and which would have constituted a predicate offence had it occurred domestically. Each Party may provide that the only prerequisite is that the conduct would have constituted a predicate offence had it occurred domestically.

### Article 10

#### *Corporate liability*

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for the criminal offences of money laundering established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

(a) A power of representation of the legal person; or

(b) An authority to take decisions on behalf of the legal person; or

(c) An authority to exercise control within the legal person,

as well as for involvement of such a natural person as accessory or instigator in the above-mentioned offences.

2. Apart from the cases already provided for in paragraph 1, each Party shall take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of the criminal offences mentioned in paragraph 1 for the benefit of that legal person by a natural person under its authority.

3. Liability of a legal person under this article shall not exclude criminal proceedings against natural persons who are perpetrators, instigators of, or accessories to, the criminal offences mentioned in paragraph 1.

4. Each Party shall ensure that legal persons held liable in accordance with this article, shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

*Article 11*

*Previous decisions*

Each Party shall adopt such legislative and other measures as may be necessary to provide for the possibility of taking into account, when determining the penalty, final decisions against a natural or legal person taken in another Party in relation to offences established in accordance with this Convention.

**Section 2. Financial intelligence unit (FIU) and prevention**

*Article 12*

*Financial intelligence unit (FIU)*

1. Each Party shall adopt such legislative and other measures as may be necessary to establish an FIU as defined in this Convention.

2. Each Party shall adopt such legislative and other measures as may be necessary to ensure that its FIU has access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of suspicious transaction reports.

*Article 13*

*Measures to prevent money laundering*

1. Each Party shall adopt such legislative and other measures as may be necessary to institute a comprehensive domestic regulatory and supervisory or monitoring regime to prevent money laundering and shall take due account of applicable international standards, including in particular the recommendations adopted by the Financial Action Task Force on Money Laundering (FATF).

2. In that respect, each Party shall adopt, in particular, such legislative and other measures as may be necessary to:

(a) Require legal and natural persons which engage in activities which are particularly likely to be used for money laundering purposes, and as far as these activities are concerned, to:

- (i) Identify and verify the identity of their customers and, where applicable, their ultimate beneficial owners, and to conduct ongoing due diligence on the business relationship, while taking into account a risk based approach;
- (ii) Report suspicions on money laundering subject to safeguard;

(iii) Take supporting measures, such as record keeping on customer identification and transactions, training of personnel and the establishment of internal policies and procedures, and if appropriate, adapted to their size and nature of business;

(b) Prohibit, as appropriate, the persons referred to in sub-paragraph (a) from disclosing the fact that a suspicious transaction report or related information has been transmitted or that a money laundering investigation is being or may be carried out;

(c) Ensure that the persons referred to in sub-paragraph (a) are subject to effective systems for monitoring, and where applicable supervision, with a view to ensure their compliance with the requirements to combat money laundering, where appropriate on a risk sensitive basis.

3. In that respect, each Party shall adopt such legislative or other measures as may be necessary to detect the significant physical cross border transportation of cash and appropriate bearer negotiable instruments.

#### *Article 14*

##### *Postponement of domestic suspicious transactions*

Each Party shall adopt such legislative and other measures as may be necessary to permit urgent action to be taken by the FIU or, as appropriate, by any other competent authorities or body, when there is a suspicion that a transaction is related to money laundering, to suspend or withhold consent to a transaction going ahead in order to analyse the transaction and confirm the suspicion. Each party may restrict such a measure to cases where a suspicious transaction report has been submitted. The maximum duration of any suspension or withholding of consent to a transaction shall be subject to any relevant provisions in national law.

#### CHAPTER IV. INTERNATIONAL COOPERATION

##### **Section 1. Principles of international cooperation**

#### *Article 15*

##### *General principles and measures for international cooperation*

1. The Parties shall mutually co-operate with each other to the widest extent possible for the purposes of investigations and proceedings aiming at the confiscation of instrumentalities and proceeds.

2. Each Party shall adopt such legislative or other measures as may be necessary to enable it to comply, under the conditions provided for in this chapter, with requests:



(a) For confiscation of specific items of property representing proceeds or instrumentalities, as well as for confiscation of proceeds consisting in a requirement to pay a sum of money corresponding to the value of proceeds;

(b) For investigative assistance and provisional measures with a view to either form of confiscation referred to under (a) above.

3. Investigative assistance and provisional measures sought in paragraph 2 (b) shall be carried out as permitted by and in accordance with the internal law of the requested Party. Where the request concerning one of these measures specifies formalities or procedures which are necessary under the law of the requesting Party, even if unfamiliar to the requested Party, the latter shall comply with such requests to the extent that the action sought is not contrary to the fundamental principles of its law.

4. Each Party shall adopt such legislative or other measures as may be necessary to ensure that the requests coming from other Parties in order to identify, trace, freeze or seize the proceeds and instrumentalities, receive the same priority as those made in the framework of internal procedures.

## Section 2. Investigative assistance

### *Article 16*

#### *Obligation to assist*

The Parties shall afford each other, upon request, the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation. Such assistance shall include any measure providing and securing evidence as to the existence, location or movement, nature, legal status or value of the aforementioned property.

### *Article 17*

#### *Requests for information on bank accounts*

1. Each Party shall, under the conditions set out in this article, take the measures necessary to determine, in answer to a request sent by another Party, whether a natural or legal person that is the subject of a criminal investigation holds or controls one or more accounts, of whatever nature, in any bank located in its territory and, if so, provide the particulars of the identified accounts.

2. The obligation set out in this article shall apply only to the extent that the information is in the possession of the bank keeping the account.

3. In addition to the requirements of article 37, the requesting party shall, in the request:

(a) State why it considers that the requested information is likely to be of substantial value for the purpose of the criminal investigation into the offence;

(b) State on what grounds it presumes that banks in the requested Party hold the account and specify, to the widest extent possible, which banks and/or accounts may be involved; and

(c) Include any additional information available which may facilitate the execution of the request.

4. The requested Party may make the execution of such a request dependant on the same conditions as it applies in respect of requests for search and seizure.

5. Each State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that this article applies only to the categories of offences specified in the list contained in the appendix to this Convention.

6. Parties may extend this provision to accounts held in non-bank financial institutions. Such extension may be made subject to the principle of reciprocity.

### *Article 18*

#### *Requests for information on banking transactions*

1. On request by another Party, the requested Party shall provide the particulars of specified bank accounts and of banking operations which have been carried out during a specified period through one or more accounts specified in the request, including the particulars of any sending or recipient account.

2. The obligation set out in this article shall apply only to the extent that the information is in the possession of the bank holding the account.

3. In addition to the requirements of article 37, the requesting Party shall in its request indicate why it considers the requested information relevant for the purpose of the criminal investigation into the offence.

4. The requested Party may make the execution of such a request dependant on the same conditions as it applies in respect of requests for search and seizure.

5. Parties may extend this provision to accounts held in non-bank financial institutions. Such extension may be made subject to the principle of reciprocity.

*Article 19*

*Requests for the monitoring of banking transactions*

1. Each Party shall ensure that, at the request of another Party, it is able to monitor, during a specified period, the banking operations that are being carried out through one or more accounts specified in the request and communicate the results thereof to the requesting Party.

2. In addition to the requirements of article 37, the requesting Party shall in its request indicate why it considers the requested information relevant for the purpose of the criminal investigation into the offence.

3. The decision to monitor shall be taken in each individual case by the competent authorities of the requested Party, with due regard for the national law of that Party.

4. The practical details regarding the monitoring shall be agreed between the competent authorities of the requesting and requested Parties.

5. Parties may extend this provision to accounts held in non-bank financial institutions.

*Article 20*

*Spontaneous information*

Without prejudice to its own investigations or proceedings, a Party may without prior request forward to another Party information on instrumentalities and proceeds, when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings or might lead to a request by that Party under this chapter.

**Section 3. Provisional measures**

*Article 21*

*Obligation to take provisional measures*

1. At the request of another Party which has instituted criminal proceedings or proceedings for the purpose of confiscation, a Party shall take the necessary provisional measures, such as freezing or seizing, to prevent any dealing in, transfer or disposal of property which, at a later stage, may be the subject of a request for confiscation or which might be such as to satisfy the request.

2. A Party which has received a request for confiscation pursuant to article 23 shall, if so requested, take the measures mentioned in paragraph 1 of this article in respect of any property which is the subject of the request or which might be such as to satisfy the request.

*Article 22*

*Execution of provisional measures*

1. After the execution of the provisional measures requested in conformity with paragraph 1 of article 21, the requesting Party shall provide spontaneously and as soon as possible to the requested Party all information which may question or modify the extent of these measures. The requesting Party shall also provide without delays all complementary information requested by the requested Party and which is necessary for the implementation of and the follow up to the provisional measures.

2. Before lifting any provisional measure taken pursuant to this article, the requested Party shall, wherever possible, give the requesting Party an opportunity to present its reasons in favour of continuing the measure.

**Section 4. Confiscation**

*Article 23*

*Obligation to confiscate*

1. A Party, which has received a request made by another Party for confiscation concerning instrumentalities or proceeds, situated in its territory, shall:

(a) Enforce a confiscation order made by a court of a requesting Party in relation to such instrumentalities or proceeds; or

(b) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, enforce it.

2. For the purposes of applying paragraph 1 (b) of this article, any Party shall whenever necessary have competence to institute confiscation proceedings under its own law.

3. The provisions of paragraph 1 of this article shall also apply to confiscation consisting in a requirement to pay a sum of money corresponding to the value of proceeds, if property on which the confiscation can be enforced is located in the requested Party. In such cases, when enforcing confiscation pursuant to paragraph 1, the requested Party shall, if payment is not obtained, realise the claim on any property available for that purpose.

4. If a request for confiscation concerns a specific item of property, the Parties may agree that the requested Party may enforce the confiscation in the form of a requirement to pay a sum of money corresponding to the value of the property.

5. The Parties shall co-operate to the widest extent possible under their domestic law with those Parties which request the execution of measures equivalent to confiscation leading to the deprivation of property, which are not criminal sanctions, in so far as such measures are ordered by a judicial authority of the requesting Party in relation to a criminal offence, provided that it has been established that the property constitutes proceeds or other property in the meaning of article 5 of this Convention.

#### *Article 24*

##### *Execution of confiscation*

1. The procedures for obtaining and enforcing the confiscation under article 23 shall be governed by the law of the requested Party.

2. The requested Party shall be bound by the findings as to the facts in so far as they are stated in a conviction or judicial decision of the requesting Party or in so far as such conviction or judicial decision is implicitly based on them.

3. Each State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 2 of this article applies only subject to its constitutional principles and the basic concepts of its legal system.

4. If the confiscation consists in the requirement to pay a sum of money, the competent authority of the requested Party shall convert the amount thereof into the currency of that Party at the rate of exchange ruling at the time when the decision to enforce the confiscation is taken.

5. In the case of article 23, paragraph 1 (a), the requesting Party alone shall have the right to decide on any application for review of the confiscation order.

#### *Article 25*

##### *Confiscated property*

1. Property confiscated by a Party pursuant to articles 23 and 24 of this Convention, shall be disposed of by that Party in accordance with its domestic law and administrative procedures.

2. When acting on the request made by another Party in accordance with articles 23 and 24 of this Convention, Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated property to the requesting Party so that it can give compensation to the victims of the crime or return such property to their legitimate owners.

3. When acting on the request made by another Party in accordance with articles 23 and 24 of this Convention, a Party may give special consideration to concluding agreements or arrangements on sharing with other Parties, on a regular or case-by-case basis, such property, in accordance with its domestic law or administrative procedures.

#### Article 26

##### *Right of enforcement and maximum amount of confiscation*

1. A request for confiscation made under articles 23 and 24 does not affect the right of the requesting Party to enforce itself the confiscation order.

2. Nothing in this Convention shall be so interpreted as to permit the total value of the confiscation to exceed the amount of the sum of money specified in the confiscation order. If a Party finds that this might occur, the Parties concerned shall enter into consultations to avoid such an effect.

#### Article 27

##### *Imprisonment in default*

The requested Party shall not impose imprisonment in default or any other measure restricting the liberty of a person as a result of a request under article 23, if the requesting Party has so specified in the request.

### Section 5. Refusal and postponement of cooperation

#### Article 28

##### *Grounds for refusal*

1. Cooperation under this chapter may be refused if:
  - (a) The action sought would be contrary to the fundamental principles of the legal system of the requested Party; or
  - (b) The execution of the request is likely to prejudice the sovereignty, security, *ordre public* or other essential interests of the requested Party; or
  - (c) In the opinion of the requested Party, the importance of the case to which the request relates does not justify the taking of the action sought; or
  - (d) The offence to which the request relates is a fiscal offence, with the exception of the financing of terrorism;
  - (e) The offence to which the request relates is a political offence, with the exception of the financing of terrorism; or
  - (f) The requested Party considers that compliance with the action sought would be contrary to the principle of *ne bis in idem*; or

(g) The offence to which the request relates would not be an offence under the law of the requested Party if committed within its jurisdiction. However, this ground for refusal applies to cooperation under Section 2 only in so far as the assistance sought involves coercive action. Where dual criminality is required for cooperation under this chapter, that requirement shall be deemed to be satisfied regardless of whether both Parties place the offence within the same category of offences or denominate the offence by the same terminology, provided that both Parties criminalise the conduct underlying the offence.

2. Cooperation under Section 2, in so far as the assistance sought involves coercive action, and under Section 3 of this chapter, may also be refused if the measures sought could not be taken under the domestic law of the requested Party for the purposes of investigations or proceedings, had it been a similar domestic case.

3. Where the law of the requested Party so requires, cooperation under Section 2, in so far as the assistance sought involves coercive action, and under Section 3 of this chapter may also be refused if the measures sought or any other measures having similar effects would not be permitted under the law of the requesting Party, or, as regards the competent authorities of the requesting Party, if the request is not authorised by either a judge or another judicial authority, including public prosecutors, any of these authorities acting in relation to criminal offences.

4. Cooperation under Section 4 of this chapter may also be refused if:

(a) Under the law of the requested Party confiscation is not provided for in respect of the type of offence to which the request relates; or

(b) Without prejudice to the obligation pursuant to article 23, paragraph 3, it would be contrary to the principles of the domestic law of the requested Party concerning the limits of confiscation in respect of the relationship between an offence and:

(i) An economic advantage that might be qualified as its proceeds; or

(ii) Property that might be qualified as its instrumentalities; or

(c) Under the law of the requested Party confiscation may no longer be imposed or enforced because of the lapse of time; or

(d) Without prejudice to article 23, paragraph 5, the request does not relate to a previous conviction, or a decision of a judicial nature or a statement in such a decision that an offence or several offences have been committed, on the basis of which the confiscation has been ordered or is sought; or

(e) Confiscation is either not enforceable in the requesting Party, or it is still subject to ordinary means of appeal; or

(f) The request relates to a confiscation order resulting from a decision rendered in absentia of the person against whom the order was issued and, in the opinion of the requested Party, the proceedings conducted by the requesting Party leading to such decision did not satisfy the minimum rights of defence recognised as due to everyone against whom a criminal charge is made.

5. For the purpose of paragraph 4 (f) of this article a decision is not considered to have been rendered in absentia if:

(a) It has been confirmed or pronounced after opposition by the person concerned; or

(b) It has been rendered on appeal, provided that the appeal was lodged by the person concerned.

6. When considering, for the purposes of paragraph 4 (f) of this article if the minimum rights of defence have been satisfied, the requested Party shall take into account the fact that the person concerned has deliberately sought to evade justice or the fact that that person, having had the possibility of lodging a legal remedy against the decision made in absentia, elected not to do so. The same will apply when the person concerned, having been duly served with the summons to appear, elected not to do so nor to ask for adjournment.

7. A Party shall not invoke bank secrecy as a ground to refuse any cooperation under this chapter. Where its domestic law so requires, a Party may require that a request for cooperation which would involve the lifting of bank secrecy be authorised by either a judge or another judicial authority, including public prosecutors, any of these authorities acting in relation to criminal offences.

8. Without prejudice to the ground for refusal provided for in paragraph 1 (a) of this article:

(a) The fact that the person under investigation or subjected to a confiscation order by the authorities of the requesting Party is a legal person shall not be invoked by the requested Party as an obstacle to affording any cooperation under this chapter;

(b) The fact that the natural person against whom an order of confiscation of proceeds has been issued has died or the fact that a legal person against whom an order of confiscation of proceeds has been issued has subsequently been dissolved shall not be invoked as an obstacle to render assistance in accordance with article 23, paragraph 1 (a).

(c) The fact that the person under investigation or subjected to a confiscation order by the authorities of the requesting Party is mentioned in the request both as the author of the underlying criminal offence and of the offence of money laundering, in accordance with article 9.2



(b) of this Convention, shall not be invoked by the requested Party as an obstacle to affording any cooperation under this chapter.

*Article 29*

*Postponement*

The requested Party may postpone action on a request if such action would prejudice investigations or proceedings by its authorities.

*Article 30*

*Partial or conditional granting of a request*

Before refusing or postponing cooperation under this chapter, the requested Party shall, where appropriate after having consulted the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.

**Section 6. Notification and protection of third parties' rights**

*Article 31*

*Notification of documents*

1. The Parties shall afford each other the widest measure of mutual assistance in the serving of judicial documents to persons affected by provisional measures and confiscation.

2. Nothing in this article is intended to interfere with:

(a) The possibility of sending judicial documents, by postal channels, directly to persons abroad;

(b) The possibility for judicial officers, officials or other competent authorities of the Party of origin to effect service of judicial documents directly through the consular authorities of that Party or through judicial officers, officials or other competent authorities of the Party of destination,

unless the Party of destination makes a declaration to the contrary to the Secretary General of the Council of Europe at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession.

3. When serving judicial documents to persons abroad affected by provisional measures or confiscation orders issued in the sending Party, this Party shall indicate what legal remedies are available under its law to such persons.

*Article 32*

*Recognition of foreign decisions*

1. When dealing with a request for cooperation under Sections 3 and 4, the requested Party shall recognise any judicial decision taken in the requesting Party regarding rights claimed by third parties.

2. Recognition may be refused if:

(a) Third parties did not have adequate opportunity to assert their rights; or

(b) The decision is incompatible with a decision already taken in the requested Party on the same matter; or

(c) It is incompatible with the *ordre public* of the requested Party; or

(d) The decision was taken contrary to provisions on exclusive jurisdiction provided for by the law of the requested Party.

**Section 7. Procedural and other general rules**

*Article 33*

*Central authority*

1. The Parties shall designate a central authority or, if necessary, authorities, which shall be responsible for sending and answering requests made under this chapter, the execution of such requests or the transmission of them to the authorities competent for their execution.

2. Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of paragraph 1 of this article.

*Article 34*

*Direct communication*

1. The central authorities shall communicate directly with one another.

2. In the event of urgency, requests or communications under this chapter may be sent directly by the judicial authorities, including public prosecutors, of the requesting Party to such authorities of the requested Party. In such cases a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.

3. Any request or communication under paragraphs 1 and 2 of this article may be made through the International Criminal Police Organization (Interpol).

4. Where a request is made pursuant to paragraph 2 of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.

5. Requests or communications under Section 2 of this chapter, which do not involve coercive action, may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.

6. Draft requests or communications under this chapter may be sent directly by the judicial authorities of the requesting Party to such authorities of the requested Party prior to a formal request to ensure that it can be dealt with efficiently upon receipt and contains sufficient information and supporting documentation for it to meet the requirements of the legislation of the requested Party.

#### *Article 35*

##### *Form of request and languages*

1. All requests under this chapter shall be made in writing. They may be transmitted electronically, or by any other means of telecommunication, provided that the requesting Party is prepared, upon request, to produce at any time a written record of such communication and the original. However each Party may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, indicate the conditions in which it is ready to accept and execute requests received electronically or by any other means of communication.

2. Subject to the provisions of paragraph 3 of this article, translations of the requests or supporting documents shall not be required.

3. At the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, any State or the European Community may communicate to the Secretary General of the Council of Europe a declaration that it reserves the right to require that requests made to it and documents supporting such requests be accompanied by a translation into its own language or into one of the official languages of the Council of Europe or into such one of these languages as it shall indicate. It may on that occasion declare its readiness to accept translations in any other language as it may specify. The other Parties may apply the reciprocity rule.

*Article 36*

*Legalisation*

Documents transmitted in application of this chapter shall be exempt from all legalisation formalities.

*Article 37*

*Content of request*

1. Any request for cooperation under this chapter shall specify:
  - (a) The authority making the request and the authority carrying out the investigations or proceedings;
  - (b) The object of and the reason for the request;
  - (c) The matters, including the relevant facts (such as date, place and circumstances of the offence) to which the investigations or proceedings relate, except in the case of a request for notification;
  - (d) In so far as the cooperation involves coercive action:
    - (i) The text of the statutory provisions or, where this is not possible, a statement of the relevant law applicable; and
    - (ii) An indication that the measure sought or any other measures having similar effects could be taken in the territory of the requesting Party under its own law;
  - (e) Where necessary and in so far as possible:
    - (i) Details of the person or persons concerned, including name, date and place of birth, nationality and location, and, in the case of a legal person, its seat; and
    - (ii) The property in relation to which cooperation is sought, its location, its connection with the person or persons concerned, any connection with the offence, as well as any available information about other persons, interests in the property; and
  - (f) Any particular procedure the requesting Party wishes to be followed.
2. A request for provisional measures under Section 3 in relation to seizure of property on which a confiscation order consisting in the requirement to pay a sum of money may be realised shall also indicate a maximum amount for which recovery is sought in that property.
3. In addition to the indications mentioned in paragraph 1, any request under Section 4 shall contain:
  - (a) In the case of article 23, paragraph 1 (a):
    - (i) A certified true copy of the confiscation order made by the court in the requesting Party and a statement of the

- grounds on the basis of which the order was made, if they are not indicated in the order itself;
- (ii) An attestation by the competent authority of the requesting Party that the confiscation order is enforceable and not subject to ordinary means of appeal;
  - (iii) Information as to the extent to which the enforcement of the order is requested; and
  - (iv) Information as to the necessity of taking any provisional measures;
- (b) In the case of article 23, paragraph 1 (b), a statement of the facts relied upon by the requesting Party sufficient to enable the requested Party to seek the order under its domestic law;
- (c) When third parties have had the opportunity to claim rights, documents demonstrating that this has been the case.

#### *Article 38*

##### *Defective requests*

1. If a request does not comply with the provisions of this chapter or the information supplied is not sufficient to enable the requested Party to deal with the request, that Party may ask the requesting Party to amend the request or to complete it with additional information.
2. The requested Party may set a time limit for the receipt of such amendments or information.
3. Pending receipt of the requested amendments or information in relation to a request under Section 4 of this chapter, the requested Party may take any of the measures referred to in Sections 2 or 3 of this chapter.

#### *Article 39*

##### *Plurality of requests*

1. Where the requested Party receives more than one request under Sections 3 or 4 of this chapter in respect of the same person or property, the plurality of requests shall not prevent that Party from dealing with the requests involving the taking of provisional measures.
2. In the case of plurality of requests under Section 4 of this chapter, the requested Party shall consider consulting the requesting Parties.

#### *Article 40*

##### *Obligation to give reasons*

The requested Party shall give reasons for any decision to refuse, postpone or make conditional any cooperation under this chapter.

*Article 41*

*Information*

1. The requested Party shall promptly inform the requesting Party of:

- (a) The action initiated on a request under this chapter;
- (b) The final result of the action carried out on the basis of the request;
- (c) A decision to refuse, postpone or make conditional, in whole or in part, any cooperation under this chapter;
- (d) Any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly; and
- (e) In the event of provisional measures taken pursuant to a request under Sections 2 or 3 of this chapter, such provisions of its domestic law as would automatically lead to the lifting of the provisional measure.

2. The requesting Party shall promptly inform the requested Party of:

- (a) Any review, decision or any other fact by reason of which the confiscation order ceases to be wholly or partially enforceable; and
- (b) Any development, factual or legal, by reason of which any action under this chapter is no longer justified.

3. Where a Party, on the basis of the same confiscation order, requests confiscation in more than one Party, it shall inform all Parties which are affected by an enforcement of the order about the request.

*Article 42*

*Restriction of use*

1. The requested Party may make the execution of a request dependent on the condition that the information or evidence obtained will not, without its prior consent, be used or transmitted by the authorities of the requesting Party for investigations or proceedings other than those specified in the request.

2. Each State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by declaration addressed to the Secretary General of the Council of Europe, declare that, without its prior consent, information or evidence provided by it under this chapter may not be used or transmitted by the authorities of the requesting Party in investigations or proceedings other than those specified in the request.

*Article 43*

*Confidentiality*

1. The requesting Party may require that the requested Party keep confidential the facts and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.

2. The requesting Party shall, if not contrary to basic principles of its national law and if so requested, keep confidential any evidence and information provided by the requested Party, except to the extent that its disclosure is necessary for the investigations or proceedings described in the request.

3. Subject to the provisions of its domestic law, a Party which has received spontaneous information under article 20 shall comply with any requirement of confidentiality as required by the Party which supplies the information. If the other Party cannot comply with such requirement, it shall promptly inform the transmitting Party.

*Article 44*

*Costs*

The ordinary costs of complying with a request shall be borne by the requested Party. Where costs of a substantial or extraordinary nature are necessary to comply with a request, the Parties shall consult in order to agree the conditions on which the request is to be executed and how the costs shall be borne.

*Article 45*

*Damages*

1. When legal action on liability for damages resulting from an act or omission in relation to cooperation under this chapter has been initiated by a person, the Parties concerned shall consider consulting each other, where appropriate, to determine how to apportion any sum of damages due.

2. A Party which has become subject of a litigation for damages shall endeavour to inform the other Party of such litigation if that Party might have an interest in the case.

CHAPTER V. COOPERATION BETWEEN FIUS

*Article 46*

*Cooperation between FIUs*

1. Parties shall ensure that FIUs, as defined in this Convention, shall co-operate for the purpose of combating money laundering, to assemble and analyse, or, if appropriate, investigate within the FIU relevant information on any fact which might be an indication of money laundering in accordance with their national powers.

2. For the purposes of paragraph 1, each Party shall ensure that FIUs exchange, spontaneously or on request and either in accordance with this Convention or in accordance with existing or future memoranda of understanding compatible with this Convention, any accessible information that may be relevant to the processing or analysis of information or, if appropriate, to investigation by the FIU regarding financial transactions related to money laundering and the natural or legal persons involved.

3. Each Party shall ensure that the performance of the functions of the FIUs under this article shall not be affected by their internal status, regardless of whether they are administrative, law enforcement or judicial authorities.

4. Each request made under this article shall be accompanied by a brief statement of the relevant facts known to the requesting FIU. The FIU shall specify in the request how the information sought will be used.

5. When a request is made in accordance with this article, the requested FIU shall provide all relevant information, including accessible financial information and requested law enforcement data, sought in the request, without the need for a formal letter of request under applicable conventions or agreements between the Parties.

6. An FIU may refuse to divulge information which could lead to impairment of a criminal investigation being conducted in the requested Party or, in exceptional circumstances, where divulging the information would be clearly disproportionate to the legitimate interests of a natural or legal person or the Party concerned or would otherwise not be in accordance with fundamental principles of national law of the requested Party. Any such refusal shall be appropriately explained to the FIU requesting the information.

7. Information or documents obtained under this article shall only be used for the purposes laid down in paragraph 1. Information supplied by a counterpart FIU shall not be disseminated to a third party, nor be used by the receiving FIU for purposes other than analysis, without prior consent of the supplying FIU.



8. When transmitting information or documents pursuant to this article, the transmitting FIU may impose restrictions and conditions on the use of information for purposes other than those stipulated in paragraph 7. The receiving FIU shall comply with any such restrictions and conditions.

9. Where a Party wishes to use transmitted information or documents for criminal investigations or prosecutions for the purposes laid down in paragraph 7, the transmitting FIU may not refuse its consent to such use unless it does so on the basis of restrictions under its national law or conditions referred to in paragraph 6. Any refusal to grant consent shall be appropriately explained.

10. FIUs shall undertake all necessary measures, including security measures, to ensure that information submitted under this article is not accessible by any other authorities, agencies or departments.

11. The information submitted shall be protected, in conformity with the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and taking account of Recommendation No. R(87)15 of 15 September 1987 of the Committee of Ministers of the Council of Europe Regulating the Use of Personal Data in the Police Sector, by at least the same rules of confidentiality and protection of personal data as those that apply under the national legislation applicable to the requesting FIU.

12. The transmitting FIU may make reasonable enquiries as to the use made of information provided and the receiving FIU shall, whenever practicable, provide such feedback.

13. Parties shall indicate the unit which is an FIU within the meaning of this article.

#### *Article 47*

##### *International cooperation for postponement of suspicious transactions*

1. Each Party shall adopt such legislative or other measures as may be necessary to permit urgent action to be initiated by a FIU, at the request of a foreign FIU, to suspend or withhold consent to a transaction going ahead for such periods and depending on the same conditions as apply in its domestic law in respect of the postponement of transactions.

2. The action referred to in paragraph 1 shall be taken where the requested FIU is satisfied, upon justification by the requesting FIU, that:

- (a) The transaction is related to money laundering; and
- (b) The transaction would have been suspended, or consent to the transaction going ahead would have been withheld, if the transaction had been the subject of a domestic suspicious transaction report.

CHAPTER VI. MONITORING MECHANISM AND SETTLEMENT  
OF DISPUTES

*Article 48*

*Monitoring mechanism and settlement of disputes*

1. The Conference of the Parties (COP) shall be responsible for following the implementation of the Convention. The COP:

(a) Shall monitor the proper implementation of the Convention by the Parties;

(b) Shall, at the request of a Party, express an opinion on any question concerning the interpretation and application of the Convention.

2. The COP shall carry out the functions under paragraph 1 (a) above by using any available Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (Moneyval) public summaries (for Moneyval countries) and any available FATF public summaries (for FATF countries), supplemented by periodic self assessment questionnaires, as appropriate. The monitoring procedure will deal with areas covered by this Convention only in respect of those areas which are not covered by other relevant international standards on which mutual evaluations are carried out by the FATF and Moneyval.

3. If the COP concludes that it requires further information in the discharge of its functions, it shall liaise with the Party concerned, taking advantage, if so required by the COP, of the procedure and mechanism of Moneyval. The Party concerned shall then report back to the COP. The COP shall on this basis decide whether or not to carry out a more in-depth assessment of the position of the Party concerned. This may, but need not necessarily, involve, a country visit by an evaluation team.

4. In case of a dispute between Parties as to the interpretation or application of the Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the COP, to an arbitral tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

5. The COP shall adopt its own rules of procedure.

6. The Secretary General of the Council of Europe shall convene the COP not later than one year following the entry into force of this Convention. Thereafter, regular meetings of the COP shall be held in accordance with the rules of procedure adopted by the COP.

CHAPTER VII. FINAL PROVISIONS

*Article 49*

*Signature and entry into force*

1. The Convention shall be open for signature by the member States of the Council of Europe, the European Community and non-member States which have participated in its elaboration. Such States or the European Community may express their consent to be bound by:

- (a) Signature without reservation as to ratification, acceptance or approval; or
- (b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which 6 signatories, of which at least four are member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.

4. In respect of any Signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of its consent to be bound by the Convention in accordance with the provisions of paragraph 1.

5. No Party to the 1990 Convention may ratify, accept or approve this Convention without considering itself bound by at least the provisions corresponding to the provisions of the 1990 Convention to which it is bound.

6. As from its entry into force, Parties to this Convention, which are at the same time Parties to the 1990 Convention:

- (a) Shall apply the provisions of this Convention in their mutual relationships;
- (b) Shall continue to apply the provisions of the 1990 Convention in their relations with other Parties to the said Convention, but not to the present Convention.

*Article 50*

*Accession to the Convention*

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Parties to the Convention, may invite any State not a member of the Council and

not having participated in its elaboration to accede to this Convention, by a decision taken by the majority provided for in article 20 (d) of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Parties entitled to sit on the Committee.

2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

#### *Article 51*

##### *Territorial application*

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which the Convention shall apply.

2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of the Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

#### *Article 52*

##### *Relationship to other conventions and agreements*

1. This Convention does not affect the rights and undertakings of Parties derived from international multilateral instruments concerning special matters.

2. The Parties to this Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for the purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

3. If two or more Parties have already concluded an agreement or treaty in respect of a subject which is dealt with in this Convention or otherwise have established their relations in respect of that subject, they shall be entitled to apply that agreement or treaty or to regulate these

relations accordingly, in lieu of the Convention, if it facilitates international cooperation.

4. Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.

### *Article 53*

#### *Declarations and reservations*

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more of the declarations provided for in article 3, paragraph 2, article 9, paragraph 4, article 17, paragraph 5, article 24, paragraph 3, article 31, paragraph 2, article 35, paragraphs 1 and 3 and article 42, paragraph 2.

2. Any State or the European Community may also, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General, reserve its right not to apply, in part or in whole, the provisions of article 7, paragraph 2, sub-paragraph (c); article 9, paragraph 6; article 46, paragraph 5; and article 47.

3. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare the manner in which it intends to apply articles 17 and 19 of this Convention, particularly taking into account applicable international agreements in the field of international cooperation in criminal matters. It shall notify any changes in this information to the Secretary General of the Council of Europe.

4. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare:

- (a) That it will not apply article 3, paragraph 4 of this Convention; or
- (b) That it will apply article 3, paragraph 4 of this Convention only partly; or
- (c) The manner in which it intends to apply article 3, paragraph 4 of this Convention.

It shall notify any changes in this information to the Secretary General of the Council of Europe.

5. No other reservation may be made.

6. Any Party which has made a reservation under this article may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

7. A Party which has made a reservation in respect of a provision of the Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

#### *Article 54*

##### *Amendments*

1. Amendments to the Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member States of the Council of Europe, to the European Community and to every non-member State which has acceded to or has been invited to accede to this Convention in accordance with the provisions of article 50.

2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC) which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the CDPC and may adopt the amendment by the majority provided for in article 20 (*d*) of the Statute of the Council of Europe.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

6. In order to update the categories of offences contained in the appendix, as well as amend article 13, amendments may be proposed by any Party or by the Committee of Ministers. They shall be communicated by the Secretary General of the Council of Europe to the Parties.

7. After having consulted the Parties which are not members of the Council of Europe and, if necessary the CDPC, the Committee of Ministers may adopt an amendment proposed in accordance with paragraph 6 by the majority provided for in article 20 (*d*) of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Parties. During this period, any Party may notify the

Secretary General of any objection to the entry into force of the amendment in its respect.

8. If one-third of the Parties notifies the Secretary General of an objection to the entry into force of the amendment, the amendment shall not enter into force.

9. If less than one-third of the Parties notifies an objection, the amendment shall enter into force for those Parties which have not notified an objection.

10. Once an amendment has entered into force in accordance with paragraphs 6 to 9 of this article and a Party has notified an objection to it, this amendment shall come into force in respect of the Party concerned on the first day of the month following the date on which it has notified the Secretary General of the Council of Europe of its acceptance. A Party which has made an objection may withdraw it at any time by notifying it to the Secretary General of the Council of Europe.

11. If an amendment has been adopted by the Committee of Ministers, a State or the European Community may not express their consent to be bound by the Convention, without accepting at the same time the amendment.

#### *Article 55*

##### *Denunciation*

1. Any Party may, at any time, denounce the Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

3. The present Convention shall, however, continue to apply to the enforcement under article 23 of confiscation for which a request has been made in conformity with the provisions of the Convention before the date on which such a denunciation takes effect.

#### *Article 56*

##### *Notifications*

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the European Community, the non-member States which have participated in the elaboration of the Convention, any State invited to accede to it and any other Party to the Convention of:

- (a) Any signature;

- (b) The deposit of any instrument of ratification, acceptance, approval or accession;
- (c) Any date of entry into force of the Convention in accordance with articles 49 and 50;
- (d) Any declaration or reservation made under article 53;
- (e) Any other act, notification or communication relating to the Convention.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Warsaw, this 16th day of May 2005, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the European Community, to the non-member States which have participated in the elaboration of the Convention and to any State invited to accede to it.

#### APPENDIX

- (a) Participation in an organised criminal group and racketeering;
- (b) Terrorism, including financing of terrorism;
- (c) Trafficking in human beings and migrant smuggling;
- (d) Sexual exploitation, including sexual exploitation of children;
- (e) Illicit trafficking in narcotic drugs and psychotropic substances;
- (f) Illicit arms trafficking;
- (g) Illicit trafficking in stolen and other goods;
- (h) Corruption and bribery;
- (i) Fraud;
- (j) Counterfeiting currency;
- (k) Counterfeiting and piracy of products;
- (l) Environmental crime;
- (m) Murder, grievous bodily injury;
- (n) Kidnapping, illegal restraint and hostage-taking;
- (o) Robbery or theft;
- (p) Smuggling;
- (q) Extortion;
- (r) Forgery;
- (s) Piracy; and
- (t) Insider trading and market manipulation.



## **32. Additional Protocol of 2015 to the Council of Europe Convention on the Prevention of Terrorism**

*Signed in Riga on 22 October 2015*

*Entry into force: 1 July 2017 in accordance with article 10 of the Additional Protocol*

*European Treaty Series (ETS) No. 217*

*Depositary: Secretary General of the Council of Europe*

The member States of the Council of Europe and the other Parties to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196), signatory to this Protocol,

*Considering* that the aim of the Council of Europe is to achieve greater unity between its members;

*Desiring* to further strengthen the efforts to prevent and suppress terrorism in all its forms, both in Europe and globally, while respecting human rights and the rule of law;

*Recalling* human rights and fundamental freedoms enshrined, in particular, in the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and its protocols, as well as in the International Covenant on Civil and Political Rights;

*Expressing* their grave concern about the threat posed by persons travelling abroad for the purpose of committing, contributing to or participating in terrorist offences, or the providing or receiving of training for terrorism in the territory of another State;

*Having* regard in this respect to Resolution 2178 (2014) adopted by the Security Council of the United Nations at its 7272nd meeting on 24 September 2014, in particular paragraphs 4 to 6 thereof;

*Considering* it desirable to supplement the Council of Europe Convention on the Prevention of Terrorism in certain respects,

*Have agreed as follows:*

### *Article 1—Purpose*

The purpose of this Protocol is to supplement the provisions of the Council of Europe Convention on the Prevention of Terrorism, opened for signature in Warsaw on 16 May 2005 (hereinafter referred to as “the Convention”) as regards the criminalisation of the acts described in Articles 2 to 6 of this Protocol, thereby enhancing the efforts of Parties in preventing terrorism and its negative effects on the full enjoyment

of human rights, in particular the right to life, both by measures to be taken at national level and through international cooperation, with due regard to the existing applicable multilateral or bilateral treaties or agreements between the Parties.

*Article 2—Participating in an association or group for the purpose of terrorism*

1. For the purpose of this Protocol, “participating in an association or group for the purpose of terrorism” means to participate in the activities of an association or group for the purpose of committing or contributing to the commission of one or more terrorist offences by the association or the group.

2. Each Party shall adopt such measures as may be necessary to establish “participating in an association or group for the purpose of terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 3—Receiving training for terrorism*

1. For the purpose of this Protocol, “receiving training for terrorism” means to receive instruction, including obtaining knowledge or practical skills, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offence.

2. Each Party shall adopt such measures as may be necessary to establish “receiving training for terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 4—Travelling abroad for the purpose of terrorism*

1. For the purpose of this Protocol, “travelling abroad for the purpose of terrorism” means travelling to a State, which is not that of the traveller’s nationality or residence, for the purpose of the commission of, contribution to or participation in a terrorist offence, or the providing or receiving of training for terrorism.

2. Each Party shall adopt such measures as may be necessary to establish “travelling abroad for the purpose of terrorism”, as defined in paragraph 1, from its territory or by its nationals, when committed unlawfully and intentionally, as a criminal offence under its domestic law. In doing so, each Party may establish conditions required by and in line with its constitutional principles.

3. Each Party shall also adopt such measures as may be necessary to establish as a criminal offence under, and in accordance with, its domestic law the attempt to commit an offence as set forth in this article.

*Article 5—Funding travelling abroad for the purpose of terrorism*

1. For the purpose of this Protocol, “funding travelling abroad for the purpose of terrorism” means providing or collecting, by any means, directly or indirectly, funds fully or partially enabling any person to travel abroad for the purpose of terrorism, as defined in Article 4, paragraph 1, of this Protocol, knowing that the funds are fully or partially intended to be used for this purpose.

2. Each Party shall adopt such measures as may be necessary to establish the “funding of travelling abroad for the purpose of terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 6—Organising or otherwise facilitating travelling abroad for the purpose of terrorism*

1. For the purpose of this Protocol, “organising or otherwise facilitating travelling abroad for the purpose of terrorism” means any act of organisation or facilitation that assists any person in travelling abroad for the purpose of terrorism, as defined in Article 4, paragraph 1, of this Protocol, knowing that the assistance thus rendered is for the purpose of terrorism.

2. Each Party shall adopt such measures as may be necessary to establish “organising or otherwise facilitating travelling abroad for the purpose of terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

*Article 7—Exchange of information*

1. Without prejudice to Article 3, paragraph 2, sub-paragraph a, of the Convention and in accordance with its domestic law and existing international obligations, each Party shall take such measures as may be necessary in order to strengthen the timely exchange between Parties of any available relevant information concerning persons travelling abroad for the purpose of terrorism, as defined in Article 4. For that purpose, each Party shall designate a point of contact available on a 24-hour, seven-days-a-week basis.

2. A Party may choose to designate an already existing point of contact under paragraph 1.

3. A Party's point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.

*Article 8—Conditions and safeguards*

1. Each Party shall ensure that the implementation of this Protocol, including the establishment, implementation and application of the criminalisation under Articles 2 to 6, is carried out while respecting human rights obligations, in particular the right to freedom of movement, freedom of expression, freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and other obligations under international law.

2. The establishment, implementation and application of the criminalisation under Articles 2 to 6 of this Protocol should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.

*Article 9—Relation between this Protocol and the Convention*

The words and expressions used in this Protocol shall be interpreted within the meaning of the Convention. As between the Parties, all the provisions of the Convention shall apply accordingly, with the exception of Article 9.

*Article 10—Signature and entry into force*

1. This Protocol shall be open for signature by Signatories to the Convention. It shall be subject to ratification, acceptance or approval. A Signatory may not ratify, accept or approve this Protocol unless it has previously ratified, accepted or approved the Convention, or does so simultaneously. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the deposit of the sixth instrument of ratification, acceptance or approval, including at least four member States of the Council of Europe.

3. In respect of any Signatory which subsequently deposits its instrument of ratification, acceptance or approval, this Protocol shall enter into force on the first day of the month following the expiration of

a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

*Article 11—Accession to the Protocol*

1. After the entry into force of this Protocol, any State, which has acceded to the Convention, may also accede to this Protocol or do so simultaneously.

2. In respect of any State acceding to the Protocol under paragraph 1 above, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

*Article 12—Territorial application*

1. Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2. Any Party may, at any later time, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

*Article 13—Denunciation*

1. Any Party may, at any time, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General of the Council of Europe.

3. Denunciation of the Convention automatically entails denunciation of this Protocol.

*Article 14—Notifications*

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the European Union, the non-member States which have participated in the elaboration of this Protocol as well as any State which has acceded to, or has been invited to accede to, this Protocol of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance, approval or accession;
- (c) any date of entry into force of this Protocol in accordance with Articles 10 and 11;
- (d) any other act, declaration, notification or communication relating to this Protocol.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Protocol.

DONE at Riga, this 22nd day of October 2015, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the European Union, to the non-member States which have participated in the elaboration of this Protocol, and to any State invited to accede to it.

## LEAGUE OF ARAB STATES

### 33. **The Arab Convention on the Suppression of Terrorism**

*Signed at Cairo on 22 April 1998*

*In force on 7 May 1999*

*Depositary: General Secretariat of the League of Arab States*

*In the name of Allah, the Beneficent and Merciful*

#### PREAMBLE

*The Arab States signatory hereto,*

*Desiring to promote mutual cooperation in the suppression of terrorist offences, which pose a threat to the security and stability of the Arab Nation and endanger its vital interests,*

*Being committed to the highest moral and religious principles and, in particular, to the tenets of the Islamic Sharia, as well as to the humanitarian heritage of an Arab Nation that rejects all forms of violence and terrorism and advocates the protection of human rights, with which precepts the principles of international law conform, based as they are on cooperation among peoples in the promotion of peace,*

*Being further committed to the Pact of the League of Arab States, the Charter of the United Nations and all the other international covenants and instruments to which the Contracting States to this Convention are parties,*

*Affirming the right of peoples to combat foreign occupation and aggression by whatever means, including armed struggle, in order to liberate their territories and secure their right to self-determination and independence and to do so in such a manner as to preserve the territorial integrity of each Arab country, the foregoing being in accordance with the purposes and principles of the Charter of the United Nations and with the Organization's resolutions,*

*Have agreed to conclude this Convention and to invite any Arab State that did not participate in its conclusion to accede hereto.*

PART ONE. DEFINITIONS AND GENERAL PROVISIONS

*Article 1*

Each of the following terms shall be understood in the light of the definition given:

1. *Contracting State*

Any member State of the League of Arab States that has ratified this Convention and that has deposited its instruments of ratification with the General Secretariat of the League.

2. *Terrorism*

Any act or threat of violence, whatever its motives or purposes, that occurs for the advancement of an individual or collective criminal agenda, causing terror among people, causing fear by harming them, or placing their lives, liberty or security in danger, or aiming to cause damage to the environment or to public or private installations or property or to occupy or seize them, or aiming to jeopardize a national resource.

3. *Terrorist offence*

Any offence or attempted offence committed in furtherance of a terrorist objective in any of the Contracting States, or against their nationals, property or interests, that is punishable by their domestic law. The offences stipulated in the following conventions, except where conventions have not been ratified by Contracting States or where offences have been excluded by their legislation, shall also be regarded as terrorist offences:

- (a) The Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, of 14 September 1963;
- (b) The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, of 16 December 1970;
- (c) The Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, of 23 September 1971, and the Protocol thereto of 10 May 1984;
- (d) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 14 December 1973;
- (e) The International Convention against the Taking of Hostages, of 17 December 1979;
- (f) The provisions of the United Nations Convention on the Law of the Sea, of 1982, relating to piracy on the high seas.



*Article 2*

(a) All cases of struggle by whatever means, including armed struggle, against foreign occupation and aggression for liberation and self-determination, in accordance with the principles of international law, shall not be regarded as an offence. This provision shall not apply to any act prejudicing the territorial integrity of any Arab State.

(b) None of the terrorist offences indicated in the preceding article shall be regarded as a political offence. In the application of this Convention, none of the following offences shall be regarded as a political offence, even if committed for political motives:

- (i) Attacks on the kings, heads of State or rulers of the Contracting States or on their spouses and families;
- (ii) Attacks on crown princes, vice-presidents, prime ministers or ministers in any of the Contracting States;
- (iii) Attacks on persons enjoying diplomatic immunity, including ambassadors and diplomats serving in or accredited to the Contracting States;
- (iv) Premeditated murder or theft accompanied by the use of force directed against individuals, the authorities or means of transport and communications;
- (v) Acts of sabotage and destruction of public property and property assigned to a public service, even if owned by another Contracting State;
- (vi) The manufacture, illicit trade in or possession of weapons, munitions or explosives, or other items that may be used to commit terrorist offences.

PART TWO. PRINCIPLES OF ARAB COOPERATION FOR THE SUPPRESSION OF TERRORISM

CHAPTER I. THE SECURITY FIELD

Section A. Measures for the prevention and suppression of terrorist offences

*Article 3*

Contracting States undertake not to organize, finance or commit terrorist acts or to be accessories thereto in any manner whatsoever. In their commitment to the prevention and suppression of terrorist offences in accordance with their domestic laws and procedures, they shall endeavour:

*I. Preventive measures*

1. To prevent the use of their territories as a base for planning, organizing, executing, attempting or taking part in terrorist crimes in any manner whatsoever. This includes the prevention of terrorists' infiltration into, or residence in, their territories either as individuals or groups, receiving or giving refuge to them, training, arming, financing, or providing any facilitation to them;

2. To cooperate and coordinate action among Contracting States, particularly neighbouring countries suffering from similar or common terrorist offences;

3. To develop and strengthen systems for the detection of the movement, importation, exportation, stockpiling and use of weapons, munitions and explosives and of other means of aggression, murder and destruction as well as procedures for monitoring their passage through customs and across borders in order to prevent their transfer from one Contracting State to another or to third-party States other than for lawful purposes;

4. To develop and strengthen systems concerned with surveillance procedures and the securing of borders and points of entry overland and by air in order to prevent illicit entry thereby;

5. To strengthen mechanisms for the security and protection of eminent persons, vital installations and means of public transportation;

6. To enhance the protection, security and safety of diplomatic and consular persons and missions and international and regional organizations accredited to Contracting States, in accordance with the relevant international agreements which govern this subject;

7. To reinforce security-related information activities and to coordinate them with those of each State in accordance with its information policy, with a view to exposing the objectives of terrorist groups and organizations, thwarting their schemes and demonstrating the danger they pose to security and stability;

8. To establish, in each Contracting State, a database for the accumulation and analysis of information relating to terrorist elements, groups, movements and organizations and for the monitoring of developments with respect to the terrorist phenomenon and of successful experiences in counterterrorism; and to keep such information up to date and make it available to the competent authorities of Contracting States, within the limits established by the domestic laws and procedures of each State.

## II. *Measures of suppression*

1. To arrest the perpetrators of terrorist offences and to prosecute them in accordance with national law or extradite them in accordance with the provisions of this Convention or of any bilateral treaty between the requesting State and the requested State;

2. To provide effective protection for those working in the criminal justice field;

3. To provide effective protection for sources of information concerning terrorist offences and for witnesses thereto;

4. To extend necessary assistance to victims of terrorism;

5. To establish effective cooperation between the relevant agencies and the public in countering terrorism by, *inter alia*, establishing appropriate guarantees and incentives to encourage the reporting of terrorist acts, the provision of information to assist in their investigation, and cooperation in the arrest of perpetrators.

### **Section B. Arab cooperation for the prevention and suppression of terrorist offences**

#### *Article 4*

Contracting States shall cooperate for the prevention and suppression of terrorist offences, in accordance with the domestic laws and regulations of each State, as set forth hereunder.

#### I. *Exchange of information*

1. Contracting States shall undertake to promote the exchange of information between and among them concerning:

(a) The activities and crimes of terrorist groups and of their leaders and members; their headquarters and training; the means and sources by which they are funded and armed; the types of weapons, munitions and explosives used by them; and other means of aggression, murder and destruction;

(b) The means of communication and propaganda used by terrorist groups; their *modus operandi*; the movements of their leaders and members; and the travel documents that they use.

2. Each Contracting State shall undertake to notify any other Contracting State in an expeditious manner of the information it has concerning any terrorist offence that takes place in its territory and is intended to harm the interests of that State or of its nationals and to include in such notification statements concerning the circumstances surrounding the offence, those who committed it, its victims, the losses occasioned by it and the devices and methods used in its perpetration,

to the extent compatible with the requirements of the investigation and inquiry.

3. Contracting States shall undertake to cooperate with each other in the exchange of information for the suppression of terrorist offences and promptly to notify other Contracting States of all the information or data in their possession that may prevent the occurrence of terrorist offences in their territory, against their nationals or residents or against their interests.

4. Each Contracting State shall undertake to furnish any other Contracting State with any information or data in its possession that may:

(a) Assist in the arrest of a person or persons accused of committing a terrorist offence against the interests of that State or of being implicated in such an offence whether by aiding and abetting, collusion or incitement;

(b) Lead to the seizure of any weapons, munitions or explosives or any devices or funds used or intended for use to commit a terrorist offence.

5. Contracting States shall undertake to maintain the confidentiality of the information that they exchange among themselves and not to furnish it to any State that is not a Contracting State or any other party without the prior consent of the State that was the source of the information.

## *II. Investigations*

Contracting States shall undertake to promote cooperation among themselves and to provide assistance with respect to measures for the investigation and arrest of fugitives suspected or convicted of terrorist offences in accordance with the laws and regulations of each State.

## *III. Exchange of expertise*

1. Contracting States shall cooperate in the conduct and exchange of research studies for the suppression of terrorist offences and shall exchange expertise in the counterterrorism field.

2. Contracting States shall cooperate, within the limits of their resources, in providing all possible technical assistance for the formulation of programmes or the holding of joint training courses or training courses intended for one State or for a group of Contracting States, as required, for the benefit of those working in counterterrorism with the aim of developing their scientific and practical abilities and enhancing their performance.

CHAPTER II. THE JUDICIAL FIELD

Section A. Extradition of offenders

*Article 5*

Contracting States shall undertake to extradite those indicted for or convicted of terrorist offences whose extradition is requested by any of these States in accordance with the rules and conditions stipulated in this Convention.

*Article 6*

Extradition shall not be permissible in any of the following circumstances:

- (a) If the offence for which extradition is requested is regarded under the laws in force in the requested State as an offence of a political nature;
- (b) If the offence for which extradition is requested relates solely to a dereliction of military duties;
- (c) If the offence for which extradition is requested was committed in the territory of the requested Contracting State, except where the offence has harmed the interests of the requesting State and its laws provide for the prosecution and punishment for such offences and where the requested State has not initiated any investigation or prosecution;
- (d) If a final judgement having the force of *res judicata* has been rendered in respect of the offence in the requested Contracting State or in a third Contracting State;
- (e) If, on delivery of the request for extradition, proceedings have been terminated or punishment has, under the law of the requesting State, lapsed because of the passage of time;
- (f) If the offence was committed outside the territory of the requesting State by a person who is not a national of that State and the law of the requested State does not allow prosecution for the same category of offence when committed outside its territory by such a person;
- (g) If the requesting State has granted amnesty to perpetrators of offences that include the offence in question;
- (h) If the legal system of the requested State does not allow it to extradite its nationals. In this case, the requested State shall prosecute any such persons who commit in any of the other Contracting States a terrorist offence that is punishable in both States by deprivation of liberty for a period of at least one year or more. The nationality of the person whose extradition is sought shall be deter-

mined as at the date on which the offence in question was committed, and use shall be made in this regard of the investigation conducted by the requesting State.

*Article 7*

Should the person whose extradition is sought be under investigation, on trial or already convicted for another offence in the requested State, his extradition shall be deferred until such time as the investigation is concluded, the trial is completed or the sentence is imposed. The requested State may nevertheless extradite him on an interim basis for questioning or trial provided that he is returned to that State before serving the sentence imposed on him in the requesting State.

*Article 8*

For purposes of the extradition of offenders under this Convention, no account shall be taken of any difference there may be in the domestic legislation of Contracting States in the legal designation of the offence as a felony or a misdemeanour or in the penalty assigned to it, provided that it is punishable under the laws of both States by deprivation of liberty for a period of at least one year or more.

**Section B. Judicial delegation**

*Article 9*

Each Contracting State may request any other Contracting State to undertake in its territory and on its behalf any judicial procedure relating to an action arising out of a terrorist offence and, in particular:

- (a) To hear the testimony of witnesses and take depositions as evidence;
- (b) To effect service of judicial documents;
- (c) To execute searches and seizures;
- (d) To examine and inspect evidence;
- (e) To obtain relevant documents and records or certified copies thereof.

*Article 10*

Each of the Contracting States shall undertake to implement judicial delegations relating to terrorist offences, but such assistance may be refused in either of the two following cases:

- (a) Where the request relates to an offence that is subject to investigation or prosecution in the requested State;

(b) Where granting the request might be prejudicial to the sovereignty, security or public order of the requested State.

*Article 11*

The request for judicial delegation shall be granted promptly in accordance with the provisions of the domestic law of the requested State. The latter may postpone the execution of the request until such time as any ongoing investigation or prosecution involving the same matter is completed or any compelling reasons for postponement cease to exist, provided that the requesting State is notified of such postponement.

*Article 12*

(a) A measure that is undertaken by means of a judicial delegation, in accordance with the provisions of this Convention, shall have the same legal effect as if it had been taken by the competent authority of the requesting State.

(b) The result of implementing the judicial delegation may be used only for the purpose for which the delegation is issued.

**Section C. Judicial cooperation**

*Article 13*

Each Contracting State shall provide the other States with all possible and necessary assistance for investigations or prosecutions relating to terrorist offences.

*Article 14*

(a) Where one of the Contracting States has jurisdiction to prosecute a person suspected of a terrorist offence, it may request the State in which the suspect is present to take proceedings against him for that offence, subject to the agreement of that State and provided that the offence is punishable in the prosecuting State by deprivation of liberty for a period of at least one year or more. The requesting State shall, in this event, provide the requested State with all the investigation documents and evidence relating to the offence.

(b) The investigation or prosecution shall be conducted on the basis of the charge or charges made by the requesting State against the suspect, in accordance with the provisions and procedures of the law of the prosecuting State.

*Article 15*

The submission by the requesting State of a request for prosecution in accordance with paragraph (a) of the preceding article shall entail the suspension of the measures taken by it to pursue, investigate and prosecute the suspect whose prosecution is being requested, with the exception of those required for the purposes of the judicial cooperation and assistance, or the judicial delegation, sought by the State requested to conduct the prosecution.

*Article 16*

- (a) The measures taken in either the requesting State or that in which the prosecution takes place shall be subject to the law of the State in which they are taken and they shall have the force accorded to them by that law.
- (b) The requesting State may try or retry a person whose prosecution it has requested only if the requested State declines to prosecute him.
- (c) The State requested to take proceedings shall in all cases undertake to notify the requesting State of what action it has taken with regard to the request and of the outcome of the investigation or prosecution.

*Article 17*

The State requested to take proceedings may take all the measures and steps established by its law with respect to the accused both before the request to take proceedings reaches it and subsequently.

*Article 18*

The transfer of competence for prosecution shall not prejudice the rights of the victim of the offence, who reserves the right to approach the courts of the requesting State or the prosecuting State with a view to claiming his civil-law rights as a result of the offence.

**Section D. Seizure of assets and proceeds derived from the offence**

*Article 19*

- (a) If it is decided to extradite the requested person, any Contracting State shall undertake to seize and hand over to the requesting State the property used and proceeds derived from or relating to the terrorist offence, whether in the possession of the person whose extradition is sought or of a third party.
- (b) Once it has been established that they relate to the terrorist offence, the items indicated in the preceding paragraph shall be



surrendered even if the person to be extradited is not handed over because he has absconded or died or for any other reason.

(c) The provisions of the two preceding paragraphs shall be without prejudice to the rights of any Contracting State or of *bona fide* third parties in the property or proceeds in question.

#### *Article 20*

The State requested to hand over property and proceeds may take all the precautionary measures necessary to discharge its obligation to hand them over. It may also retain such property or proceeds on a temporary basis if they are required for pending criminal proceedings or may, for the same reason, hand them over to the requesting State on condition that they are returned.

### Section E. Exchange of evidence

#### *Article 21*

Contracting States shall undertake to have the evidence of any terrorist offence committed in their territory against another Contracting State examined by their competent agencies, and they may seek the assistance of any other Contracting State in doing so. They shall take the necessary measures to preserve such evidence and ensure its legal validity. They alone shall have the right, when so requested, to communicate the outcome of the examination to the State against whose interests the offence was committed, and the Contracting State or States whose assistance is sought shall not pass this information to any third party.

## PART THREE. MECHANISMS FOR IMPLEMENTING COOPERATION

### CHAPTER I. EXTRADITION PROCEDURES

#### *Article 22*

Requests for extradition shall be made between the competent authorities in the Contracting States directly, through their ministries of justice or the equivalent or through the diplomatic channel.

#### *Article 23*

The request for extradition shall be made in writing and shall be accompanied by the following:

(a) The original or an authenticated copy of the indictment or detention order or any other documents having the same effect and

issued in accordance with the procedure laid down in the law of the requesting State;

(b) A statement of the offences for which extradition is requested, showing the time and place of their commission, their legal designation and a reference to the legal provisions applicable thereto, together with a copy of the relevant provisions;

(c) As accurate a description as possible of the person whose extradition is sought, together with any other information that may serve to establish his identity and nationality.

#### *Article 24*

1. The judicial authorities in the requesting State may apply to the requested State by any of the means of written communication for the provisional detention of the person being sought pending the presentation of the request for extradition.

2. In this case, the State from which extradition is requested may detain the person being sought on a provisional basis. If the request for extradition is not presented together with the necessary documents specified in the preceding article, the person whose extradition is being sought may not be detained for more than 30 days from the date of his arrest.

#### *Article 25*

The requesting State shall submit a request accompanied by the documents specified in article 23 of this Convention. If the requested State determines that the request is in order, its competent authorities shall grant the request in accordance with its own law and its decision shall be promptly communicated to the requesting State.

#### *Article 26*

1. In all of the cases stipulated in the two preceding articles, the period of provisional detention shall not exceed 60 days from the date of arrest.

2. During the period specified in the preceding paragraph, the possibility of provisional release is not excluded provided that the State from which extradition is requested takes any measures it considers necessary to prevent the escape of the person sought.

3. Such release shall not prevent the rearrest of the person concerned or his extradition if a request for extradition is received subsequently.

#### *Article 27*

Should the requested State consider that it requires supplementary information in order to ascertain whether the conditions stipulated in

this Chapter have been met, it shall notify the requesting State accordingly and a date for the provision of such information shall be established.

*Article 28*

Should the requested State receive several requests for extradition from different States, either for the same offence or for different offences, it shall make its decision having regard to all the circumstances and, in particular, the possibility of subsequent extradition, the respective dates of when the requests were received, the relative seriousness of the offences and the place where the offences were committed.

CHAPTER II. PROCEDURES FOR JUDICIAL DELEGATION

*Article 29*

Requests relating to judicial delegations shall contain the following information:

- (a) The authority presenting the request;
- (b) The subject of and reason for the request;
- (c) An exact statement, to the extent possible, of the identity and nationality of the person concerned;
- (d) A description of the offence in connection with which the request for a judicial delegation is being made, its legal designation, the penalty established for its commission, and as much information as possible on the circumstances so as to facilitate the proper functioning of the judicial delegation.

*Article 30*

1. The request for a judicial delegation shall be addressed by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State and shall be returned through the same channel.

2. In case of urgency, the request for a judicial delegation shall be addressed by the judicial authorities of the requesting State directly to the judicial authorities of the requested State, and a copy of the request shall be sent at the same time to the Ministry of Justice of the requested State. The request, accompanied by the documents relating to its implementation, shall be returned through the channel stipulated in the preceding paragraph.

3. The request for a judicial delegation may be sent by the judicial authorities directly to the competent authority in the requested State, and replies may be forwarded directly through this authority.

*Article 31*

Requests for judicial delegations and their accompanying documents must be signed and must bear the seal of the competent authority or be authenticated by it. Such documents shall be exempt from all formalities that may be required by the legislation of the requested State.

*Article 32*

Should an authority that receives a request for a judicial delegation not have the competence to deal with the request, it shall automatically refer the request to the competent authority in its State. In the event the request has been sent directly, it shall notify the requesting State in the same manner.

*Article 33*

Every refusal of a request for a judicial delegation must be accompanied by a statement of the grounds for such refusal.

CHAPTER III. MEASURES FOR THE PROTECTION OF WITNESSES  
AND EXPERTS

*Article 34*

If, in the estimation of a requesting State, the appearance of a witness or expert before its judicial authority is of particular importance, it shall indicate this fact in its request. The request or summons to appear shall indicate the approximate amount of the allowances and the travel and subsistence expenses and shall include an undertaking to pay them. The requested State shall invite the witness or expert to appear and shall inform the requesting State of the response.

*Article 35*

1. A witness or an expert who does not comply with a summons to appear shall not be subject to any penalty or coercive measure, notwithstanding any contrary statement in the summons.

2. Where a witness or an expert travels to the territory of the requesting State of his own accord, he should be summoned to appear in accordance with the provisions of the domestic legislation of that State.

*Article 36*

1. A witness or an expert shall not be prosecuted, detained or subjected to any restrictions on his personal liberty in the territory of the requesting State in respect of any acts or convictions that preceded the person's departure from the requested State, regardless of his

nationality, as long as his appearance before the judicial authorities of that State is in response to a summons.

2. No witness or expert, regardless of his nationality, who appears before the judicial authorities of a requesting State in response to a summons may be prosecuted, detained or subjected to any restrictions on his personal liberty in the territory of that State in respect of any acts or convictions not specified in the summons and that preceded the person's departure from the territory of the requested State.

3. The immunity stipulated in this article shall lapse if the witness or expert sought, being free to leave, remains in the territory of the requesting State for a period of 30 consecutive days after his presence is no longer required by the judicial authorities or, having left the territory of the requesting State, has voluntarily returned.

#### *Article 37*

1. The requesting State shall take all necessary measures to protect witnesses and experts from any publicity that might endanger them, their families or their property as a result of their provision of testimony or expertise and shall, in particular, guarantee confidentiality with respect to:

- (a) The date, place and means of their arrival in the requesting State;
- (b) Their place of residence, their movements and the places they frequent;
- (c) Their testimony and the information they provide before the competent judicial authorities.

2. The requesting State shall undertake to provide the necessary protection for the security of witnesses and experts and of members of their families that is required by their situation, the circumstances of the case in connection with which they are sought and the types of risks that can be anticipated.

#### *Article 38*

1. Where a witness or expert whose appearance is sought by a requesting State is in custody in the requested State, he may be temporarily transferred to the location of the hearing where he is requested to provide his testimony under conditions and at times to be determined by the requested State. Such transfer may be refused if:

- (a) The witness or expert in custody objects;
- (b) His presence is required for criminal proceedings in the territory of the requested State;
- (c) His transfer would prolong the term of his detention;
- (d) There are considerations militating against his transfer.

2. The witness or expert thus transferred shall continue to be held in custody in the territory of the requesting State until such time as he is returned to the requested State unless the latter State requests that he be released.

#### PART FOUR. FINAL PROVISIONS

##### *Article 39*

This Convention is subject to ratification, acceptance or approval by the signatory States, and instruments of ratification, acceptance or approval shall be deposited with the General Secretariat of the League of Arab States within 30 days of the date of such ratification, acceptance or approval. The General Secretariat shall notify member States of the deposit of each such instrument and of its date.

##### *Article 40*

1. This Convention shall enter into force on the thirtieth day after the date as of which instruments of ratification, acceptance or approval have been deposited by seven Arab States.

2. This Convention shall enter into force for any other Arab State only after the instrument of ratification, acceptance or approval has been deposited and 30 days have elapsed from the date of that deposit.

##### *Article 41*

No Contracting State may make any reservation that explicitly or implicitly violates the provisions of this Convention or is incompatible with its objectives.

##### *Article 42*

A Contracting State may denounce this Convention only by written request addressed to the Secretary-General of the League of Arab States.

Denunciation shall take effect six months from the date the request is addressed to the Secretary-General of the League of Arab States.

The provisions of this Convention shall remain in force in respect of requests submitted before this period expires.

DONE at Cairo, this twenty-second day of April 1998, in a single copy, which shall be deposited with the General Secretariat of the League of Arab States. A certified copy shall be kept at the General Secretariat of the Council of Arab Ministers of the Interior, and certified copies shall be transmitted to each of the parties that are signatories to this Convention or that accede hereto.

IN WITNESS WHEREOF, the Arab Ministers of the Interior and Ministers of Justice have signed this Convention on behalf of their respective States.

### **34. Amendment to the Arab Convention on the Suppression of Terrorism**

*Approved by the Council of Arab Ministers of Justice under resolution 648—session 22 (29 November 2006) and by the Council of Arab Ministers of the Interior under resolution 529—session 25 (31 January 2008)*

*The Council of Arab Ministers of Justice,  
Having considered the following:*

Council resolutions, the most recent being No. 589—session 21 (29 November 2005),

Executive Office decisions, the most recent being No. 500—meeting 34 (24 April 2006),

The report and recommendations issued on 27 and 28 February 2006 by the committee of experts from Arab ministries of justice that was convened to re-examine the amendment to article 1, paragraph 3 of the Arab Convention on the Suppression of Terrorism,

The relevant memorandum of the technical secretariat of the Council,  
The relevant recommendation of the Executive Office of the Council,  
And after discussion,

*Decides*

1. To call upon those Arab States that have not yet ratified the Arab Convention on the Suppression of Terrorism to do so at the earliest opportunity.
2. To approve the amendment to article 1, paragraph 3 of the Arab Convention on the Suppression of Terrorism, appended hereto.
3. To take note of the two reports issued by the Arab Criminal Police Bureau on measures taken by Arab ministries of the interior since 2006 to implement the Arab Convention on the Suppression of Terrorism, and to call upon Arab ministries of the interior that have not yet submitted their responses to the questionnaire concerning follow-up to the implementation of the Convention to do so.
4. To continue the cooperation between the technical secretariat of the Council and the secretariat of the Council of Arab Ministers of the Interior regarding follow-up to the implementation of the Convention.
5. To call upon those Arab States that have not yet harmonized their legislations with the provisions of the Arab Convention on the Suppression of Terrorism to do so.
6. To affirm the importance of bilateral and multilateral Arab cooperation with a view to promoting the provisions of the Convention.



PART ONE. DEFINITIONS AND GENERAL PROVISIONS

*Article 1, paragraph 3: Terrorist offence*

Any offence or attempted offence committed in furtherance of a terrorist objective in any of the Contracting States, or against their property or interests, or against their nationals or the property of their nationals, that is punishable by their domestic law; incitement to or celebration of terrorist offences; publishing, printing or preparing documents, publications or recordings of any kind for dissemination or for perusal by others for the purpose of encouraging the perpetration of such offences. It shall be considered a terrorist offence knowingly to provide or collect funds of any kind in order to finance terrorist offences.

The offences stipulated in the following conventions, except where conventions have not been ratified by Contracting States or where offences have been excluded by their legislation, shall also be regarded as terrorist offences:

- (a) The Tokyo Convention on offences and Certain Other Acts Committed on Board Aircraft, of 14 September 1963;
- (b) The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, of 16 December 1970;
- (c) The Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, of 23 September 1971, and the Protocol thereto of 10 May 1984;
- (d) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 14 December 1973;
- (e) The International Convention against the Taking of Hostages, of 17 December 1979;
- (f) The provisions of the United Nations Convention on the Law of the Sea, of 1982, relating to piracy on the high seas.

## 35. Arab Convention on Combating Money-laundering and the Financing of Terrorism

*Signed at Cairo on 21 December 2010*

*Entry into force: in accordance with paragraph 2 of article 41*

*Depositary: General Secretariat of the League of Arab States*

### PREAMBLE

The Arab States signatories hereto,

*Recognizing* that money-laundering and the financing of terrorism are threats that imperil economic and development plans and hinder investment, and thereby jeopardize political and economic stability and security and undermine the rule of law;

*Convinced* that such acts are transnational crimes that affect all countries and their economies, making cooperation to protect against and suppress them essential;

*Desirous of* enhancing cooperation among them to protect against and suppress such crimes;

*Being committed* to the Charter of the United Nations, the Charter of the League of Arab States and all other relevant pan-Arab and international instruments, including those concerning the right of peoples to resist occupation and the right to self-determination;

*Have agreed* to conclude this Convention and to invite any Arab State that did not participate in its conclusion to accede hereto.

### CHAPTER I. GENERAL PROVISIONS

#### *Article 1: Definitions*

For the purposes of this Conventions, the following terms shall have the meaning respectively indicated:

1. State Party: Any State member of the League of Arab States that has ratified or acceded to this Conventions and has deposited its instrument of ratification or accession with the secretariat of the League of Arab States;

2. Funds: Any real property, moveables or intellectual property having monetary value and all rights associated therewith, and instruments and documents in any form, including electronic and digital, evidencing title thereto, as well as domestic and foreign currency and financial and commercial securities;

3. Proceeds of crime: Funds derived from, obtained through or pertaining to, directly or indirectly, the commission of any offence that is considered a predicate offence under the laws of a State Party and any other benefits, profit or income accruing from or generated by such funds;

4. Freezing, seizure or sequestration: The imposition of a temporary ban on the ability to dispose of, transfer, convert or control funds, or to take other actions with regard thereto, by order of a judicial or other competent authority, in accordance with the laws and regulations of each State Party;

5. Confiscation: Permanent deprivation of funds or property by order of a judicial or other competent authority, in accordance with the laws and regulations of each State Party;

6. Financial and non-financial institutions: Any institution engaged in one or more financial, commercial or economic activities, or any other similar activity, such as banks, exchange bureaus, investment, insurance and commercial companies, businesses having a sole proprietor and professional enterprises;

7. Legal (fictitious) person: A public or private legal person, other than the State and public authorities and institutions, granted legal status by law;

8. Money-laundering: The commission of or the attempt to commit any act with the intent of concealing or disguising the true origin of funds obtained in contravention of the laws and regulations of each State Party, and making it appear as though such funds come from legitimate sources;

9. Financing of terrorism: The collection, provision or transfer, directly or indirectly, of funds in the knowledge that they will be used in full or part to finance terrorism, as defined in the Arab Convention on the Suppression of Terrorism.

#### *Article 2: Purpose of the Convention*

The purpose of this Conventions is to strengthen measures aimed at suppressing money-laundering and the financing of terrorism and to foster Arab cooperation in that regard.

#### *Article 3: Protection of sovereignty*

1. The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. This Convention shall not entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and

performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

CHAPTER II. MEASURES TO PREVENT MONEY-LAUNDERING AND THE FINANCING OF TERRORISM

*Article 4: Regulation and supervision*

States Parties shall:

1. Within their competence, institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, in order to detect and counter all forms of money-laundering and financing of terrorism. Such a regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

2. Ensure that administrative, regulatory and law enforcement authorities, as well as all authorities engaged in the suppression of money-laundering and the financing of terrorism, have the ability to cooperate and exchange information at the national, regional and international levels, within the conditions prescribed by their domestic laws and regulations. Each State Party must also establish a financial intelligence unit to serve as a national centre for the collection and analysis of information related to money-laundering and the financing of terrorism.

*Article 5: Monitoring the movement of funds*

States Parties shall take appropriate measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital.

*Article 6: Measures concerning financial institutions*

States Parties shall take, in accordance with the basic principles of their legal systems, appropriate measures to oblige financial institutions, including money remitters to:

1. Include accurate and meaningful information on the originator in forms used to effect electronic funds transfers and in related messages;

2. Maintain such information in accordance with the provisions of this Convention;

3. Apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator;

4. Safeguard electronic information by developing specialized security programs.

*Article 7: Financial intelligence unit*

State Parties shall take, in accordance with the basic principles of their legal systems, appropriate legislative measures to establish financial intelligence units and grant them powers that would allow them to suppress effectively money-laundering and the financing of terrorism. These units shall receive reports of transactions suspected of being linked to money-laundering and the financing of terrorism, even when the source of funds is legitimate, review and analyse them and disseminate them to the competent authorities.

*Article 8: Measures of suppression and cooperation among States Parties*

1. Each State Party shall prepare, in accordance with the basic principles of its legal system, a list of financial institutions that deal with cash and issue instructions to those institutions regarding the procedures they must observe in order to suppress money-laundering and the financing of terrorism, including, in particular, the following:

- (a) Institutions shall verify the identity and legal status of customers and beneficial owners, whether natural or legal. Institutions shall not be allowed to open accounts, link deposits or accept funds or deposits that are anonymous or held under assumed or false names;
- (b) Institutions shall inform the financial intelligence unit of financial transactions that are suspected of being linked to money-laundering and the financing of terrorism;
- (c) Institutions shall maintain records and files of local and international financial transactions that contain sufficient information to determine the nature of those transactions. Those records and files shall be retained for at least five years after the business relationship with the financial institution has ended or the account has been closed. Institutions shall update such information periodically;
- (d) Institutions shall make those records and files available to the judicial authorities and the authorities responsible for enforcing the laws concerning the suppression of money-laundering and the financing of terrorism when they are requested in the course of inquiry and investigation, evidence-gathering, questioning or the prosecution of any offence under this Convention;
- (e) Institutions shall not disclose to customers, beneficiaries or non-competent authorities that a report has been submitted regarding a suspicious financial transaction or that such a transac-

tion is being investigated or analysed, or disclose any information related thereto.

2. States Parties shall strive to ensure cooperation among financial intelligence units in the identification of offences linked to money-laundering and the financing terrorism and prosecuting the perpetrators. Those units may share relevant data, facts and information with one another.

3. States Parties pledge to take the measures required to review periodically their laws concerning the suppression of money-laundering and the financing of terrorism and update them so that they accord with relevant international instruments and obligations.

4. States Parties shall cooperate with one another in respect of technical training in the suppression of money-laundering and the financing of terrorism and provide the technical assistance required to support measures of suppression.

### CHAPTER III. CRIMINALIZATION OF MONEY-LAUNDERING AND TERRORISM FINANCING

#### *Article 9: Criminalization of money-laundering*

States Parties shall take, in accordance with the basic principles of their legal systems, the necessary legislative measures to criminalize any of the following acts of money-laundering:

1. The acquisition, possession, use, management, safekeeping, conversion or investment of funds derived through the commission of a predicate offence under the laws of the State Party, with the intention of concealing or disguising their true nature or source, in the knowledge that they are the proceeds of crime;

2. The conversion, exchange or transfer of funds derived through the commission of a predicate offence under the laws of the State Party, with the intention of concealing or disguising their true nature or source, in the knowledge that they are the proceeds of crime;

3. The concealment or disguising of the true nature of funds or their source, location, disposition, movement or ownership or of rights, in the knowledge that such funds are the proceeds of crime;

4. Participation in the commission of any of the above acts or an attempt so to do.

#### *Article 10: Criminalization of the financing of terrorism*

States Parties shall take, in accordance with the basic principles of their legal systems, the necessary legislative measures to criminalize any of the following financing of terrorism acts:

1. The provision of funds for a designated purpose in the knowledge that they will be used to finance terrorism;
2. The acquisition or collection of funds by any means with the intention that they should be used to finance terrorism;
3. The possession or holding of funds, or managing the investment thereof, in the knowledge that they are to be used to finance terrorism.

*Article 11: Liability of legal persons*

States Parties shall take, in accordance with the basic principles of their legal systems, the necessary legislative measures required to:

1. Establish the liability of legal persons for the commission of the money-laundering and financing of terrorism offences set out in this Convention. The liability of legal persons may be criminal, civil or administrative.
2. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

*Article 12: Jurisdiction*

Each State Party shall take, in accordance with the basic principles of its legal system, the necessary legislative measures to establish its jurisdiction over the offences of money-laundering and the financing of terrorism, as well as participation in, instigation of or participation in the commission of such offences, when:

- Acts prejudicial to its interests are committed outside its territory;
- The alleged offender is present in its territory and it does not extradite such person on the grounds that he or she is one of its nationals.

*Article 13: Freezing, seizure and confiscation*

1. States Parties shall take, in accordance with the basic principles of their legal systems, the necessary measures to empower the competent authorities to confiscate:

- (a) Proceeds of crime derived from the money-laundering and financing of terrorism offences set out in this Convention;
- (b) Funds that were used or were intended to be used in the commission of any of the offences covered in subparagraph (a) of this article.

2. States Parties shall take the necessary measures to regulate the administration by the competent authorities of frozen, seized or confiscated funds.

3. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

4. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. The income or other profits arising from such criminal proceeds or from the property that has been combined with such proceeds shall be subject to the measures referred to in this article and to those the nature or scope of which relates to criminal proceeds.

6. Each State Party shall seek to conclude with other States Parties instruments that govern the disposition of funds the seizure of which has been definitively ordered by national or foreign judicial authorities in connection with money-laundering and financing of terrorism cases. Such instruments shall set out the basis for the distribution of such funds among the parties to such instruments, in accordance with the relevant provisions thereof.

7. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

*Article 14: Cooperation with law-enforcement authorities*

States Parties shall take, in accordance with the basic principles of their legal systems, the necessary legislative and administrative measures to:

1. Encourage persons who have committed or been an accessory to any of the offences covered by this Convention to supply information useful to competent authorities for investigative and evidentiary purposes;

2. Revoke or mitigate the punishment for money-laundering and financing of terrorism offences established pursuant to this Convention when an offender notifies the competent authorities, either before they become aware of such an offence or after they have become aware of an offence, provided that, in the latter case, such notification leads to the arrest of all or some of the remaining offenders or the seizure of the funds connected with the offence;

3. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may enter into agreements or arrangements, in accordance with the basic principles of their legal systems, in order to facilitate implementation of the provision of paragraphs 1 and 2 of this article.



*Article 15: Bank secrecy*

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

CHAPTER IV. SECURITY COOPERATION

*Article 16: Security measures*

States Parties pledge to take, in accordance with their domestic laws, regulations and procedures, the following measures in order to protect against money-laundering and the financing of terrorism:

1. Develop and enhance systems for the detection of money-laundering and the financing of terrorism;

2. Strengthen the capacity of security agencies and administrative, regulatory and law enforcement authorities, as well as other authorities engaged in the suppression of money-laundering and the financing of terrorism, and enhance their ability to cooperate and exchange information with one another;

3. Establish, develop and enhance specific training programmes for employees of agencies charged with the prevention and suppression of the offences established in accordance with this Convention. Such programmes shall deal, in particular, with the following:

(a) Methods used in protecting against and preventing the offences established in accordance with this Convention;

(b) Techniques used by persons suspected of involvement in offences covered by this Convention;

(c) Methods used in monitoring the movement of contraband, the proceeds of crime, property, equipment and other instrumentalities used to transfer, conceal or disguise such proceeds, property and equipment;

(d) Techniques used in the detection and suppression of money-laundering and the financing of terrorism.

4. Each State Party shall create a database for the purpose of the collection and analysis of information on money-laundering and the financing of terrorism, including information provided by States and regional and international organizations, and shall establish, maintain and update comprehensive lists in that regard;

5. Exchange information with other States Parties regarding money-laundering and the financing of terrorism;

6. Foster informational activities concerning security and coordinate such activities with the informational activities of each State in accordance with its information policy, with a view to supporting efforts aimed at raising awareness of the threat posed by money-laundering and the financing of terrorism, in cooperation with civil society and other relevant institutions.

*Article 17: Suppression measures*

In order to suppress effectively money-laundering and the financing of terrorism, States Parties shall:

1. Arrest and prosecute the perpetrators of money-laundering and financing of terrorism offences, in accordance with their domestic laws, or extradite them, in accordance with the provisions of this Convention or a bilateral agreement concluded between a requesting State Party and a receiving State Party;

2. Establish effective cooperation between the relevant agencies and the public, with a view to suppressing money-laundering and the financing of terrorism, and offer appropriate guarantees and incentives to encourage the reporting of such crimes and the provision of information that will assist in the detection of such crimes and the arrest of the perpetrators;

3. Provide effective protection for those working in criminal justice, and for sources of information on and witnesses to money-laundering and financing of terrorism offences.

*Article 18: Exchange of information*

States Parties shall endeavour to take, in accordance with their domestic laws, regulations and procedures, the following measures to suppress money-laundering and the financing of terrorism:

1. Strengthen exchange of information between States Parties with regard to:

(a) The identity, location and activities of persons suspected of involvement in such offences;

(b) The means and methods used in the commission of such offences;

(c) The movement of the proceeds of money-laundering and financing of terrorism offences, and the means and techniques used or intended to be used in the commission of such offences.

2. Each State Party undertakes to notify promptly any other State Party of information it has concerning any money-laundering or financing of terrorism offence that occurs in its territory that is harmful to the interests of the other State or those of its nationals. Such notification must include information concerning the circumstances of the offence, the

perpetrators, the victims, the consequences and the methods used in the commission thereof, pursuant to the laws and regulations of each State;

3. States Parties undertake to maintain the confidentiality of information exchanged among them and not to transmit such information to any non-State party or other authority, without the prior consent of the State that provided the information.

*Article 19: Investigations*

1. States Parties undertake to strengthen cooperation among them and offer assistance in the investigation and arrest of fugitives or of persons accused or convicted of money-laundering and financing of terrorism offences, and to bring to justice any person who perpetrates such crimes or participates in the planning, preparation or commission thereof or provides support therefor, in accordance with the domestic regulations and laws of each State.

2. State Parties shall afford one another the greatest measure of assistance possible in investigations and evidence-gathering in connection with money-laundering and financing of terrorism offences, including assistance in obtaining evidence in their possession required for initiating criminal investigations and legal proceedings.

*Article 20: Exchange of experience, studies and research*

1. States Parties shall cooperate with one another in the exchange of experience concerning protection against and the suppression of money-laundering and the financing of terrorism.

2. States Parties shall cooperate in the conduct and exchange of studies and research relating to the analysis of prevailing trends in money-laundering and the financing of terrorism, as well as the circumstances in which such offences are committed and methods of response thereto.

*Article 21: Cooperation with regard to training and technical assistance*

States Parties shall, according to their capacity, cooperate in providing technical assistance with regard to the planning, preparation and implementation of programmes or the holding of joint training courses or training courses aimed at one State Party or a group of States Parties, when necessary, for personnel working in the suppression of money-laundering and the financing of terrorism. They shall also endeavour to exchange experiences, develop scientific and practical capacities and enhance performance.

*Article 22: Support for Arab cooperation at the international level*

States Parties shall endeavour to develop and support Arab cooperation at the international and regional levels in the prevention and suppression of money-laundering and the financing of terrorism by:

1. Supporting coordination and cooperation between States Parties and the relevant international and regional organizations;

2. Exchanging information and experiences with other States and international and regional organizations on developments in money-laundering and financing of terrorism offences, and how to protect against and suppress such offences;

3. Stressing the importance of participation in conferences, symposiums and seminars held by international and regional organizations on money-laundering and the financing of terrorism.

CHAPTER V. LEGAL AND JUDICIAL COOPERATION

*Article 23: Mutual legal assistance*

1. States Parties undertake to afford one another, in accordance with their legal systems, the widest measure of mutual legal assistance in prosecutions, collection of evidence, investigations and other judicial proceedings in relation to money-laundering and the financing of terrorism.

2. States Parties may request mutual legal assistance from one another for any of the following purposes:

(a) Identifying, seizing, freezing, confiscating or surrendering funds and assets derived from the offences covered by this Convention;

(b) Executing searches;

(c) Examining objects and inspecting sites;

(d) Taking evidence or statements from persons and receiving reports from experts;

(e) Exchanging criminal records and effecting service of judicial documents, in general;

(f) Detecting or tracing proceeds, property, instrumentalities or other things for evidentiary purposes;

(g) Facilitating the appearance of persons in the requesting State Party for the purpose of giving testimony or making statements in relation to the commission of offences covered by this Convention;

(h) Rendering any other type of assistance that is not contrary to the domestic law of the requested State Party.

3. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information

relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or concluding inquiries and criminal proceedings. The competent authorities receiving the information shall comply with any request that such information remain confidential, even temporarily, or with restrictions on its use.

4. Requests for legal assistance shall be formulated in a precise manner and specify the scope of the offence, incident or procedure with regard to which assistance is being requested. Such requests must also include, in particular, the following information:

- (a) The identity of the competent authority;
- (b) The subject matter and nature of the investigation, prosecution or proceedings to which the request relates and the identity of the authority conducting the investigation or prosecution;
- (c) Authenticated copies of investigation documents or judgments rendered in the matter;
- (d) A description of the legal assistance sought and details of any other procedure that the requesting State wishes to be followed;
- (e) The identity, nationality and location of the person who is the subject of the request, and any other information that might be helpful in locating that person.

*Article 24: Central authority*

Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and to transmit them to the competent authorities for execution.

*Article 25: Refusal of requests for legal assistance*

1. The requested State Party may refuse to offer legal assistance in the following cases:

- (a) If it considers that execution of the request is likely to prejudice its sovereignty or security, or contravenes its legal system;
- (b) If execution of the request would be incompatible with investigations or procedures already under way in its territory or with a judgment rendered in its territory.

2. In accordance with the provisions of article 15, the requested State may not refuse a request for legal assistance on the ground of bank secrecy.

*Article 26: Cost of executing a request for assistance*

The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request shall be executed, as well as the manner in which the costs shall be borne.

*Article 27: Recognition of penal judgements*

Each State party shall recognize the penalties imposed by the courts of other States Parties with regard to any of the offences covered by this Convention, provided that such recognition is not prejudicial to public policy or contrary to the law, except for:

1. Judgements that may still be appealed in some manner under the laws of the State the courts of which imposed the penalty;
2. Judgements in relation to an offence that already falls under the jurisdiction of the requested State, once any investigations or judicial proceedings have been initiated.

*Article 28: International cooperation in confiscation*

1. A State Party that has received a request from another State Party having jurisdiction over any offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities situated in its territory shall:

- (a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it;
- (b) Submit to its competent authorities a confiscation order or ruling issued by a court in the territory of the requesting State Party, with a view to giving effect thereto as requested.

2. Upon receipt of a request made by one or more States Parties having jurisdiction over an offence covered by this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities.

3. Requests made pursuant to paragraph 1 of this article shall include the following:

- (a) In the case of a request for confiscation, a description of the property to be confiscated, including the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party and a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts and legal provisions relied upon by the requesting State Party, a description of the actions requested and a legally admissible copy of an order on which the request is based.

4. If the State Party elects to make the taking of the measures specified in paragraphs 1 and 2 of this article conditional upon the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

5. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of *de minimis* value.

#### *Article 29: Cooperation in asset recovery*

Each State Party shall take such measures as may be necessary to:

1. Permit another State Party to bring a case before its courts for the recovery of funds or property acquired through the commission of money-laundering and financing of terrorism offences;

2. Permit the execution of a confiscation order or ruling issued by a court of another State Party to this Convention;

3. Permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of funds or property acquired through the commission of money-laundering and financing of terrorism offences.

#### *Article 30: Transfer of criminal proceedings*

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved.

#### *Article 31: Extradition*

1. Persons convicted of offences covered by this Convention shall be extradited in accordance with the legal system of the requested State if the person who is the subject of the request for extradition is present in the territory of the requested State, provided that the act for which

extradition is sought is criminalized under the domestic law of both the requesting State and the requested State.

2. If the request for extradition includes several separate offences, at least one of which is extraditable and some of which are not extraditable but are related to offences established in accordance with this Convention, the requested State Party may apply the provisions of paragraph 1 of this article in respect of those offences.

3. The offences to which the provisions of paragraphs 1 and 2 of this article apply shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

4. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this Convention applies.

5. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this Convention applies as extraditable offences between themselves.

*Article 32: Exchange of requests for extradition*

Exchange of extradition requests shall be effected directly between the competent authorities in the States Parties, or through their Ministries of Justice or their equivalent, or through diplomatic channels.

*Article 33: Documentation for extradition requests*

1. The request for extradition shall be submitted in writing and include the following:

(a) The original or an authenticated copy of the indictment, arrest warrant or any other instrument having the same legal effect issued in accordance with the procedures established under the laws of the requesting State;

(b) A detailed statement of the offences for which extradition is sought. Such statement shall specify when and where the offence was committed and its legal consequences, and cite the applicable provisions of the law and provide a copy thereof;

(c) A detailed description of the person requested, including information detailing the person's physical characteristics, nationality and identity.

2. If the receiving State finds that supplementary information is needed in order to verify whether the conditions set out in this article



are met, it shall ask the requesting State to provide such information within a period of time it shall specify for that purpose.

*Article 34: Provisional arrest*

1. The judicial authority of a requesting State may submit a written request to a requested State seeking the provisional detention (arrest) of a wanted person, pending receipt of the request for extradition.

2. The requested State may issue a warrant for the provisional detention (arrest) of the person sought.

3. The person whose extradition is sought may not be detained (arrested) for a period greater than thirty (30) days from the date on which the arrest is effected, if the request for extradition is not submitted together with the documents prescribed in article 33 of this Convention.

4. If the requested State finds that the request for extradition meets the conditions set forth in article 33 of this Convention, its competent authorities shall execute the request for extradition in accordance with the laws of the requested State, and shall inform the requesting State without delay of the measures taken to that end.

5. The period of temporary detention (arrest) shall not exceed sixty (60) days from the date on which the request for extradition is received.

6. The person whose extradition is sought may be released during the sixty (60) day period, provided that the requested State takes the measures required to ensure that the person does not flee.

7. The temporary release of the person whose extradition is sought shall not prevent the re-arrest and extradition of that person, if that is requested by the State seeking extradition.

*Article 35: Multiple requests for extradition*

1. Where multiple requests for extradition, either for the same offence or for various offences, are received, precedence shall be given first to the request of the State that suffered harm to its security or fundamental interests, second to the request of the State in which the offence was committed and, lastly, to the request of the State of nationality of the person whose extradition is sought. Where identical requests are received from multiple States, precedence shall be given to the request that was first received.

2. No State Party shall extradite a person to a non-State Party without the consent of the original surrendering State.

*Article 36: Letters rogatory*

1. Letters rogatory must specify the following:

(a) The identity of the competent authority making the request;

- (b) The subject of and reason for the request;
- (c) The identity of the person concerned;
- (d) The offence in connection with which the request is being made, its legal definition and the penalty established for its commission, and a copy of the applicable provisions of the laws of the requesting State.

2. Letters rogatory shall be transmitted by the Ministry of Justice, or its equivalent, of the requesting State to the Ministry of Justice, or its equivalent, of the requested State. Requests may also be addressed by the judicial authorities of the requesting State directly to the judicial authorities of the requested State; a copy of such a request shall be sent to the Ministry of Justice of the requested State. Requests may furthermore be addressed by the judicial authorities of the requesting State directly to the competent authority of the requested State through diplomatic channels or any other means agreed upon by the States Parties for that purpose.

3. Letters rogatory and their accompanying documents must be signed and must bear the seal of or be authenticated by the competent authority.

4. If the authority receiving a letter rogatory is not empowered to execute such a letter, it shall without delay refer the request to the competent authority in that same State. If the request is sent directly, it shall notify the requesting State in the same manner.

5. If the execution of a letter rogatory is refused, the requesting State must be informed of such refusal and, where possible, the reasons therefor.

6. Procedures carried out in response to a letter rogatory in accordance with the provisions of this Convention shall have the same legal effect as if they had been carried out by the competent authority of the requesting State Party.

*Article 37: Immunity of witnesses and experts*

1. A witness or an expert who does not comply with a summons to appear shall not be subject to any penalty or coercive measure, even if the summons includes a reference to the imposition of a penalty for failure to comply.

2. Where a witness or an expert voluntarily appears in the territory of the requesting State, he should be summoned to appear in accordance with the provisions of the domestic legislation of that State.

3. No witness or expert, regardless of his nationality, who appears before the judicial authorities of a requesting State in response to a summons may be prosecuted, detained or have his freedom restricted in the territory of that State for other acts or judgements not specified in the summons and that preceded the person's departure from the territory of the requested State.

4. The immunity prescribed in this article shall lapse if the witness or expert sought, being free to leave, remains in the territory of the requesting State for a period of 30 consecutive days, or the period agreed upon by the two Parties, after his presence is no longer required by the judicial authorities or, having left the territory of the requesting State, has returned thereto.

*Article 38: Protecting witnesses and experts*

The requesting State shall take all necessary measures to protect witnesses and experts from any publicity that might endanger them, their families or their property as a result of their provision of testimony or expertise and shall, in particular:

1. Guarantee confidentiality with respect to the date, place and means of their arrival in the requesting State;
2. Guarantee confidentiality with respect to their place of residence, their movements and the places they frequent;
3. Undertake to provide the level of security required by the condition of a witness or expert and of his family members, the circumstances of the case in connection with which he is sought and the types of risks anticipated.

*Article 39: Transferral of witnesses and experts*

1. Where a witness or expert whose appearance is sought by a requesting State is in custody in the requested State, he may be temporarily transferred to the location of the hearing where he is requested to testify under conditions and at times to be determined by the requested State. Such transfer may be refused if:

- (a) The witness or expert in custody does not consent;
- (b) His presence is required for criminal proceedings in the territory of the requested State;
- (c) His transfer would prolong the term of his detention;
- (d) There are considerations militating against his transfer.

2. The witness or expert thus transferred shall remain in detention in the territory of the requesting State until such time as he is returned to the requested State unless, the latter State requests that he should be released.

*Article 40: Travel and subsistence expenses of witnesses and experts*

1. If the requesting State believes that the appearance of a witness or expert before its judicial authority is of particular importance, it shall indicate this fact in its request. The request or summons to appear shall indicate the approximate travel and subsistence expenses and shall

include an undertaking to pay them. The requested State shall summon the witness or expert to appear and shall inform the requesting State of the response.

2. Witnesses shall be compensated for lost salary or earnings by the requesting contracting Party, and experts shall have right to request payment of a fee in return for providing their opinion. Such compensation and fees shall be determined on the basis of the established practices and regulations of the requesting State Party.

## CHAPTER VI. FINAL PROVISIONS

### *Article 41*

1. This Convention is subject to ratification by the signatory States, and instruments of ratification or accession shall be deposited with the secretariat of the League of Arab States within 30 days of the date of such ratification or accession. The secretariat shall notify member States of the deposit of each such instrument and of the date thereof.

2. This Convention shall enter into force thirty days after the date of deposit of the seventh instrument of ratification or accession of an Arab State.

3. This Convention shall not enter into force for any other Arab State until an instrument of ratification or accession has been deposited with the secretariat of the League of Arab States and 30 days have elapsed from the date of deposit.

4. A State Party may propose an amendment to any part of this Convention and transmit it to the Secretary-General of the League of Arab States, who shall thereupon communicate the proposed amendment to the State Parties to the Convention. The amendment shall require for its adoption a two-thirds majority of State Parties, and shall enter into force thirty days after the date of deposit of the seventh instrument of ratification, acceptance or approval of an Arab State with the secretariat of the League of Arab States.

5. A State Party may denounce this Convention only by written notification to the Secretary-General of the League of Arab States.

6. Denunciation shall become effective six months from the date on which the request is transmitted to the Secretary-General of the League of Arab States. The provisions of this Convention shall remain in force in respect of requests submitted prior to the expiration of this period.

7. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the League of Arab States.

This Convention was drawn up in Arabic and done at Cairo, the Arab Republic of Egypt, on the fifteenth day of Muharram A.H. 1432,

corresponding to the twenty-first day of December A.D. 2010, in a single copy, which shall be deposited with the technical secretariat of the Council of Arab Ministers of Justice at the secretariat of the League of Arab States. An identical copy shall be transmitted to the secretariat of the Council of Arab Ministers of the Interior and to each of the States Parties to this Convention.

IN WITNESS WHEREOF, the Arab Ministers of the Interior and Ministers of Justice have signed this Convention on behalf of their respective States.

## ORGANIZATION OF AMERICAN STATES (OAS)

### **36. Organization of American States Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance**

*Concluded at Washington, D.C. on February 2, 1971*

*In force on 16 October 1973*

*United Nations, Treaty Series, vol. 1438, No. 24381*

*Depositary: General Secretariat of the Organization of American States*

*Whereas:*

The defence of freedom and justice and respect for the fundamental rights of the individual that are recognized by the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights are primary duties of states;

The General Assembly of the Organization, in resolution 4, of June 30, 1970, strongly condemned acts of terrorism, especially the kidnapping of persons and extortion in connection with that crime, which it declared to be serious common crimes;

Criminal acts against persons entitled to special protection under international law are occurring frequently, and those acts are of international significance because of the consequences that may flow from them for relations among states;

It is advisable to adopt general standards that will progressively develop international law as regards cooperation in the prevention and punishment of such acts; and

In the application of those standards the institution of asylum should be maintained and, likewise, the principle of non-intervention should not be impaired,

*The Member States of the Organization of American States*

*Have agreed upon the following articles:*

#### *Article 1*

The contracting states undertake to cooperate among themselves by taking all the measures that they may consider effective, under their own laws, and especially those established in this convention, to prevent

and punish acts of terrorism, especially kidnapping, murder, and other assaults against the life or physical integrity of those persons to whom the state has the duty according to international law to give special protection, as well as extortion in connection with those crimes.

*Article 2*

For the purposes of this convention, kidnapping, murder, and other assaults against the life or personal integrity of those persons to whom the state has the duty to give special protection according to international law, as well as extortion in connection with those crimes, shall be considered common crimes of international significance, regardless of motive.

*Article 3*

Persons who have been charged or convicted for any of the crimes referred to in article 2 of this convention shall be subject to extradition under the provisions of the extradition treaties in force between the parties or, in the case of states that do not make extradition dependent on the existence of a treaty, in accordance with their own laws.

In any case, it is the exclusive responsibility of the state under whose jurisdiction or protection such persons are located to determine the nature of the acts and decide whether the standards of this convention are applicable.

*Article 4*

Any person deprived of his freedom through the application of this convention shall enjoy the legal guarantees of due process.

*Article 5*

When extradition requested for one of the crimes specified in article 2 is not in order because the person sought is a national of the requested state, or because of some other legal or constitutional impediment, that state is obliged to submit the case to its competent authorities for prosecution, as if the act had been committed in its territory. The decision of these authorities shall be communicated to the state that requested extradition. In such proceedings, the obligation established in article 4 shall be respected.

*Article 6*

None of the provisions of this convention shall be interpreted so as to impair the right of asylum.

*Article 7*

The contracting states undertake to include the crimes referred to in article 2 of this convention among the punishable acts giving rise to extradition in any treaty on the subject to which they agree among themselves in the future. The contracting states that do not subject extradition to the existence of a treaty with the requesting state shall consider the crimes referred to in article 2 of this convention as crimes giving rise to extradition, according to the conditions established by the laws of the requested state.

*Article 8*

To cooperate in preventing and punishing the crimes contemplated in article 2 of this convention, the contracting states accept the following obligations:

- (a) To take all measures within their power, and in conformity with their own laws, to prevent and impede the preparation in their respective territories of the crimes mentioned in article 2 that are to be carried out in the territory of another contracting state.
- (b) To exchange information and consider effective administrative measures for the purpose of protecting the persons to whom article 2 of this convention refers.
- (c) To guarantee to every person deprived of his freedom through the application of this convention every right to defend himself.
- (d) To endeavor to have the criminal acts contemplated in this convention included in their penal laws, if not already so included.
- (e) To comply most expeditiously with the requests for extradition concerning the criminal acts contemplated in this convention.

*Article 9*

This convention shall remain open for signature by the member states of the Organization of American States, as well as by any other state that is a member of the United Nations or any of its specialized agencies, or any state that is a party to the Statute of the International Court of Justice, or any other state that may be invited by the General Assembly of the Organization of American States to sign it.

*Article 10*

This convention shall be ratified by the signatory states in accordance with their respective constitutional procedures.



*Article 11*

The original instrument of this convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited in the General Secretariat of the Organization of American States, which shall send certified copies to the signatory governments for purposes of ratification. The instruments of ratification shall be deposited in the General Secretariat of the Organization of American States, which shall notify the signatory governments of such deposit.

*Article 12*

This convention shall enter into force among the states that ratify it when they deposit their respective instruments of ratification.

*Article 13*

This convention shall remain in force indefinitely, but any of the contracting states may denounce it. The denunciation shall be transmitted to the General Secretariat of the Organization of American States, which shall notify the other contracting states thereof. One year following the denunciation, the convention shall cease to be in force for the denouncing state, but shall continue to be in force for the other contracting states.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having presented their full powers, which have been found to be in due and proper form, sign this convention on behalf of their respective governments, at the city of Washington this second day of February of the year one thousand nine hundred seventy one.

## 37. Inter-American Convention against Terrorism

*Adopted at Bridgetown on 3 June 2002*

*In force on 10 July 2003*

*Depositary: General Secretariat of the Organization of American States*

*The States Parties to this Convention,*

*Bearing in mind* the purposes and principles of the Charter of the Organization of American States and the Charter of the United Nations;

*Considering* terrorism represents a serious threat to democratic values and to international peace and security and is a cause of profound concern to all Member States;

*Reaffirming* the need to adopt effective steps in the inter-American system to prevent, punish, and eliminate terrorism through the broadest cooperation;

*Recognizing* that the serious economic harm to States which may result from terrorist acts is one of the factors that underscore the need for cooperation and the urgency of efforts to eradicate terrorism;

*Reaffirming* the commitment of the States to prevent, combat, punish, and eliminate terrorism; and

*Bearing in mind* resolution RC.23/RES.1/01 rev. 1 corr. 1, “Strengthening Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism”, adopted at the Twenty-third Meeting of Consultation of Ministers of Foreign Affairs,

*Have agreed to the following:*

### *Article 1*

#### *Object and purposes*

The purposes of this Convention are to prevent, punish, and eliminate terrorism. To that end, the States Parties agree to adopt the necessary measures and to strengthen cooperation among them, in accordance with the terms of this Convention.

### *Article 2*

#### *Applicable international instruments*

1. For the purposes of this Convention, “offences” means the offences established in the international instruments listed below:

(a) Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970.

- (b) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.
- (c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973.
- (d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979.
- (e) Convention on the Physical Protection of Nuclear Material, signed at Vienna on March 3, 1980.
- (f) Protocol on 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, signed at Montreal on February 24, 1988.
- (g) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988.
- (h) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on March 10, 1988.
- (i) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997.
- (j) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on December 9, 1999.

2. Upon depositing its instrument of ratification to this Convention, a State Party that is not a party to one or more of the international instruments listed in paragraph 1 of this article may declare that, in application of this Convention to such State Party, that particular instrument shall be deemed not to be included in that paragraph. The declaration shall cease to have effect as soon as that instrument enters into force for that State Party, which shall notify the depositary of this fact.

3. When a State Party ceases to be a party to one of the international instruments listed in paragraph 1 of this article, it may make a declaration, as provided in paragraph 2 of this article, with respect to that instrument.

### *Article 3*

#### *Domestic measures*

Each State Party, in accordance with the provisions of its constitution, shall endeavor to become a party to the international instruments listed in article 2 to which it is not yet a party and to adopt the necessary

measures to effectively implement such instruments, including establishing, in its domestic legislation, penalties for the offences described therein.

#### Article 4

##### *Measures to prevent, combat, and eradicate the financing of terrorism*

1. Each State Party, to the extent it has not already done so, shall institute a legal and regulatory regime to prevent, combat, and eradicate the financing of terrorism and for effective international cooperation with respect thereto, which shall include:

(a) A comprehensive domestic regulatory and supervisory regime for banks, other financial institutions, and other entities deemed particularly susceptible to being used for the financing of terrorism activities. This regime shall emphasize requirements for customer identification, record-keeping, and the reporting of suspicious or unusual transactions.

(b) Measures to detect and monitor movements across borders of cash, bearer negotiable instruments, and other appropriate movements of value. These measures shall be subject to safeguards to ensure proper use of information and should not impede legitimate capital movements.

(c) Measures to ensure that the competent authorities dedicated to combating the offences established in the international instruments listed in article 2 have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed under its domestic law. To that end, each State Party shall establish and maintain a financial intelligence unit to serve as a national center for the collection, analysis, and dissemination of pertinent money laundering and terrorist financing information. Each State Party shall inform the Secretary General of the Organization of American States of the authority designated to be its financial intelligence unit.

2. When implementing paragraph 1 of this article, States Parties shall use as guidelines the recommendations developed by specialized international and regional entities, in particular the Financial Action Task Force and, as appropriate, the Inter-American Drug Abuse Control Commission, the Caribbean Financial Action Task Force, and the South American Financial Action Task Force.

#### Article 5

##### *Seizure and confiscation of funds or other assets*

1. Each State Party shall, in accordance with the procedures established in its domestic law, take such measures as may be necessary

to provide for the identification, freezing or seizure for the purposes of possible forfeiture, and confiscation or forfeiture, of any funds or other assets constituting the proceeds of, used to facilitate, or used or intended to finance, the commission of any of the offences established in the international instruments listed in article 2 of this Convention.

2. The measures referred to in paragraph 1 shall apply to offences committed both within and outside the jurisdiction of the State Party.

#### *Article 6*

##### *Predicate offences to money laundering*

1. Each State Party shall take the necessary measures to ensure that its domestic penal money laundering legislation also includes as predicate offences those offences established in the international instruments listed in article 2 of this Convention.

2. The money laundering predicate offences referred to in paragraph 1 shall include those committed both within and outside the jurisdiction of the State Party.

#### *Article 7*

##### *Cooperation on border controls*

1. The States Parties, consistent with their respective domestic legal and administrative regimes, shall promote cooperation and the exchange of information in order to improve border and customs control measures to detect and prevent the international movement of terrorists and trafficking in arms or other materials intended to support terrorist activities.

2. In this context, they shall promote cooperation and the exchange of information to improve their controls on the issuance of travel and identity documents and to prevent their counterfeiting, forgery, or fraudulent use.

3. Such measures shall be carried out without prejudice to applicable international commitments in relation to the free movement of people and the facilitation of commerce.

#### *Article 8*

##### *Cooperation among law enforcement authorities*

The States Parties shall work closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences established in the international instruments listed in article 2. In this context, they shall establish and enhance, where necessary,

channels of communication between their competent authorities in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences established in the international instruments listed in article 2 of this Convention.

*Article 9*

*Mutual legal assistance*

The States Parties shall afford one another the greatest measure of expeditious mutual legal assistance with respect to the prevention, investigation, and prosecution of the offences established in the international instruments listed in article 2 and proceedings related thereto, in accordance with applicable international agreements in force. In the absence of such agreements, States Parties shall afford one another expeditious assistance in accordance with their domestic law.

*Article 10*

*Transfer of persons in custody*

1. A person who is being detained or is serving a sentence in the territory of one State Party and whose presence in another State Party is requested for purposes of identification, testimony, or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences established in the international instruments listed in article 2 may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent; and
- (b) Both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of this article:

- (a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred.
- (b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States.
- (c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person.
- (d) The person transferred shall receive, for time spent in the custody of the State to which he or she was transferred, credit toward service of the sentence being served in the State from which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions prior to his or her departure from the territory of the State from which said person was transferred.

*Article 11*

*Inapplicability of political offence exception*

For the purposes of extradition or mutual legal assistance, none of the offences established in the international instruments listed in article 2 shall be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives. Accordingly, a request for extradition or mutual legal assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

*Article 12*

*Denial of refugee status*

Each State Party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has committed an offence established in the international instruments listed in article 2 of this Convention.

*Article 13*

*Denial of asylum*

Each State Party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that asylum is not granted to any person in respect of whom there are reasonable grounds to believe that he or she has committed an offence established in the international instruments listed in article 2 of this Convention.

*Article 14*

*Non discrimination*

None of the provisions of this Convention shall be interpreted as imposing an obligation to provide mutual legal assistance if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a

person on account of that person's race, religion, nationality, ethnic origin, or political opinion, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

*Article 15*

*Human rights*

1. The measures carried out by the States Parties under this Convention shall take place with full respect for the rule of law, human rights, and fundamental freedoms.

2. Nothing in this Convention shall be interpreted as affecting other rights and obligations of States and individuals under international law, in particular the Charter of the United Nations, the Charter of the Organization of American States, international humanitarian law, international human rights law, and international refugee law.

3. Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including the enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law.

*Article 16*

*Training*

1. The States Parties shall promote technical cooperation and training programs at the national, bilateral, subregional, and regional levels and in the framework of the Organization of American States to strengthen the national institutions responsible for compliance with the obligations assumed under this Convention.

2. The States Parties shall also promote, where appropriate, technical cooperation and training programs with other regional and international organizations conducting activities related to the purposes of this Convention.

*Article 17*

*Cooperation through the Organization of American States*

The States Parties shall encourage the broadest cooperation within the pertinent organs of the Organization of American States, including the Inter-American Committee against Terrorism (CICTE), on matters related to the object and purposes of this Convention.



*Article 18*

*Consultations among the Parties*

1. The States Parties shall hold periodic meetings of consultation, as appropriate, with a view to facilitating:

(a) The full implementation of this Convention, including the consideration of issues of interest relating thereto identified by the States Parties; and

(b) The exchange of information and experiences on effective means and methods to prevent, detect, investigate, and punish terrorism.

2. The Secretary General shall convene a meeting of consultation of the States Parties after receiving the 10th instrument of ratification. Without prejudice to this, the States Parties may hold consultations as they consider appropriate.

3. The States Parties may request the pertinent organs of the Organization of American States, including CICTE, to facilitate the consultations referred to in the previous paragraphs and to provide other forms of assistance with respect to the implementation of this Convention.

*Article 19*

*Exercise of jurisdiction*

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions that are exclusively reserved to the authorities of that other State Party by its domestic law.

*Article 20*

*Depositary*

The original instrument of this Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States.

*Article 21*

*Signature and ratification*

1. This Convention is open for signature by all Member States of the Organization of American States.

2. This Convention is subject to ratification by the signatory States in accordance with their respective constitutional procedures. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

*Article 22*

*Entry into force*

1. This Convention shall enter into force on the 30th day following the date of deposit of the sixth instrument of ratification of the Convention with the General Secretariat of the Organization of American States.

2. For each State ratifying the Convention after deposit of the sixth instrument of ratification, the Convention shall enter into force on the 30th day following the deposit by such State of its instrument of ratification.

*Article 23*

*Denunciation*

1. Any State Party may denounce this Convention by written notification to the Secretary General of the Organization of American States. Denunciation shall take effect one year following the date on which notification is received by the Secretary General of the Organization.

2. Such denunciation shall not affect any requests for information or assistance made during the time the Convention is in force for the denouncing State.

## ORGANIZATION OF THE BLACK SEA ECONOMIC COOPERATION (BSEC)

### **38. Additional Protocol on Combating Terrorism to the Agreement among the Governments of the Black Sea Economic Cooperation Organization Participating States on Cooperation in Combating Crime, in particular in its Organized Forms**

*Signed in Athens on 3 December 2004*

*Entry into force: In accordance with article 15 of the additional protocol*

*Depositary: Permanent International Secretariat of the Black Sea  
Economic Cooperation*

#### *Preamble*

*The Governments of the Organization of the Black Sea Economic Cooperation (BSEC) Member States: the Republic of Albania, the Republic of Armenia, the Republic of Azerbaijan, the Republic of Bulgaria, Georgia, the Hellenic Republic, the Republic of Moldova, Romania, the Russian Federation, Serbia and Montenegro, the Republic of Turkey, Ukraine hereinafter referred to as “The Parties”;*

*Being Contracting Parties to the Agreement among the Governments of the Black Sea Economic Cooperation Participating States on Cooperation in Combating Crime, in particular in its Organized Forms, signed in Kerkyra on October 2nd 1998, called shortly “the BSEC Agreement”;*

*Following the provisions of the BSEC Charter, the Istanbul Decennial Summit Declaration, the Statement of the Fifth Meeting of the Council of Ministers of Foreign Affairs of the BSEC Member States, dated October 26th 2001, as well as the Statement of the Council of Ministers of Foreign Affairs of the BSEC Member States on the BSEC Contribution to Security and Stability, dated June 25th 2004, which severely condemn international terrorism as a global threat to peace and security;*

*Conscious that terrorism in all its forms and manifestations poses a serious threat to international peace and security, political, economic and social stability of the Parties, to their territorial integrity and safety of the BSEC Member States, as well as to the development of friendly*

and good neighborhood relations and bilateral and multilateral cooperation between the States of the Black Sea Region;

*Taking into consideration* the provisions of the United Nations documents on combating terrorism and fully supporting the Security Council resolutions in this field, in particular resolution 1373; Underlining that the fight against terrorism must be conducted in full respect of the rule of law and human rights; Confirming their unambiguous support to the universal principles of international law; Have agreed upon the following:

#### *Article 1*

For the aims of the present Additional Protocol terrorism means those crimes stipulated in the United Nations Conventions and Protocols on combating terrorism.

#### *Article 2*

The Parties shall cooperate for the prevention, detection, suppression, disclosure and investigation of acts of terrorism on the basis of the BSEC Agreement and the present Additional Protocol, and in accordance with the internal legislation, as well as with the international commitments of their States.

#### *Article 3*

1. The Parties shall determine their competent authority(ies) and/or contact point(s) through which direct communication is ensured.

2. Each Party shall submit to the Depositary a list of the names and coordinates of its competent authority(ies) and contact point(s) within a two-month period following the entry into force of the present Additional Protocol for that Party. The Parties shall inform the Depositary of any changes in this list.

#### *Article 4*

1. In order to implement the present Additional Protocol, the Parties shall interact in accordance with article 5 of the BSEC Agreement and the Additional Protocol to the BSEC Agreement, done in Kyiv on 15 March 2002.

2. If necessary, the Parties may set up urgent communication lines, conduct regular or extraordinary meetings and consultations.

*Article 5*

Within the framework of the BSEC Agreement and the present Additional Protocol the Parties shall exchange information of mutual interest, in particular to:

- (a) Acts of terrorism planned and directed against state leadership, persons being under international protection, members of the diplomatic missions and consulates, officials of international inter-governmental organizations, against participants of state visits, as well as of national/international events and against other officials and civilians;
- (b) Terrorist organizations, groups and persons posing threat to the security of their States, as well as contacts between such terrorist organizations, groups and persons;
- (c) Terrorist attempts and actions aimed against the sovereignty and territorial integrity of the Parties' States;
- (d) Acts of terrorism and threats of committing such acts in the territory of the Parties States, against economic, technological and ecological units and facilities of vital importance;
- (e) Terrorist organizations and groups acting in the territory of the Parties States, their tactics and methods, leaders, members, as well as to the persons involved in and/or supporting the activities of such groups or organizations;
- (f) Organizations and institutions supporting terrorism, mechanisms, extensions and directions of such support;
- (g) Illicit trafficking of weapons, including ammunition, explosive substances and devices, nuclear and radioactive materials and sources, chemical and biological weapons and their components, committed by organized criminal groupings and persons, channels used for their illegal transportation through the territory of the Parties' States;
- (h) Detected and suspected sources and channels of financial, logistical or other kinds of material support to terrorist organizations and groups;
- (i) Practice and legislation on counter-terrorism.

*Article 6*

The Parties shall work out and conduct close cooperation, in particular to:

- (a) Suppression of the preparation and perpetration of acts of terrorism, as well as of the providing to terrorists with any form of support, including financial;

- (b) Deny safe havens to those who finance, plan, support or commit acts of terrorism;
- (c) Disclosure and suppression of the places where training of terrorists, planning and preparing of acts of terrorism are conducted, if the concrete evidences are submitted;
- (d) Prevention of the movement and suppression of travel routes of terrorists and terrorist groups;
- (e) Detection and identification of the structures used by terrorist groups or organizations for covering their activities;
- (f) Prevention, disclosure and suppression of financial support, delivery of weapons and ammunitions, explosive substances and devices, nuclear and radioactive materials and sources, chemical and biological weapons and their components as well as granting any assistance to any persons and organizations for planning, preparing and committing acts of terrorism. The Parties shall notify each other of the results of the cooperative actions.

#### *Article 7*

The Parties shall take all the necessary measures to prevent preparation of acts of terrorism in the territory of their own states, when those acts of terrorism are to be committed in the territory of the States of the other Parties, as well as to deny asylum to those who have planned, facilitated or participated in the perpetration of acts of terrorism.

#### *Article 8*

The Parties may cooperate to enhance the implementation of the present Additional Protocol in the following forms:

- (a) Education, training and skill enhancement of personnel;
- (b) Exchange of information and experiences concerning the use of scientific and technological methods for criminal researches;
- (c) Conducting joint trainings, seminars consultations and scientific researches;
- (d) Exchange of relevant internal legislation, analytical and statistical data;
- (e) And other forms provided for in the BSEC Agreement.

#### *Article 9*

1. The information and documents obtained under the present Additional Protocol shall be afforded the same degree of confidentiality by the requesting Party that applies to similar information of the requested Party.

2. The information and documents obtained under the present Additional Protocol as well as information on methods of investigation and tactics of applying of special equipment or/and materials shall not be transmitted to a third party without the prior authorization of the providing Party.

3. The information or results of the compliance with the request obtained from another Party on basis of the present Additional Protocol may not be used for purposes other than those they were requested or submitted for without prior authorization in writing of the providing Party.

4. Delivery and protection of classified information shall be conducted by the Parties in accordance with their national legislation and/or relevant international agreements.

5. Without prejudice to the relevant international commitments of the BSEC Member States—parties to the BSEC Agreement and to the present Additional Protocol, personal data received under the present Additional Protocol will have protection at least equivalent to that afforded by the supplying Party.

#### *Article 10*

Each Party shall independently bear expenses arising in the course of the implementation of the present Additional Protocol, unless mutually decided otherwise in each particular case.

#### *Article 11*

In order to ensure the cooperation in the framework of the present Additional Protocol, the Parties shall use the English language during the written procedure, the English and Russian language in the oral procedure, unless the Parties have mutually agreed otherwise.

#### *Article 12*

1. The implementation of the present Additional Protocol is subject to the legislation of the State of each Party.

2. The present Additional Protocol shall not hinder the other international obligations of the States of the Parties.

3. Disputable questions which may arise in connection with the interpretation or implementation of the present Additional Protocol shall be resolved by the Parties concerned, through consultations and negotiations, according to the relevant rules of international law.

#### *Article 13*

1. The BSEC Permanent International Secretariat (PERMIS) shall be the Depository of the present Additional Protocol.

2. The original of the present Additional Protocol in a single copy in the English language shall be deposited with the BSEC PERMIS, which shall transmit a certified copy to each Party.

3. The BSEC PERMIS shall inform the BSEC Member States of:

- (a) Each act of signature;
- (b) The submission of each instrument of ratification, acceptance, approval or accession;
- (c) Each date of entry of the present Additional Protocol into force in accordance with article 15 of the present Additional Protocol;
- (d) Any other act or document of notification related to the present Additional Protocol.

#### *Article 14*

1. The present Additional Protocol shall be open for signature by any BSEC Member State.

2. The Party which has signed the present Additional Protocol may not become party to it, if it does not become party to the BSEC Agreement.

3. The present Additional Protocol is subject to ratification, acceptance, approval or accession.

4. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

#### *Article 15*

1. The present Additional Protocol shall enter into force on the thirtieth day following the date on which the third instrument of ratification, acceptance, approval or accession is deposited with the BSEC PERMIS.

2. For each Party, which ratifies, accepts, approves or accedes to the present Additional Protocol after the date of its entry into force, the present Additional Protocol shall enter into force on the thirtieth day after the date of the deposit by that Party of its respective instruments.

#### *Article 16*

1. Each Party may propose amendments to the present Additional Protocol.

2. Such amendments shall be accepted upon the consent of all the Parties and shall enter into force in accordance with paragraphs 3 and 4 of article 14 and with article 15 of the present Additional Protocol.

#### *Article 17*

Each party may withdraw from or denounce of the present Additional Protocol by formal notification to the BSEC PERMIS. The withdrawal or



denunciation shall take effect within three months after the date on which the withdrawal or denunciation notification is received by the BSEC PERMIS.

IN WITNESS THEREOF, the undersigned, being duly authorized to that effect, have signed the present Additional Protocol.

DONE in Athens/Greece on this third day of December two thousand four in a single copy in English language.

## ORGANIZATION OF ISLAMIC COOPERATION

### 39. Convention of the Organization of the Islamic Conference on Combating International Terrorism<sup>4</sup>

*Adopted at Ouagadougou on 1 July 1999*

*In force on 7 November 2002*

*Depositary: General Secretariat of the Organization of the Islamic Cooperation*

*The Member States of the Organization of the Islamic Conference,*

*Pursuant to the tenets of the tolerant Islamic Sharia which reject all forms of violence and terrorism, and in particular especially those based on extremism and call for protection of human rights, which provisions are paralleled by the principles and rules of international law founded on cooperation between peoples for the establishment of peace;*

*Abiding by the lofty, moral and religious principles particularly the provisions of the Islamic Sharia as well as the human heritage of the Islamic Ummah;*

*Adhering to the Charter of the Organization of the Islamic Conference, its objectives and principles aimed at creating an appropriate atmosphere to strengthen cooperation and understanding among Islamic States as well as relevant OIC resolutions;*

*Adhering to the principles of International Law and the United Nations Charter as well as all relevant UN resolutions on procedures aimed at eliminating international terrorism, and all other conventions and international instruments to which States acceding to this Convention are parties and which call, *inter alia*, for the observance of the sovereignty, stability, territorial integrity, political independence and security of States, and non-intervention in their international affairs;*

*Proceeding from the rules of the Code of Conduct of the Organization of Islamic Conference for Combating International Terrorism;*

*Desiring to promote cooperation among them for combating terrorist crimes that threaten the security and stability of the Islamic States and endanger their vital interests;*

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<sup>4</sup> Adopted when the OIC was the Organization of the Islamic Conference.

*Being committed* to combating all forms and manifestations of terrorism and eliminating its objectives and causes which target the lives and properties of people;

*Confirming* the legitimacy of the right of peoples to struggle against foreign occupation and colonialist and racist regimes by all means, including armed struggle to liberate their territories and attain their rights to self-determination and independence in compliance with the purposes and principles of the Charter and resolutions of the United Nations;

*Believing* that terrorism constitutes a gross violation of human rights, in particular the right to freedom and security, as well as an obstacle to the free functioning of institutions and socio-economic development, as it aims at destabilizing States;

*Convinced* that terrorism cannot be justified in any way, and that it should therefore be unambiguously condemned in all its forms and manifestations, and all its actions, means and practices, whatever its origin, causes or purposes, including direct or indirect actions of States;

*Recognizing* the growing links between terrorism and organized crime, including illicit trafficking in arms, narcotics, human beings and money-laundering;

*Have agreed* to conclude this Convention, calling on all Member States of the Organization of the Islamic Conference to accede to it.

## PART I. DEFINITION AND GENERAL PROVISIONS

### *Article 1*

For the purposes of this Convention:

1. “Contracting State” or “Contracting Party” means every Member State in the Organization of the Islamic Conference that has ratified or adhered to this Convention and deposited its instruments of ratification or adherence with the General Secretariat of the Organization.

2. “Terrorism” means any act of violence or threat thereof notwithstanding its motives or intentions perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperilling their lives, honour, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource, or international facilities, or threatening the stability, territorial integrity, political unity or sovereignty of independent States.

3. “Terrorist Crime” means any crime executed, started or participated in to realize a terrorist objective in any of the Contracting

States or against its nationals, assets or interests or foreign facilities and nationals residing in its territory punishable by its internal law.

4. Crimes stipulated in the following conventions are also considered terrorist crimes with the exception of those excluded by the legislations of Contracting States or those who have not ratified them:

(a) Convention on Offences and Certain Other Acts Committed on Board of Aircrafts (Tokyo, 14 September 1963).

(b) Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 16 December 1970).

(c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed, at Montreal on 23 September 1971 and its Protocol (Montreal, 10 December 1984).

(d) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents" (New York, 14 December 1973).

(e) International Convention against the Taking of Hostages (New York, 1979).

(f) UN Convention on the Law of the Sea of 1982 and its related provisions on piracy at sea.

(g) Convention on the Physical Protection of Nuclear Material (Vienna, 1979).

(h) 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 (Montreal, 1988).

(i) Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf (Rome, 1988).

(j) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988).

(k) International Convention for the Suppression of Terrorist Bombings (New York, 1997).

(l) Convention on the Marking of Plastic Explosives for the Purposes of Detection (Montreal, 1991).

#### Article 2

A. Peoples' struggle including armed struggle against foreign occupation, aggression, colonialism and hegemony, aimed at liberation and self-determination in accordance with the principles of international law, shall not be considered a terrorist crime.

B. None of the terrorist crimes mentioned in the previous article shall be considered political crimes.

C. In the implementation of the provisions of this Convention the following crimes shall not be considered political crimes even when politically motivated:

1. Aggression against kings and heads of State of Contracting States or against their spouses, their ascendants or descendants.
2. Aggression against crown princes or vice-presidents or deputy heads of government or ministers in any of the Contracting States.
3. Aggression against persons enjoying international immunity including Ambassadors and diplomats in Contracting States or in countries of accreditation.
4. Murder or robbery by force against individuals or authorities or means of transport and communications.
5. Acts of sabotage and destruction of public properties and properties geared for public services, even if belonging to another Contracting State.
6. Crimes of manufacturing, smuggling or possessing arms and ammunition or explosives or other materials prepared for committing terrorist crimes.

D. All forms of international crimes, including illegal trafficking in narcotics and human beings and money-laundering aimed at financing terrorist objectives shall be considered terrorist crimes.

## PART II. FOUNDATIONS OF ISLAMIC COOPERATION FOR COMBATING TERRORISM

### CHAPTER I. IN THE FIELD OF SECURITY

#### Division I. Measures to prevent and combat terrorist crimes

##### *Article 3*

I. The Contracting States are committed not to execute, initiate or participate in any form in organizing or financing or committing or instigating or supporting terrorist acts whether directly or indirectly.

II. Committed to prevent and combat terrorist crimes in conformity with the provisions of this Convention and their respective domestic rules and regulations, the Contracting States shall see to:

##### *(A) Preventive measures:*

1. Barring their territories from being used as an arena for planning, organizing, executing terrorist crimes or initiating or participating in these crimes in any form; including preventing the infiltration of terrorist elements or their gaining refuge or residence therein

individually or collectively, or receiving hosting, training, arming, financing or extending any facilities to them.

2. Cooperating and coordinating with the rest of the Contracting States, particularly neighbouring countries which suffer from similar or common terrorist crimes.

3. Developing and strengthening systems relating to detecting transportation, importing, exporting, stockpiling, and using of weapons, ammunition and explosives as well as other means of aggression, killing and destruction in addition to strengthening trans-border and custom controls in order to intercept their transfer from one Contracting State to another or to other States unless they are intended for specific legitimate purposes.

4. Developing and strengthening systems related to surveillance procedures, securing borders, and land, sea and air passages in order to prevent infiltration through them.

5. Strengthening systems for ensuring the safety and protection of personalities, vital installations and means of public transport.

6. Re-enforcing protection, security and safety of diplomatic and consular persons and missions; and regional and international organizations accredited in the Contracting State in accordance with the conventions and rules of international law which govern this subject.

7. Promoting security intelligence activities and coordinating them with the intelligence activities of each Contracting State pursuant to their respective intelligence policies, aimed at exposing the objectives of terrorist groups and organizations, thwarting their designs and revealing the extent of their danger to security and stability.

8. Establishing a database by each Contracting State to collect and analyse data on terrorist elements, groups, movements and organizations and monitor developments of the phenomenon of terrorism and successful experiences in combating it. Moreover, the Contracting State shall update this information and exchange it with competent authorities in other Contracting States within the limits of the laws and regulations in every State.

9. To take all necessary measures to eliminate and prevent the establishment of webs supporting all kinds of terrorist crimes.

*(B) Combating measures:*

1. Arresting perpetrators of terrorist crimes and prosecuting them according to the national law or extraditing them in accordance with the provisions of this Convention or existing Conventions between the requesting and requested States.

2. Ensuring effective protection of persons working in the field of criminal justice as well as to witnesses and investigators.
3. Ensuring effective protection of information sources and witnesses on terrorist crimes.
4. Extending necessary assistance to victims of terrorism.
5. Establishing effective cooperation between the concerned organs in the Contracting States and the citizens for combating terrorism including extending appropriate guarantees and appropriate incentives to encourage informing on terrorist acts and submitting information to help uncover them and cooperating in arresting the perpetrators.

## **Division II. Areas of Islamic cooperation for preventing and combating terrorist crimes**

### *Article 4*

Contracting States shall cooperate among themselves to prevent and combat terrorist crimes in accordance with the respective laws and regulations of each State in the following areas:

#### *I. Exchange of information*

1. Contracting States shall undertake to promote exchange of information among them as such regarding:
  - (a) Activities and crimes committed by terrorist groups, their leaders, their elements, their headquarters, training, means and sources that provide finance and weapons, types of arms, ammunition and explosives utilized as well as other ways and means to attack, kill and destroy.
  - (b) Means of communications and propaganda utilized by terrorist groups, how they act, movement of their leaders, their elements and their travel documents.
2. Contracting States shall expeditiously inform any other Contracting State regarding available information about any terrorist crime perpetrated in its territory aimed at undermining the interests of that State or its nationals and to state the facts surrounding the crime in terms of its circumstances, criminals involved, victims, losses, devices and methods utilized to carry out the crime, without prejudicing investigation and inquiry requisites.
3. Contracting States shall exchange information with the other Parties to combat terrorist crimes and to inform the Contracting State or other States of all available information or data that could prevent terrorist crimes within its territory or against its nationals or residents or interests.
4. The Contracting States shall provide any other Contracting State with available information or data that will:

(a) Assist in arresting those accused of committing a terrorist crime against the interests of that country or being implicated in such acts either by assistance, collusion, instigation or financing.

(b) Contribute to confiscating any arms, weapons, explosives, devices or funds spent or meant to be spent to commit a terrorist crime.

5. The Contracting States undertake to respect the confidentiality of information exchanged between them and shall refrain from passing it to any non-Contracting States or other parties without prior consent of the source country.

## II. Investigation

Each Contracting State pledges to promote cooperation with other Contracting States and to extend assistance in the field of investigation procedures in terms of arresting escaped suspects or those convicted for terrorist crimes in accordance with the laws and regulations of each country.

## III. Exchange of expertise

1. Contracting States shall cooperate with each other to undertake and exchange studies and researches on combating terrorist crimes as well as exchange of expertise in this field.

2. Contracting States shall cooperate within the scope of their capabilities to provide available technical assistance for preparing programmes or holding joint training sessions with one or more Contracting States if the need arises for personnel required in the field of combating terrorism in order to improve their scientific and practical potential and upgrade their performance standards.

## IV. Education and information field

The Contracting States shall cooperate in:

1. Promoting information activities and supporting the mass media in order to confront the vicious campaign against Islam, by projecting the true image of tolerance of Islam, and exposing the designs and danger of terrorist groups against the stability and security of Islamic States.

2. Including the noble human values, which proscribe the practice of terrorism in the educational curricula of Contracting States.

3. Supporting efforts aimed at keeping abreast of the age by introducing an advanced Islamic thought based on *ijtihad* by which Islam is distinguished.



CHAPTER II. IN THE JUDICIAL FIELD

Section I. Extraditing criminals

*Article 5*

Contracting States shall undertake to extradite those indicted or convicted of terrorist crimes, requested for extradition by any of these countries in compliance with the rules and conditions stipulated in this Convention.

*Article 6*

Extradition shall not be permissible in the following cases:

1. If the Crime for which extradition is requested is deemed by the laws enforced in the requested Contracting State as one of a political nature and without prejudice to the provisions of article 2, paragraphs 2 and 3, of this Convention for which extradition is requested.

2. If the Crime for which extradition is sought relates solely to a dereliction of military obligations.

3. If the Crime for which extradition is requested was committed in the territory of the requested Contracting State, unless this crime has undermined the interests of the requesting Contracting State and its laws stipulate that the perpetrators of those crimes shall be prosecuted and punished providing that the requested country has not commenced investigation or trial.

4. If the Crime has been the subject of a final sentence which has the force of law in the requested Contracting State.

5. If the action at the time of the extradition request elapsed or the penalty prescribed in accordance with the law in the Contracting State requesting extradition.

6. Crimes committed outside the territory of the requesting Contracting State by a person who was not its national and the law of the requested Contracting State does not prosecute such a crime if perpetrated outside its territory by such a person.

7. If pardon was granted and included the perpetrators of these crimes in the requesting Contracting State.

8. If the legal system of the requested State does not permit extradition of its national, then it shall be obliged to prosecute whosoever commits a terrorist crime if the act is punishable in both States by a freedom-restraining sentence for a minimum period of one year or more. The nationality of the person requested for extradition shall be determined according to the date of the crime, taking into account the investigation undertaken in this respect by the requesting State.

*Article 7*

If the person requested for extradition is under investigation or trial for another crime in the requested State, his extradition shall be postponed until the investigation is disposed of or the trial is over and the punishment implemented. In this case, the requested State shall extradite him provisionally for investigation or trial on condition that he shall be returned to it before execution of the sentence issued in the requested State.

*Article 8*

For the purpose of extraditing crime perpetrators according to this Convention, the domestic legislations of Contracting States shall not have any bearing as to their differences with respect to the crime being classified as a felony or misdemeanour, nor as to the penalty prescribed for it.

**Section II. Rogatory commission**

*Article 9*

Each Contracting State shall request from any other Contracting State to undertake in its territory rogatory action with respect to any judicial procedures concerning an action involving a terrorist crime and in particular:

1. To hear witnesses and testimonies taken as evidence.
2. To communicate legal documents.
3. To implement inquiry and detention procedures.
4. To undertake on-the-scene inspection and analyse evidence.
5. To obtain necessary evidence or documents or records or their certified copies.

*Article 10*

Each Contracting State shall implement rogatory commissions related to terrorist crimes and may reject the request for implementation with respect to the following cases:

1. If the crime for which the request is made is the subject of a charge, investigation or trial in the country requested to implement rogatory commission.
2. If the implementation of the request prejudices the sovereignty or the security or public order of the country charged with this mission.

*Article 11*

The request for a rogatory commission shall be implemented promptly in accordance with the provisions of the domestic laws of the requested State and which may postpone its implementation until its investigation and prosecution procedures are completed on the same subject or until the compelling reasons that called for postponement are removed. In this case the requesting State shall be informed of this postponement.

*Article 12*

The request for a rogatory commission related to a terrorist crime shall not be refused on the grounds of the rule of transaction confidentiality for banks and financial institutions. And in the implementation of the request the rules of the enforcing State are to be followed.

*Article 13*

The procedure, undertaken through a rogatory commission in accordance with the provisions of this Convention, shall have the same legal effect as if it was brought before the competent authority in the State requesting the rogatory commission. The results of its implementation shall only be utilized within the scope of the rogatory commission.

**Section III. Judicial cooperation**

*Article 14*

Each Contracting State shall extend to the other contracting parties every possible assistance as may be necessary for investigation or trial proceedings related to terrorist crimes.

*Article 15*

1. If judicial competence accrues to one of the Contracting States for the prosecution of a subject accused of a terrorist crime, this State may request the country which hosts the suspect to prosecute him for this crime subject to the host country's consent and providing the crime is punishable in that country by a freedom restraining sentence for at least one year or by a more severe sanction. In such a case the requesting State shall pass all investigation documents and evidence related to the crime to the requested State.

2. Investigation or trial shall be conducted on the grounds of the case or cases brought by the requesting State against the accused in accordance with the legal provisions and procedures of the country holding the trial.

*Article 16*

The request for trial on the basis of paragraph (1) of the previous article entails the suspension of procedures of prosecution, investigation and trial in the territory of the requesting State except those relating to the requisites of cooperation, assistance or rogatory commission sought by the State requested to hold the trial procedures.

*Article 17*

1. Procedures undertaken in either of the two States, the requesting State or the one where the trial is held shall be subject to the law of the country where the procedure is executed and which shall have legal pre-eminence as may be stipulated in its legislation.

2. The requesting State shall not bring to trial or retrial the accused subject unless the requested State refuses to prosecute him.

3. In all cases, the State requested to hold trial shall inform the requesting country of its action with respect to the request for trial and shall communicate to it the results of its investigations or trial proceedings.

*Article 18*

The State requested to hold trial may undertake all measures and procedures stipulated by its legislation regarding the accused both before and after the request for trial is received.

**Section IV. Seized assets and proceeds of the crime**

*Article 19*

1. If the extradition of a subject is decided, the Contracting State shall hand over to the requesting State the assets and proceeds seized, used or related to the terrorist crime, found in the possession of the wanted subject or with a third party.

2. The material mentioned in the previous item shall be handed over even if the accused has not been extradited either due to his escape, death or any other reason after ensuring that these were connected with the terrorist crime.

3. The provisions contained in the two previous items shall not prejudice the rights of any of the Contracting States or bona fide third parties with respect to the above-mentioned assets and proceeds.

*Article 20*

The State requested to hand over the assets and proceeds may undertake all necessary custodial measures and procedures for the implementation of its obligation. It may also retain them provisionally if required for

penal action implemented therein or hand them to the requesting State on condition that they shall be returned for the same purpose.

## Section V. Exchange of evidence

### *Article 21*

A Contracting State shall see to it that the evidence and effects of any terrorist crime committed on its territory against another Contracting State are examined by its competent organs and may seek assistance to that end from any other Contracting State. Moreover, it shall take every necessary step to safeguard the evidence and proof of their legal relevance. It may communicate, if requested, the result to the country whose interests were targeted by the crime. The State or States which have assisted in this case shall not pass this information to others.

## PART III. MECHANISM FOR IMPLEMENTING COOPERATION

### CHAPTER I. EXTRADITION PROCEDURES

#### *Article 22*

The exchange of extradition requests between Contracting States shall be undertaken directly through diplomatic channels or through their Ministries of Justice or their substitute.

#### *Article 23*

A request for extradition shall be submitted in writing and shall include:

1. The original or an authenticated copy of the indictment, arrest order or any other instruments of identical weight issued in line with the conditions stipulated in the requesting State's legislation.
2. A statement of the acts for which extradition is sought specifying the dates and places where these acts were committed and their legal implications along with reference to the legal articles under which they fall as well as a copy of these articles.
3. Description, in as much detail as possible, of the subject wanted for extradition and any other information such as to determine his identity and nationality.

#### *Article 24*

1. The judicial authorities in the requesting State may approach the requested State by any channel of written communication and seek the preventive arrest of the wanted subject pending the arrival of the extradition request.

2. In this case, the requested State may effect the preventive arrest of the wanted subject. However, if the request for extradition is not submitted together with the necessary documents listed in the above article, the subject whose extradition is sought may not be detained for more than thirty days as of the day of his arrest.

*Article 25*

The requesting State shall send a request together with the documents listed in article 23 of this Convention. If the requested State accepts the request as valid, its competent authorities shall implement it in accordance with its legislation and shall promptly notify the requesting State of the action undertaken.

*Article 26*

1. In all cases stipulated in the two articles above, preventive detention shall not exceed sixty days after the date of arrest.

2. Temporary release may be effected during the period stipulated in the previous article and the requested State shall take appropriate measures to ensure that the wanted subject does not escape.

3. Release shall not prevent the re-arrest of the subject and his extradition if it was requested after his release.

*Article 27*

If the requested State requires additional clarification to ascertain the conditions stipulated in this chapter, it shall notify the requesting State thereof and fix a date for provision of such clarifications.

*Article 28*

If the requested State received a number of extradition requests from various countries related to the same or diverse acts, this State shall decide upon these requests bearing in mind the circumstances and in particular the possibility of subsequent extradition, date of receiving the requests, degree of the danger of the crime and where it was committed.

CHAPTER II. MEASURES FOR ROGATORY COMMISSIONS

*Article 29*

Rogatory Commission requests must specify the following:

1. The competent authority that issued the request.
2. Subject of the request and its reason.

3. The identity and nationality of the person being the subject of the rogatory commission (as may be possible).

4. Information on the crime requiring the rogatory commission, its legal definition and penalty inflicted on its perpetrators along with maximum available information on its circumstances in order to ensure the efficient implementation of the rogatory commission.

*Article 30*

1. The request for rogatory commission shall be forwarded by the Ministry of Justice in the requesting State to the Ministry of Justice in the requested State and returned in the same way.

2. In case of expediency, the request for rogatory commission shall be directly forwarded by the judicial authorities in the requesting State to the judicial authorities in the requested State. A copy of this rogatory commission shall also be sent at the same time to the Ministry of Justice in the requested State. The rogatory commission shall be returned together with the papers concerning its implementation in the way stipulated in the previous item.

3. The request for rogatory commission may be forwarded directly from the judicial authorities to the competent authority in the requested country. Answers may be sent directly through the said authority.

*Article 31*

Requests for rogatory commission and accompanying documents shall be signed or stamped with the seal of a competent authority or that authorized by it. These documents shall be exempted from all formal procedures that could be required by the legislation of the requested State.

*Article 32*

If the authority that received the request for rogatory commission was not competent enough to deal with it, it shall automatically transfer it to the competent authority in its country. If the request is forwarded directly, the answer shall reach the requesting State in the same manner.

*Article 33*

Any refusal for rogatory commission shall be explained.

CHAPTER III. MEASURES FOR PROTECTING WITNESSES AND EXPERTS

*Article 34*

If the requesting State deems that the appearance of the witness or expert before its judicial authorities is of special importance, reference thereto shall be made in its request. The request or summons shall include an approximate statement in terms of compensation, travel expenses, accommodation and commitment to make these payments. The requested State shall invite the witness or expert and inform the requesting State about his/her reply.

*Article 35*

1. No penalty nor coercive measure may be inflicted upon the witness or expert who does not comply with the summons even if the writ provides for such a penalty.

2. If the witness or expert arrives voluntarily to the territory of the requesting State, he shall be summoned according to the provisions of the internal legislation of this State.

*Article 36*

1. A witness or expert may not be subjected to trial, detained or have his freedom restricted in the territory of the requesting State, for acts or court rulings that preceded his departure for the requesting State, irrespective of his nationality, as long as his appearance before the judicial authorities of the said State is based on a summons.

2. No witness or expert, whatever his nationality, appearing before the judiciary of the State in question on the basis of a summons, may be prosecuted or detained or have his freedom restricted in any way on the requesting State's territory for other acts or court decisions not mentioned in the summons and predating his departure from the State from which he is requested.

3. The immunity privileges stated in this article shall become invalid if a witness or expert remains on the requesting State's territories for over thirty consecutive days despite his ability to return once his presence was no longer requested by the judiciary, or if he returns to the requesting State's territories after his departure.

*Article 37*

1. The requesting State shall undertake all necessary measures to ensure the protection of a witness or expert from publicity that could endanger him, his family or his property as a result of his testimony and in particular:



(a) To ensure confidentiality of the date and place of his arrival as well as the means involved.

(b) To ensure confidentiality of his accommodation, movements and locations where he may be found.

(c) To ensure confidentiality of the testimony and information given to the competent judicial authorities.

2. The requesting State shall provide necessary security required by the condition of the witness or expert and of his family, and circumstances of the case and types of expected risks.

#### *Article 38*

1. If the witness or expert who is summoned to the requesting State is imprisoned in the requested State, he shall be provisionally transferred to the location of the hearing at which he is to testify according to conditions and times determined by the requested State.

2. Transfer may be denied:

(a) If the witness or expert refuses.

(b) If his presence is necessary for undertaking criminal procedures in the territory of the requested State.

(c) If his transfer would prolong his imprisonment.

(d) If there are considerations militating against his transfer.

3. The transferred witness or expert shall remain in detention in the territory of the requesting State until he is repatriated to the requested State unless the latter requests his release.

### **Section IV. Final provisions**

#### *Article 39*

This Convention shall be ratified, or adhered to, by the Signatory States and the instruments of ratification or accession shall be deposited with the General Secretariat of the Organization of the Islamic Conference not exceeding a period of thirty days as of the date of ratification or accession. The General Secretariat shall inform all Member States about any deposition and date of such instruments.

#### *Article 40*

1. This Convention shall enter into force thirty days after the deposit of the seventh instrument of ratification or accession at the OIC General Secretariat.

2. This Convention shall not be applicable to any other Islamic State until it deposits its instruments of ratification or accession with the

General Secretariat of the Organization of the Islamic Conference and after a period of thirty days of the date of deposition.

*Article 41*

It is not permissible for any Contracting State to make any reservations, explicitly or implicitly in conflict with the provisions of this Convention or deviating from its objectives.

*Article 42*

1. A Contracting State shall not withdraw from this Convention except by a written request to the Secretary General of the Organization of the Islamic Conference.

2. Withdrawal shall be effective six months after the date of sending the request to the Secretary General.

This Convention has been written in English, Arabic and French of equal authenticity, of one original deposited with the General Secretariat of the Organization of the Islamic Conference which shall have it registered at the United Nations Organization, in accordance with the provisions of Article 102 of its Charter. The General Secretariat shall communicate approved copies thereof to the Member States of the Organization of the Islamic Conference.

## SHANGHAI COOPERATION ORGANIZATION

### 40. **Shanghai Convention on Combating Terrorism, Separatism and Extremism**

*Adopted in Shanghai on 15 June 2001*

*In force on 29 March 2003*

*Depositary: People's Republic of China*

*The People's Republic of China, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan (hereinafter called the Parties),*

*Guided* by the purposes and principles of the Charter of the United Nations, particularly with regard to the maintenance of international peace and security and the development of friendly relations and cooperation among States,

*Considering* that terrorism, separatism and extremism constitute a threat to international peace and security, the development of friendly relations among States and the enjoyment of fundamental human rights and freedoms,

*Recognizing* that these phenomena seriously threaten the territorial integrity and security of the Parties as well as their political, economic and social stability,

*Guided* by the principles of the Almaty Joint Statement of 3 July 1998, the Bishkek Declaration of 25 August 1999, the Dushanbe Declaration of 5 July 2000 and the Declaration on the Establishment of the Shanghai Cooperation Organization of 15 June 2001,

*Firmly convinced* that terrorism, separatism and extremism as defined in this Convention cannot be justified under any circumstances, regardless of their motives, and that perpetrators of such acts should be held criminally responsible under the law,

*Convinced* that joint efforts by the Parties within the framework of this Convention constitute an effective form of combating terrorism, separatism and extremism,

*Have agreed as follows:*

#### *Article 1*

1. For the purposes of this Convention, the terms used herein shall have the following meanings:

- (1) "Terrorism" means:
  - (a) Any act recognized as an offence in one of the treaties listed in the Annex to this Convention (hereinafter the Annex) and as defined in that treaty;
  - (b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, or to cause significant damage to any physical object, as well as the organization, planning, abetting or incitement of such an act, when the purpose of the act, by its nature or context, is to intimidate a population, disrupt public security or compel the authorities or an international organization to carry out or abstain from carrying out an act, and subject to criminal prosecution under the national legislation of the Parties;
- (2) "Separatism" means any act intended to violate the territorial integrity of a State, including by the secession of part of its territory, or the disintegration of a State carried out by force, as well as the planning, preparation, abetting or incitement of such an act, and subject to criminal prosecution under the national legislation of the Parties;
- (3) "Extremism" means any act intended to seize or retain power by force, bring about a change of the constitutional order of a State by force, as well as the undermining of public security by force, including the organization, for the above-mentioned purposes, of illegal armed groups or participation therein, and subject to criminal prosecution under the national legislation of the Parties.

2. This article shall be without prejudice to any international agreement or any national legislation of the Parties that contains or may contain provisions permitting a broader application of the terms used in this article.

### *Article 2*

1. The Parties, in accordance with this Convention and other international obligations, and taking into account their national legislation, shall cooperate in the prevention, detection and suppression of the acts referred to in article 1, paragraph 1, of this Convention.

2. In their mutual relations the Parties shall consider the acts referred to in article 1, paragraph 1, of this Convention to be extraditable offences.

3. In the application of this Convention in matters relating to extradition and the provision of legal assistance in criminal matters, the

Parties shall cooperate in accordance with the international treaties to which they are parties and with the national legislation of the Parties.

*Article 3*

The Parties shall take such measures as may be necessary, including, where appropriate, in the area of national legislation, to ensure that the acts referred to in article 1, paragraph 1, of this Convention are in no circumstances justifiable by considerations of a solely political, philosophical, ideological, racial, ethnic, religious or other similar nature, and are punished consistent with the degree of their gravity.

*Article 4*

1. Within 60 days of notification of the Depositary that the State's internal procedures required for the entry into force of this Convention have been completed, the Parties shall provide the Depositary, through diplomatic channels, with a written list of their competent central authorities responsible for the implementation of this Convention, which the Depositary shall transmit to the other Parties.

2. The central authorities having competence for questions related to the implementation of the provisions of this Convention shall communicate and interact with each other directly.

3. In the event of any amendments to the list of competent central authorities of any Party, that Party shall notify the Depositary, who shall bring this information to the attention of the other Parties.

*Article 5*

The Parties may, by mutual agreement, hold consultations and exchanges of views and harmonize their positions on questions relating to combating the acts referred to in article 1, paragraph 1, of this Convention, including within international organizations and international forums.

*Article 6*

The competent central authorities of the Parties shall, in accordance with this Convention, cooperate with and assist each other through:

- (1) Exchanges of information;
- (2) Carrying out requests concerning operational searches;
- (3) The elaboration and implementation of agreed measures for the prevention, detection and suppression of the acts referred to in article 1, paragraph 1, of this Convention, and informing each other of the outcome of their implementation;

- (4) The implementation of measures for the prevention, detection and suppression within the territory of their respective States of acts referred to in article 1, paragraph 1, of this Convention that are directed against other Parties;
- (5) The implementation of measures for the prevention, detection and suppression of the financing, supplying with weapons and ammunition or the provision of any type of assistance to any person and/or organization for the perpetration of the acts referred to in article 1, paragraph 1, of this Convention;
- (6) The implementation of measures for the prevention, detection, suppression, prohibition and cessation of activities relating to the training of persons to carry out the acts referred to in article 1, paragraph 1, of this Convention;
- (7) Exchanges of regulatory legal instruments and materials relating to their practical implementation;
- (8) Exchanges of experience in the prevention, detection and suppression of the acts referred to in article 1, paragraph 1, of this Convention;
- (9) Various forms of training and retraining and upgrading of the skills of their specialists;
- (10) Agreeing upon mutual consent of the Parties, on other forms of cooperation, including, if necessary, the provision of practical assistance in suppressing the acts referred to in article 1, paragraph 1, of this Convention and in eliminating their consequences. Such agreements shall take the form of appropriate protocols, which shall form an integral part of this Convention.

#### *Article 7*

The competent central authorities of the Parties shall exchange information of mutual interest, in particular, on:

- (1) Acts referred to in article 1, paragraph 1, of this Convention that have been planned or perpetrated and attempts to commit such acts that have been detected or suppressed;
- (2) Preparations to commit acts referred to in article 1, paragraph 1, of this Convention that are directed against heads of State or other statesmen, the staff of diplomatic missions, consular posts and international organizations as well as other persons under international protection and participants in State visits, international and national political, sports and other events;
- (3) Organizations, groups and persons preparing and/or perpetrating the acts referred to in article 1, paragraph 1, of this Convention or otherwise participating in such acts, including their purposes, objectives, links and other information;

- (4) The illicit manufacture, procurement, storage, transfer, movement, disposal of or use of highly toxic and poisonous substances, explosives, radioactive materials, weapons, explosive devices, firearms, ammunition, nuclear, chemical, biological or other types of weapons of mass destruction, and materials and equipment that may be used for their production, for the purpose of perpetrating the acts referred to in article 1, paragraph 1, of this Convention;
- (5) Identified or suspected sources of financing for the acts referred to in article 1, paragraph 1, of this Convention;
- (6) Forms, methods and means of perpetrating the acts referred to in article 1, paragraph 1, of this Convention.

#### *Article 8*

1. Cooperation among the competent central authorities of the Parties within the framework of this Convention shall be carried out bilaterally or multilaterally on the basis of a request for assistance or by so informing upon the initiative of the competent central authorities of one of the Parties.

2. Requests or information shall be submitted in writing. In urgent situations, requests or information may be transmitted orally, but within 72 hours they must be confirmed in writing, with the use of technical means of text transmission where necessary.

Should there be any doubts as to the authenticity of a request or information or the contents thereof, further confirmation or clarification of the documents may be requested.

3. A request must contain:

- (a) The name of the requesting and requested competent central authorities;
- (b) The purposes of and grounds for the request;
- (c) A description of the assistance requested;
- (d) Other information that may facilitate the timely and proper fulfilment of the request;
- (e) An indication of the degree of confidentiality, as necessary.

4. Requests or information submitted in writing shall be signed by the head of the competent central authority making the request or by his or her deputies, or shall be certified by the seal of that authority.

5. Requests and accompanying documents as well as information shall be submitted by the competent central authority in one of the working languages referred to in article 15 of this Convention.

*Article 9*

1. The requested competent central authority shall take all necessary measures to ensure that the request is carried out promptly and as fully as possible, and shall report the outcome of its consideration within the shortest time possible.

2. The requesting competent central authority shall be promptly informed of any circumstances that may prevent or significantly delay fulfilment of the request.

3. If the fulfilment of a request does not fall within the competence of the requested competent central authority, that authority shall transmit the request to another competent central authority of the same State having competence to fulfil the request, and shall without delay notify the requesting competent central authority accordingly.

4. The requested competent central authority may request any additional information it deems necessary for fulfilment of the request.

5. Requests shall be fulfilled applying the legislation of the requested Party. At the request of the requesting competent central authority, the legislation of the requesting Party may be applied if this does not contravene the fundamental principles of the legislation or international obligations of the requested Party.

6. Fulfilment of a request may be deferred or denied in full or in part if the requested competent central authority considers that such fulfilment may be detrimental to the sovereignty, security, public order or other vital State interests or contravenes the legislation or international obligations of the requested Party.

7. Fulfilment of a request may be denied if the act in connection with which the request was made does not constitute an offence under the legislation of the requested Party.

8. If, in accordance with paragraphs 6 or 7 of this article, fulfilment of a request is denied in full or in part or is deferred, the requesting competent central authorities shall be so notified in writing.

*Article 10*

The Parties shall conclude separate agreements and shall adopt other necessary documents with a view to establishing and ensuring the functioning of a regional anti-terrorist mechanism of the Parties, located at Bishkek, for combating effectively the acts referred to in article 1, paragraph 1, of this Convention.



*Article 11*

1. For the purposes of the implementation of this Convention, the competent central authorities of the Parties may establish emergency communication lines and hold regular and extraordinary meetings.

2. For the purposes of the implementation of this Convention, the Parties may where necessary provide each other with technical and material assistance.

3. Materials, special resources, equipment and technology received by one Party from another Party under this Convention shall not be transferred without the prior written consent of the providing Party.

4. Information relating to methods for the conduct of operational searches and particulars of special forces, resources and materials used by the competent central authorities of the Parties in providing assistance within the framework of this Convention shall not be disclosed.

*Article 12*

The competent central authorities of the Parties may conclude agreements with each other regulating in greater detail procedures for the implementation of this Convention.

*Article 13*

1. Each Party shall ensure the confidentiality of information and documentation received if they are of a confidential nature or if the transmitting Party considers their disclosure to be undesirable. The degree of confidentiality of information and documents shall be determined by the transmitting Party.

2. Information or the results of implementation of a request received under this Convention may not be used for any purposes other than those for which they were requested or provided without the written consent of the providing Party.

3. Information and documents received by one Party from another Party under this Convention may not be transferred without the prior written consent of the providing Party.

*Article 14*

The Parties shall independently bear the costs associated with their implementation of this Convention, unless otherwise agreed.

*Article 15*

The working languages to be used by the competent central authorities of the Parties in their cooperation under this Convention shall be the Chinese and Russian languages.

*Article 16*

This Convention shall not restrict the right of the Parties to conclude other international agreements on matters that are the subject of this Convention and do not run counter to its purposes and object, nor shall it affect the rights and duties of States deriving from any other international agreements to which they are a party.

*Article 17*

Any disputes that may arise concerning the interpretation or application of this Convention shall be settled through consultations and negotiations between the Parties concerned.

*Article 18*

1. The Depositary for this Convention shall be the People's Republic of China. An official copy of this Convention shall be transmitted by the Depositary to the other Parties within 15 days of its signature.

2. This Convention shall enter into force on the thirtieth day following the receipt by the Depositary of the last of the notifications in writing from the People's Republic of China, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan of their completion of the internal procedures required for its entry into force.

*Article 19*

1. Following the entry into force of this Convention, other States may, subject to the consent of all the other Parties, become parties hereto.

2. This Convention shall enter into force for each acceding State on the thirtieth day following the receipt by the Depositary of that State's notification in writing of its completion of the State's internal procedures required for entry into force of this Convention. On that date, acceding States shall become Parties to this Convention.

*Article 20*

1. Amendments and additions may, with the consent of the Parties, be made to the text of this Convention in the form of Protocols, which shall constitute an integral part hereof.

2. Any Party may withdraw from this Convention by notifying the Depositary in writing of its intention to do so 12 months in advance of the date of its anticipated withdrawal. The Depositary shall inform the other Parties of this intention within 30 days of its receipt of the notification of withdrawal.

*Article 21*

1. When transmitting its notification of the completion of the State's internal procedures required for entry of this Convention into force, a Party that has not acceded to one of the treaties listed in the Annex may declare that this Convention shall apply to that Party as though that treaty were not included in the Annex. This declaration shall cease to have effect after the Depositary is notified that that treaty has entered into force for that Party.

2. When a Party ceases to be a party to one of the treaties listed in the Annex, it shall make a declaration as provided for in paragraph 1 of this article.

3. The Annex may be supplemented by treaties that meet the following conditions:

- (1) They are open for signature by all States;
- (2) They have entered into force;
- (3) They have been ratified, accepted, approved or acceded to by no fewer than three Parties to this Convention.

4. Following the entry into force of this Convention, any State may propose an amendment to the Annex. Such a proposal shall be submitted to the Depositary in writing. The Depositary shall notify the other Parties of all proposals meeting the requirements set out in paragraph 3 of this article and shall seek their views as to whether the proposed amendment should be adopted.

5. The proposed amendment shall be considered adopted and shall enter into force for all Parties 180 days after the Depositary has circulated it, except when one third of the Parties notifies the Depositary in writing of their objections thereto.

DONE at Shanghai on 15 June 2001, in one original copy in the Chinese and Russian languages, both texts being equally authentic.

ANNEX I

1. Convention for the Suppression of Unlawful Seizure of Aircraft, The Hague, 16 December 1970.

2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 23 September 1971.

3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the United Nations General Assembly on 14 December 1973.

4. International Convention against the Taking of Hostages, adopted by the United Nations General Assembly on 17 December 1979.

5. Convention on the Physical Protection of Nuclear Material, Vienna, 3 March 1980.

6. 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, Montreal, 24 February 1988.

7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Rome, 10 March 1988.

8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, Rome, 10 March 1988.

9. International Convention for the Suppression of Terrorist Bombings, adopted by the United Nations General Assembly on 15 December 1977.

10. International Convention for the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on 9 December 1999.

## 41. Shanghai Cooperation Organization Convention against Terrorism

*Adopted in Yekaterinburg, on 16 June 2009*

*Entry into force: In accordance with article 31*

*Depositary: Secretariat of the Shanghai Cooperation Organization.*

*The member States of the Shanghai Cooperation Organization (SCO),*

*Deeply concerned* by the escalation of terrorism, which threatens international peace and security, the territorial integrity of States and the development of friendly relations between States, as well as fundamental human rights and freedoms,

*Guided* by the purposes and principles of the Charter of the United Nations and the Charter of the Shanghai Cooperation Organization of 7 June 2002,

*Pursuant* to the provisions of the Shanghai Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001 and the Concept of Cooperation between SCO Member States on Combating Terrorism, Separatism, and Extremism of 5 July 2005,

*Recognizing* that there can be no justification for the offences covered by this Convention and that individuals and legal entities perpetrating and (or) complicit in such acts must be held accountable,

*Taking into account* the evolving scope and nature of terrorist acts and the importance of revitalizing cooperation in this regard,

*Understanding* the need to strengthen counter-terrorism efforts, and reaffirming that all measures taken to prevent and combat terrorism must respect the rule of law, democratic values, fundamental human rights and freedoms, and the precepts of international law,

*Convinced* that counter-terrorism can only be successful through joint efforts,

*Have agreed as follows:*

### *Article 1*

The primary aim of this Convention is to promote effective cooperation in counter-terrorism.

### *Article 2*

1. For the purposes of this Convention:

1. “Party” means a State party to this Convention;

2. "Terrorism" means an ideology of violence, and the practice of exerting influence on the decisions of governments or international organizations by threatening or committing violent and (or) other criminal acts intended to intimidate the population and cause injury to individuals, society or the State;
3. "Terrorist act" means any act designed to intimidate the population, endanger human life and health, and cause significant property damage, ecological disaster or other grave consequence in order to achieve political, religious, ideological or other ends by influencing the decisions taken by governments or international organizations, or the threat of committing such acts;
4. "Terrorist organization" means:
  - (a) A criminal organization, illegal armed group, gang or criminal association that is formed with the intent to commit, and (or) commits an offence covered by this Convention; or
  - (b) A legal entity in the name of which, at the behest of which, or on behalf of which any one of the offences covered by this Convention is planned, organized, facilitated or perpetrated;
5. "Legal entity" means an organization established and operating in the manner prescribed by the domestic law of the Parties.
2. This article is without prejudice to any international instrument or national legislation which provides or may provide for a broader application of the terms contained in this article.

### Article 3

This Convention shall apply in cases where detection, prevention, and investigation of offences covered herein involve the jurisdiction of more than one Party.

### Article 4

The Parties shall exercise their rights and obligations under this Convention in a manner consistent with the principles of sovereign equality, territorial integrity of States, and non-intervention in the internal affairs of other States.

### Article 5

1. Each Party shall take the necessary measures to establish its jurisdiction over the offences covered by this Convention when:
  1. The offence is committed in the territory of that Party;
  2. The offence is committed on board a vessel flying the flag of that Party or an aircraft registered under the laws of that Party;

3. The offence is committed by a national of that Party.
2. Each Party may also establish its jurisdiction over offences covered by this Convention when:
  1. The offence was directed towards or resulted in the commission of a terrorist act inside the territory or against a national of that Party;
  2. When the offence was directed towards or resulted in the commission of a terrorist act against a Party's facility abroad, including its diplomatic missions or consular premises;
  3. When the offence was directed towards or resulted in the commission of a terrorist act in an attempt to compel that Party to do or abstain from doing any act;
  4. When the offence is committed by a stateless person who has his or her habitual residence in the territory of that Party;
  5. When the offence is committed on board a vessel operated by that Party.
3. Each Party shall take such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention in cases where the alleged offender is present in its territory and it does not extradite that person to any of the Parties.
4. This Convention does not preclude the exercise of any criminal jurisdiction established by a Party under its domestic law.
5. When more than one Party claims jurisdiction over an alleged offence covered by this Convention, the Parties involved shall hold consultations as appropriate, with a view to determining the most appropriate jurisdiction.

#### *Article 6*

1. The cooperation provided for in this Convention shall be facilitated by competent authorities designated by each Party.
2. On depositing its instruments of ratification or accession to this Convention, each Party shall furnish the Depositary with a register of competent authorities charged with implementing this Convention, which the Depositary shall distribute to the other Parties. A Party shall immediately notify the Depositary of any changes to its register of authorities, of which the Depositary shall subsequently notify all other Parties.
3. Competent authorities exercising authority over matters provided for in this Convention shall cooperate directly, within the framework of their respective powers. Regional or other subsidiaries of such authorities may enter into direct contact for the purpose of implementing this Convention in a manner dictated by their respective authorities.
4. Cooperation between respective competent authorities shall be conducted in bilateral and multilateral formats on the basis of a request

for assistance or as exchange of intelligence at the initiative of a particular authority.

5. Diplomatic channels and channels of the International Criminal Police Organization or of the Executive Committee of the Regional Counter-Terrorism Structure of the Shanghai Cooperation Organization may be used for purposes of cooperation.

*Article 7*

1. The Parties shall encourage interreligious and intercultural dialogue, involving, where necessary, non-governmental organizations and other civil society institutions, subject to domestic law, to defuse tensions that may lead to the commission of offences covered by this Convention.

2. Each Party shall develop and implement counter-terrorism policies at the national level, in accordance with the fundamental principles of its legal framework, which may include:

1. Periodic reviews of the effectiveness of counter-terrorism laws and practical measures;
2. Cooperation with relevant international and regional organizations in developing and implementing counter-terrorism measures, including exercises to suppress terrorist acts;
3. The creation of a central authority to coordinate the counter-terrorism activities of competent authorities;
4. Professional training for the staff of law enforcement or other bodies engaged in counter-terrorism activities, and providing appropriate financial, material, and other support for such activities;
5. Payment of due compensation to individuals who provide assistance to State authorities in the prevention and suppression of offences covered by this Convention, and the identification of persons who have committed or are preparing to commit such offences;
6. Legislative definition of restrictions that may be introduced with a view to preventing terrorist acts;
7. Improved protection of individuals and facilities, achieved notably by promoting effective cooperation between law enforcement agencies and relevant legal entities, as well as by introducing standards to enhance the security of individuals and facilities;
8. Protection for victims, witnesses, and other participants in criminal proceedings relating to counter-terrorism, as well as, where necessary, for other relevant persons;
9. Establishment and implementation of criteria for identifying individuals or legal entities complicit in the commission of offences covered by this Convention;



10. Provision of sufficient opportunities for legal entities to assist the state in preventing or detecting offences covered by this Convention, or plots to commit such offences, at their facilities;
  11. Assistance for non-governmental organizations, groups, and private individuals in countering terrorism and promoting non-acceptance of terrorism in society;
  12. Public education regarding the dangers and negative effects of terrorism, as well as the legal consequences of offences covered by this Convention;
  13. Provision of opportunities for the public to notify State authorities, anonymously where appropriate, of any activity that may qualify as an offence covered by this Convention.
3. Parties may adopt stricter measures than those provided for by this Convention.

#### *Article 8*

Each Party shall adopt the necessary legislative or other measures, in accordance with its domestic legal principles, to counter the financing of terrorism which include, *inter alia*:

1. Collection and keeping of records of clients and financial transactions;
2. Reporting to the competent authorities of all suspicious or unreasonable operations and transactions;
3. Freezing of unlawful, suspicious or unreasonable financial transactions at the behest of law enforcement or other agencies designated by the Party;
4. Furnishing of information and documents at the request of a court, a prosecutor's office, investigative or other authorized agencies.

#### *Article 9*

1. Each Party shall adopt the necessary legislative measures to establish as criminal offences the following premeditated acts:
  1. Terrorist acts;
  2. Any act recognized as an offence by any international counter-terrorism treaty to which all the Parties are signatories;
  3. Formation and use of a legal entity for the purpose of planning, organizing, facilitating, or committing any one of the offences covered by subparagraphs 1, 2, and 4–10 of this paragraph, or forming a criminal organization, an illegal armed group or gang, or entering into a conspiracy for the same purpose;

4. Public calls to terrorism or public justification of terrorism, that is, the dissemination of any appeal to the public for the purpose of inciting the commission of any one of the offences covered by subparagraphs 1–3 and 5–10 of this paragraph, or public declarations calling for the support and emulation of terrorism;
  5. Recruitment or other means of soliciting another person to participate in the planning or commission of any one of the offences covered by subparagraphs 1–4 and 6–10 of this paragraph;
  6. Training another person to commit or assist in the commission of any one of the offences covered by subparagraphs 1–5 and 7–10 of this paragraph;
  7. Participation in a terrorist organization;
  8. Financing of terrorism, that is, either collection or provision of funds or financial services in the knowledge that they are to be used for planning, organizing or committing any one of the offences covered by subparagraphs 1–7, 9 and 10 of this paragraph, or supporting the activities of a terrorist organization;
  9. Furnishing another person with weapons, explosive substances, or other means of committing offences covered by subparagraphs 1–8 and 10 of this paragraph;
  10. Providing shelter, financial assistance, or assistance in fleeing justice to individuals suspected of or charged with committing any of the offences covered by subparagraphs 1–9 of this paragraph, or giving false testimony on their behalf.
2. A Party may also establish as criminal offences, in accordance with its domestic legal principles, the acts of knowingly harbouring, transporting, purchasing or brokering the purchase of property belonging to individuals suspected of or charged with committing any of the offences covered by paragraph 1 of this article.
3. Acts covered by subparagraphs 3–10 of paragraph 1 of this article are considered offences regardless of whether a terrorist act was actually committed or whether the person recruited and (or) trained was aware of the terrorist nature of his actions.
4. The Parties are likewise obligated to adopt the necessary legislative measures to establish as criminal offences any and all acts of assisting in, planning or attempting to commit any of the offences covered by paragraph 1 of this article.

#### *Article 10*

1. The Parties shall adopt the necessary legislative or other measures, in accordance with its domestic legal principles, to prevent the complicity in any offence covered by this Convention of any legal entity located in their territory.

2. Each Party shall adopt such measures as may be necessary to establish the liability of a legal entity in cases where it is complicit in any one of the offences covered by this Convention.

3. Legal entities may bear criminal, civil or administrative liability, in accordance with a Party's domestic legal principles.

4. Establishing the liability of a legal entity does not preclude criminal liability for persons participating in its activities who have committed offences covered by this Convention.

5. The Parties shall ensure that the following measures are applied with respect to legal entities complicit in offences covered by this Convention:

1. Warning;
2. Fine;
3. Confiscation of property of a legal entity;
4. Suspension of activities of a legal entity;
5. Prohibiting specific types of activities of a legal entity;
6. Liquidation of a legal entity.

6. The Parties shall adopt legislative measures allowing for the designation of a legal entity as a terrorist organization and its liquidation by order of a court or of another authority authorized by domestic law, in cases where the legal entity engages in planning, organizing, facilitating or committing actions that constitute any one of the offences covered by this Convention. These same measures may be applied in cases where planning, organization, facilitation or commission of offences covered by this Convention is carried out by an individual responsible for administering a legal entity with respect to its rights and obligations.

7. The provisions of this article extend to cases where subsidiaries (representative offices or branches) of foreign legal entities, operating in the territory of a Party, are found to be complicit in offences covered by this Convention.

#### *Article 11*

1. The offences covered by this Convention shall be deemed by the Parties to be extraditable offences, subject to the transfer of sentenced persons and provision of legal assistance.

2. The offences described in this Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

3. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another

Party with which it has no extradition treaty, the requested Party shall consider this Convention as a legal basis for extradition in respect of the offences covered by this Convention. Extradition shall be subject to other conditions provided for by the law of the requested State.

4. Parties which do not make extradition conditional on the existence of a treaty shall recognize offences covered by this Convention as extraditable offences, subject to the conditions provided by the law of the requested Party.

5. In cases where the principle of dual criminality must be observed with respect to extradition or legal assistance, this principle shall be deemed observed irrespective of whether the laws of the requested Party place the relevant act within the same category of offences or describe it in the same terms as the requesting Party, if the act in question is deemed to be criminally punishable under the domestic law of both Parties.

6. For the purposes of extradition, offences covered by this Convention shall be treated as if they had been committed in the territory of the Parties that have established jurisdiction in accordance with article 5 of this Convention, irrespective of where the offences actually occurred.

7. The definition of offences covered by this Convention and the legal basis establishing liability of legal entities complicit in commission thereof shall be within the scope of the national law of the Parties.

8. A person convicted of any one of the offences covered by this Convention, may be transferred, with that person's consent, for the serving of his sentence, to the Party of which that person is a national, in accordance with an existing treaty or mutual accord, at the request of the prosecuting Party or the Party of which that person is a national.

9. The Party in the territory of which the individual who has committed any one of the offences covered by this Convention is present, if it does not extradite that person solely on the grounds that that person is its national, shall be obliged to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that Party.

#### *Article 12*

1. The competent authorities of the Parties, upon request or on their own initiative, shall exchange information (documents, materials, or other information) regarding issues covered by this Convention for the purpose of preventing or countering terrorism.

2. All information indicated in paragraph 1 of this article shall be furnished upon request from a competent authority of the requesting Party on condition that it will not be transmitted to anyone without the prior written consent of a competent authority of the requested Party.

3. The Parties' competent authorities shall not disclose information concerning a request or its contents, and shall use it solely for the purpose of complying with the request, if agreed to by the competent authorities of the requesting Party, and shall also maintain the confidentiality of the information provided by the requested Party and use it only to the extent necessary for investigation and court proceedings, or to carry out procedures provided for by the request.

*Article 13*

1. A request shall be fulfilled in accordance with this Convention and the laws of the requested Party.

2. When a request is fulfilled the laws of the requesting Party may be applied, at that Party's request, except as dictated otherwise by the laws of the requested Party. The application of the laws of the requesting Party must not impair the sovereignty and national security of the requested Party.

*Article 14*

1. The request shall be made in writing and must contain:

1. The names of the competent authorities of the requesting and requested Parties;

2. The subject matter and grounds for the request;

3. The substance of the case, including such facts (time, place and circumstances of commission) in connection with which the search operations, investigation or court proceedings are being conducted;

4. The text of the relevant laws or, where not possible, summaries of their provisions, as well as a statement that the requested measure or any other measure leading to analogous results may be undertaken in the territory of the requesting Party in accordance with its laws;

5. An indication of the degree of restricted access, if necessary.

2. A request to impose sanctions on a legal entity must contain, in addition to items indicated in paragraph 1 of this article, the following:

1. Name of the legal entity, information concerning its location, legal address, and leadership;

2. List of the sanctions;

3. Statement of concrete actions requested by the requesting Party;

4. Information on property subject to seizure or confiscation (its location, connection to the offence in question, as well as any available information on the claims of other persons to that property);

5. A certified copy of the decision of a court or another competent authority of the requesting Party and a summary of the grounds for that decision;
6. A summary of the facts constituting the basis for the request, which facts must be sufficient for the requested Party to make its decision in accordance with its laws.
3. In cases where a request is made to question persons suspected or accused of a crime, it must be accompanied by certified copies of the necessary documents related to the case in question.
4. The requested Party shall inform the requesting Party no later than 30 days from the date a request is received, unless otherwise agreed in each specific instance:
  1. Of any actions undertaken with respect to the request and their outcome;
  2. Of any circumstances that prevent or will substantially delay the fulfilment of the request.
5. The requesting Party shall immediately inform the requested Party of the following:
  1. A reversed decision or any other circumstances in consequence of which the decision to impose sanctions upon a legal entity is partially or wholly voided;
  2. Any changes which render any action dictated by this Convention unwarranted.
6. A Party petitioning for sanctions against a legal entity from several Parties on the basis of the same decision shall inform all Parties interested in the fulfilment of this decision.

#### Article 15

1. The competent authorities of each Party shall fulfil a request for:
  1. Extradition of a person to stand trial or serve a sentence imposed by a court;
  2. Search operations;
  3. Specific procedural acts, *inter alia*:
    - (a) Soliciting of expert reports;
    - (b) Interrogation of suspects, accused persons, witnesses, victims or other persons;
    - (c) Searches or seizures;
    - (d) Transmittal of material evidence;
    - (e) Seizure of property;
    - (f) Serving or forwarding of documents;
    - (g) Other actions within the scope of their competency;

4. Provision of evidence;
5. Imposition of sanctions against legal entities;
6. Location of persons suspected of committing any one of the offences covered by this Convention;
7. Location of property subject to confiscation;
8. Taking action with respect to any other circumstances and issues within the purview of this Convention.

*Article 16*

1. A request shall be signed by the head of a competent authority of the requesting Party or by a surrogate, and (or) must bear the seal of that authority.

2. Urgent requests may be transmitted orally, but any such request and the necessary documents must be transmitted in writing no later than 72 hours thereafter, by electronic means where necessary.

3. In cases where the authenticity of a request or its contents is in doubt, confirmation or clarification may be requested.

4. In cases where multiple requests on the same matter are received in accordance with the provisions of this Convention, the requested Party shall determine which request is to be given priority.

5. In cases where the requested Party's competent authority is not authorized to fulfil a request, it shall without delay submit the request to another Government authority, and without delay notify the competent authority of the requesting Party.

6. The competent authority of the requested Party may request additional information that it considers necessary to fulfil the request.

*Article 17*

1. A competent authority of the requested Party may postpone action on a request if such action may impede its search operations, investigation or court proceedings.

2. A competent authority of the requested Party may refuse a request if it threatens the sovereignty or national security of the requested Party or contravenes its laws.

3. Before postponing action or refusing a request, a competent authority of the requested Party shall consult, where necessary, with the competent authority of the requesting Party which had filed the request.

4. In cases where a request is postponed or refused, a competent authority of the requested Party shall without delay inform the initiator of the request, stating its reasons for the decision.

*Article 18*

1. A Party conducting a criminal investigation of persons suspected or accused of committing offences covered by this Convention, if it ascertains that such persons are present in the territory of another Party may, upon receiving permission from that Party's competent authorities, dispatch its agents to the territory of the requested Party to assist in search operations or investigation.

2. Agents of the requesting Party may assist in search operations or investigation on the territory of the requested Party in accordance with the laws of the requested Party and the international treaties to which the Parties are signatories.

3. The requested Party shall establish the procedures for granting permission to agents of the requesting Party to assist in search operations and investigation in response to a request filed in accordance with articles 14–18 of this Convention.

4. In cases where agents of competent authorities are dispatched to assist in search operations or investigation, a request for their participation must include the following:

1. The agents' personal information;
2. The purpose of travel, a list of search and investigative activities, a statement of the time frame and manner in which they are to be conducted;
3. In cases where vehicles are used: types of vehicle used, number of vehicles and registration information for each vehicle;
4. Any other information as necessary.

5. The competent authority of the requested Party shall make a decision within five days from the date a request is received and inform the requesting Party without delay. Any decision may include conditions imposed by the requested Party's competent authority.

6. In cases where a request for permission does not conform to requirements indicated in paragraph 4 of this article, or is in some way incomplete, the competent authority of the requested Party may request additional information.

7. Agents of the requesting Party's competent authorities deployed in the territory of the requested Party in accordance with established procedures shall abide by the laws of the host Party and by any other conditions governing their mission.

8. Agents of the requesting Party's competent authorities assisting in search operations or investigation in the territory of the requested Party conducted by agents of the requested Party's competent authorities are obligated:

1. To comply with the laws of the Party in whose territory they are present and to abide by the legal requirements of the host Party's authorities;



2. To furnish the requested Party with any information they receive.
9. Participation in search operations or investigation shall be terminated without delay on the request of the competent authority of the party in whose territory they are being conducted.
10. Parties may conclude separate agreements concerning any provisions stated in this article.

*Article 19*

Evidence collected by the requested Party's competent authorities in the course of fulfilling a request in accordance with its laws shall carry the same evidentiary force in the territory of the requesting Party.

*Article 20*

1. When executing a decision on the confiscation of property of private persons or legal entities complicit in the commission of offences covered by this Convention, the requested Party shall recognize any and all legal decisions rendered by the requesting Party concerning the rights of a third party.
2. Such recognition may be refused in any of the following instances:
  1. If the third party was not given sufficient opportunity to provide notification of its rights;
  2. If the third party provides unambiguous and reasonable notification of their rights;
  3. If the decision contradicts a decision already rendered by the requested Party on the same issue;
  4. If the decision contravenes the laws of the requested Party;
  5. If the decision was rendered contrary to provisions concerning exclusive jurisdiction provided for by the laws of the Requested Party.

*Article 21*

1. Documents submitted in accordance with this Convention shall be exempt from all certification formalities.
2. Documents issued in the territory of one of the Parties or certified by a competent authority or by a specially authorized person in due form and within the scope of his competence and bearing a seal shall be recognized by all other Parties without any special certification.
3. Documents recognized as official by one of the Parties shall have the probative value of official documents in the territories of other Parties.

Article 22

1. Authorities competent in matters covered by this Convention may direct official documents concerning any person or legal entity, located in the territory of another Party, through diplomatic channels or other means, as well as through the competent authorities of another Party.

2. Authorities competent in matters covered by this Convention, shall provide mutual assistance in serving official documents on persons or legal entities.

Article 23

The Parties shall take the necessary measures to prevent the granting of refugee status and corresponding documents to persons complicit in offences covered by this Convention.

Article 24

1. A Party shall take the necessary measures at the request of another Party to ensure the liability of a legal entity complicit in offences covered by this Convention, *inter alia*:

1. Seizure of property that may subsequently be subject to confiscation;
2. Suspension (freezing) of financial transactions;
3. Suspension of certain kinds of activities of a legal entity (radio and television broadcasts, print or online publications).

2. All measures covered by paragraph 1 of this article shall be carried out in accordance with the laws of the requested Party and this Convention.

3. Prior to the lifting of any measure provided for by this Convention, the requested Party shall furnish the requesting Party with the opportunity to voice its arguments in support of that measure.

Article 25

1. A Party receiving a request connected with the imposition of sanctions on a legal entity (or its subsidiary) complicit in the commission of any of the offences covered by this Convention which is located, possesses property, or conducts activity in its territory shall either:

1. Execute the decision of a court or another competent authority of the requesting Party concerning requested sanctions; or
2. Initiate an inquiry in accordance with its laws concerning the imposition of such sanctions on the basis of facts and conclusions provided in the requesting Party's decision.

2. Sanctions against a legal entity shall be imposed in accordance with the laws of the requested Party.

*Article 26*

With regard to confiscation, the Parties shall take the necessary measures, in accordance with their domestic law:

1. To seize funds, securities, valuables, weapons and their component (spare) parts, ammunition, explosive substances or any other property intended for use (or used) as a weapon to commit offences or for the financing of any one of the offences covered by this Convention;
2. To seize funds corresponding to the value of property, if such property as covered by paragraph 1 of this article may not be seized.

*Article 27*

1. A request for confiscation of property of persons or legal entities submitted in accordance with this Convention shall not affect the right of the requested Party to implement its own decision concerning the confiscation of the property of said persons or legal entities.

2. The total value of confiscated property may not exceed the amount indicated in the confiscation decision. If either Party believes that this may be the case, the Parties shall consult with a view to preventing such an outcome.

3. Any property of a legal entity liquidated in accordance with the provisions of this Convention remaining after creditors have been satisfied is also subject to confiscation.

4. Each Party in possession of confiscated property shall ensure the safety of any such property and administer it in accordance with its domestic law.

5. Confiscated property or funds of equal value may be transferred in part or in full, with the consent of Parties concerned, to the Party that rendered the confiscation decision.

*Article 28*

Each Party shall bear all expenses connected with its fulfillment of this Convention, unless otherwise agreed.

*Article 29*

1. In cases where a Party brings a suit for reparation of damages stemming from wrongful action or inaction in connection with cooperation in accordance with this Convention, the Parties shall consider the possibility of consultation with a view to reaching agreement on distribution of the amount to be paid as reparation.

2. A Party against which a suit for reparations is brought shall notify all interested Parties.

*Article 30*

The provisions of this Convention shall not limit the right of any Party to conclude other international treaties on issues addressed by this Convention which do not contravene its objectives or impinge on the rights and obligations of any Party dictated by any other international treaty to which it is a signatory.

*Article 31*

1. This Convention is concluded for an indefinite term.
2. This Convention is subject to ratification by its signatory States. The instruments of ratification shall be deposited with the Depository. This Convention shall enter into force on the thirtieth day following the date of the deposit of the fourth instrument of ratification.
3. For each Party ratifying this Convention after the deposit of the fourth instrument of ratification, the Convention shall enter into force on the thirtieth day after the deposit by such Party of its instrument of ratification.
4. The Depository for this Convention shall be the Secretariat of the Shanghai Cooperation Organization.

*Article 32*

1. With the consent of all member States of the Shanghai Cooperation Organization, this Convention shall be open for accession by any State that supports its provisions through notifying the Depository of its accession.
2. For each acceding State this Convention shall enter into force on the thirtieth day after the Depository receives notification of accession.

*Article 33*

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations.

*Article 34*

This Convention may be modified and any such changes, filed as separate documents, shall constitute an integral part thereof. Any Party may propose amendments or additions by communicating such a proposal to the Depository, who shall without delay submit it to all Parties for consideration.

*Article 35*

Any Party may withdraw from this Convention by notifying the Depository in writing at least six months prior to the date of anticipated withdrawal. The Depository shall notify all Parties of this intention within 30 days from the date it receives notification of withdrawal.

*Article 36*

Any dispute or disagreement which may arise between the Parties concerning the interpretation or application of the provisions of this Convention shall be settled through consultation and negotiation between the Parties concerned.

*Article 37*

1. For purposes of cooperation within the framework of this Convention the working languages shall be Chinese and Russian.

2. The original copy of this Convention shall be deposited with the Depository, who shall forward certified copies thereof to all signatory Parties.

DONE in Yekaterinburg, this sixteenth day of June 2009, in Chinese and Russian, both texts being equally authoritative, in a single original copy.

## 42. Convention of the Shanghai Cooperation Organization on combating Extremism

*Done at Astana, on 9 June 2017*

*Entry into force: In accordance with article 29*

*Depositary: Secretariat of the Shanghai Cooperation Organization.*

The Shanghai Cooperation Organization Member States,

Deeply concerned about the spread of extremism as a serious breeding ground for terrorism, which poses a threat to peace and security, the territorial integrity of States, the development of friendly relations among them, as well as to ensuring human rights and freedoms,

Guided by the goals and principles of the Charter of the United Nations and the Charter of the Shanghai Cooperation Organization of June 7, 2002,

Following up on the provisions of the Shanghai Convention on Combating Terrorism, Separatism and Extremism of June 15, 2001, the Concept of Cooperation between SCO Member States in Combating Terrorism, Separatism and Extremism of July 5, 2005, as well as of the UN Global Counter-Terrorism Strategy, the relevant counter-terrorism resolutions of the UN Security Council, universal counter-terrorism conventions and protocols,

Strongly condemning the ideology and practices of extremism in all its forms and manifestations and reaffirming the inadmissibility of public calls and incitement to extremism,

Recognizing that acts covered by this Convention can be justified under no circumstances and that persons responsible for the commitment of such acts must be held accountable,

Taking into account the scope and nature of extremist acts that pose danger to the population and the Shanghai Cooperation Organization Member States, as well as to the global community, and the importance of expanding cooperation in this area,

Understanding the need to step up efforts to counter extremism and reaffirming that all relevant efforts are to be made with respect for the rule of law, fundamental human rights and freedoms, as well as principles and norms of international law,

Particularly emphasizing the inadmissibility of violating the principles of sovereignty and equality of States, as well as of using extremism, which is a fertile ground for terrorism, as a tool to achieve political and geopolitical goals,

Recognizing that the crucial role in countering extremism and in any international cooperation in this area belongs to States and their competent authorities,

Aware of the fact that it is only through joint efforts in the framework of partnership relations that the international community can effectively combat extremism and, first and foremost, dangerous manifestations thereof,

*Have agreed as follows:*

*Article 1*

This Convention shall be concluded for the purpose of improving the efficiency of cooperation among the Parties in combating extremism.

*Article 2*

1. For the purposes of this Convention, the terms used therein shall mean as follows:

- (1) “Party”: a Member State of this Convention;
- (2) “extremism”: ideology and practices aimed at resolving political, social, racial, national and religious conflicts through violent and other unconstitutional actions;
- (3) “extremist act”:

acts provided for in article 1, paragraph 1, subparagraph 3 of the Shanghai Convention on Combating Terrorism, Separatism and Extremism of June 15, 2001;

organization of, and participation in an armed rebellion for extremist purposes;

creation, governance of an extremist organization, and participation in its activities;

instigation of political, social, racial, national and religious enmity or discord;

promotion of exclusiveness, superiority or inferiority of a person on the grounds of his or her political, social, racial, national and religious affiliation;

public calls to the above-mentioned acts;

mass issuance, storage and dissemination of extremist propaganda materials aimed at promoting extremism;

- (4) “financing of extremism”: deliberate raising and/or provision of funds, or provision of financial services with a view to financing activities aimed at organizing, preparing and committing at least one of the acts covered by this Convention, or at supporting activities of an extremist organization;

(5) “extremist materials”: information on any media designed for dissemination which contains extremist ideology or a call, substantiation or justification for the need to commit an extremist act;

(6) “extremist organization”:

an organized group that aims at committing offences covered by this Convention;

a public or faith-based association or other organization with regard to which a decision on liquidation and/or prohibition of activities in view of its extremist activities has been adopted and enacted on the grounds set by the Parties’ national legislations;

(7) “legal entity”: an organization that has been created and/or carries out its activities under a procedure established by the Parties’ national legislations;

(8) “acts covered by this Convention”: acts committed due to political, social, racial, national and religious enmity or discord (act or omission) that entail criminal, administrative or civil liability;

(9) “combating extremism”: efforts of the Parties aimed at protecting human and citizen’s rights and freedoms and fundamental principles of the constitutional order, ensuring the territorial integrity and national protection against extremism, preventing, identifying and suppressing extremism and addressing its consequences, as well as identifying and removing its underlying causes and enabling conditions.

2. This article shall be without prejudice to any international treaty or national legislation of any of the Parties which contain or may contain a provision on a wider application of terms and concepts used in this Article.

### *Article 3*

The Parties shall exercise their rights and honor their obligations under this Convention in accordance with the principles of sovereign equality, territorial integrity of States and non-interference in internal affairs of other States.

### *Article 4*

1. This Convention shall apply to ensure cooperation among the Parties in combating extremism.

2. The Parties shall cooperate in the area of legal assistance and tradition provided for in this Convention when offences covered by this Convention affect the jurisdiction of more than one Party.



*Article 5*

1. The Parties shall take necessary measures to establish their jurisdiction over offences covered by this Convention if:

- (1) the offence has been committed in the territory of this Party;
- (2) the offence has been committed on board a seagoing vessel under the flag of this Party or on board an aircraft registered in accordance with the laws of this Party;
- (3) the offence has been committed by a national of this Party.

2. Each Party can establish its jurisdiction over offences covered by this Convention if:

- (1) the offence has been committed against a national of this Party;
- (2) the offence has been committed against this Party's property abroad, including premises of diplomatic missions and consular offices;
- (3) the offence has been committed with the aim to compel this Party to take or abstain from taking certain actions;
- (4) the offence has been committed by a stateless person permanently residing in the territory of this Party;
- (5) the offence has been committed on board a seagoing vessel or aircraft used by this Party.

3. Each Party shall take such measures as may be necessary to establish its jurisdiction over offences covered by this Convention in case the alleged offender is present in its territory and it does not extradite such person to any of the States.

4. This Convention shall not exclude the exercise of any criminal jurisdiction in accordance with the national legislation of a Party.

5. If more than one Party claims jurisdiction over the offence covered by this Convention, the relevant Parties shall hold consultations when appropriate.

*Article 6*

1. Cooperation under this Convention shall be carried out by competent authorities determined by each of the Parties.

2. When depositing the instrument of ratification of this Convention or notification of accession to it, a Party shall provide the Depository with a list of its competent authorities responsible for the implementation of this Convention to be transmitted to the other Parties. The Parties shall immediately notify the Depository of any changes made to the list of their competent authorities, of which the Depository shall notify the other Parties.

3. The Parties' competent authorities that deal with issues covered by this Convention shall collaborate directly within their scope of competence. In order to implement this Convention, territorial and other offices of competent authorities of the Parties may establish direct contacts under a procedure defined by the Parties' competent authorities.

4. Competent authorities of the Parties shall collaborate in the bilateral and multilateral formats upon request, as well as by means of providing information on the initiative of a competent authority of one of the Parties.

5. Such process of collaboration can be carried out using diplomatic channels, channels established by the Executive Committee of the SCO Regional Counter-Terrorist Structure or those of the International Criminal Police Organization.

#### Article 7

1. The Parties shall promote inter-faith and inter-cultural dialogue to involve, where appropriate, non-governmental organizations and other civil society institutions with a view to preventing acts covered by this Convention, while ensuring compliance with national legislations.

2. Each Party, in accordance with the fundamental principles of its legal system, shall develop and implement national measures to combat extremism, which may include:

- (1) improving legislation on combating extremism, conducting periodic assessment of the effectiveness of regulations on combating extremism;
- (2) identifying an authority/authorities responsible for coordination of activities of the relevant counter-terrorist authorities of the Party;
- (3) enhancing border cooperation among the Parties with a view to preventing members of extremist organizations from penetrating the territories of the SCO Member States;
- (4) engaging with relevant international and regional organizations in the development and implementation of measures to combat extremism;
- (5) enhancing outreach efforts on the issues of combatting extremism and developing counter narratives to suppress the spread of extremist ideology, including in mass media and on the Internet;
- (6) monitoring mass media outlets and the Internet with a view to identifying in a timely manner and suppressing the spread of extremist ideology;
- (7) restricting access to extremist materials on information and telecommunication networks, including on the Internet;

(8) strengthening cultural traditions, spiritual, moral and patriotic education with a view to encouraging citizens to consciously confront extremism;

(9) building the capacity of competent and other authorities engaged in counteracting extremism, as well as providing financial, material and other support for the activities of those authorities and their officers;

(10) undertaking studies on combating extremism, including within international forums in which the Parties participate;

(11) ensuring protection of victims, witnesses and other participants in criminal proceedings, and, where appropriate, of persons assisting its competent authorities in prevention and suppression of offences covered by this Convention.

3. The Parties, in accordance with their national legislations, may take more stringent measures to combat extremism than those stipulated by this Convention.

#### *Article 8*

The Parties, with due consideration for the fundamental principles of their legal systems, shall take legislative and other measures to combat extremism financing.

#### *Article 9*

1. The Parties, with due consideration for the fundamental principles of their legal systems, shall take necessary legislative measures to establish civil, administrative or criminal liability for the commitment of the following acts:

(1) extremist act;

(2) any act recognized as an offence in an international treaty on combating extremism, to which all the Parties are parties;

(3) financing of extremism;

(4) recruiting or otherwise engaging persons in preparing or committing extremist acts, training of persons with a view to committing extremist acts, inciting, organizing, planning, abetting extremist acts;

(5) travelling abroad and/or planning, incitement, preparation of other persons to travelling abroad for the purpose of committing acts covered by this Convention;

(6) issuance, dissemination, display of symbols, ideographs, flags, emblems and attributes aimed at promoting extremism;

(7) non-compliance of a person who provides access to information and telecommunication networks, including the Internet, with

the requirement of a body duly authorized by the Party to restrict access to extremist materials;

(8) organization of and/or participation in riots on the grounds of political, social, racial, national and religious enmity or discord.

2. The Parties, in accordance with their national legislations, can establish as criminal offences such acts as complicity in preparation of and attempt at an offence provided for in paragraph 1 of this article.

#### *Article 10*

1. The Parties, with due consideration for their legal principles, shall take necessary legislative and other measures to prevent involvement of legal entities in acts covered by this Convention in their territories.

2. The Parties shall take such measures as may be necessary to establish liability of legal entities for their involvement in at least one of the acts covered by this Convention.

3. On condition of compliance with the Parties' legal principles, liability of legal entities may be civil, administrative or criminal.

4. Establishing liability of a legal entity does not rule out criminal liability of individuals who are involved in its activities and have committed offences covered by this Convention.

5. The Parties, in accordance with their national legislations, shall ensure imposition of measures with regard to legal entities that are held accountable for involvement in acts covered by this Convention, such as:

- (1) warning;
- (2) fine;
- (3) prohibition of certain types of a legal entity's activities;
- (4) suspension of a legal entity's activities;
- (5) confiscation of a legal entity's property;
- (6) liquidation of a legal entity;
- (7) blocking (freezing) of funds of a legal entity.

6. The Parties shall take legislative measures to enable the recognition of a legal entity as an extremist organization and its liquidation when a legal entity is engaged in planning, organizing, preparing and carrying out of acts covered by this Convention.

7. The provisions of this article shall apply to cases of involvement in acts covered by this Convention of structural units (offices, branches) of foreign legal entities operating in the territory of a Party.

*Article 11*

1. The Parties shall consider acts covered by this Convention and established in accordance with national legislation of a Party as criminal offence that entail extradition as well as transfer of convicted persons and providing legal assistance to a Party where a similar act has been established as criminal offence.

2. If a Party that makes extradition and/or legal assistance conditional on the existence of a treaty receives a relevant request from another Party with which it does not have a treaty on extradition and/or legal assistance, the requested Party shall regard this Convention as the legal basis for extradition and/or legal assistance in relation to offences covered by this Convention. Extradition and/or legal assistance shall be in compliance with the conditions imposed by the national legislation of the requested Party.

3. The Parties that do not make extradition conditional on the existence of a treaty shall, between themselves, regard offences covered by this Convention as extraditable offences with due consideration for conditions imposed by the national legislation of the requested Party.

4. In cases where dealing with issues of extradition and legal assistance requires adherence to the principle of dual criminality, the principle shall be considered adhered to irrespective of whether the laws of the requested Party place the offence within the same category of offence or use the same terms to denominate the offence as the requesting Party if the act in respect of which legal assistance or extradition is requested is a criminal offence under the laws of the requested and the requesting Parties.

5. For the purposes of extradition, offences covered by this Convention shall be considered to be committed in the territory of a relevant Party regardless of the actual place of commission of those offences within the jurisdiction of that Party established in accordance with Article 5 of this Convention.

6. Defining offences covered by this Convention and determining the grounds for liability of legal entities involved in their commission shall be within the purview of the national legislations of the Parties.

7. Upon request by a Party that has passed a judgment or a Party of nationality of a person convicted for at least one of the offences covered by this Convention, that person (with his/her consent) may be transferred for serving his/her sentence to the Party of which that person is a national on the basis of existing treaties or a mutual arrangement.

8. If a requested Party in the territory of which a person who has committed at least one of the offences covered by this Convention is present refuses to extradite that person solely on the ground that the person is its national, that Party must, on the basis of materials at its

disposal, including the materials of the criminal case transferred by the requesting party, initiate criminal proceedings against that person in accordance with its national legislation.

*Article 12*

For the purposes of combating extremism, competent authorities of the Parties shall, upon request or at their own initiative, provide each other with information pertaining to the issues covered by this Convention with due consideration for the requirements of the national legislations that regulate personal data protection.

Competent authorities of the Parties shall not disclose the receipt of a request and its contents and shall use it solely for the purposes of executing the request if this has been specified by the competent authorities of the requesting Party and shall also ensure confidentiality of information transmitted by the requested Party and use it to the extent that is necessary to carry out an investigation, court proceedings or procedures specified in the request.

*Article 13*

1. Competent authorities of the Parties shall execute requests in respect of all circumstances and issues falling within the scope of application of this Convention.

2. A request for assistance shall be executed on the basis of this Convention and the legislation of a requested Party.

3. Upon request by a competent authority of a requesting Party, the national legislation of that Party may be applied for its execution, unless otherwise stipulated by the legislation of the requested Party.

*Article 14*

1. A request shall be issued in writing and must contain:

- (1) names of competent authorities of the requesting and requested Parties;
- (2) subject of and the grounds for the request;
- (3) information on the substance of the request (if there is a criminal or an administrative case—information on circumstances of the case, including the amount of damage inflicted by an act covered by this Convention), texts of relevant laws and regulations;
- (4) information at the disposal of the requesting Party on persons in respect of which the request is issued, including information on his/her date and place of birth, nationality, place of residence or stay, occupation, and other;

- (5) information on the degree of access restriction (where appropriate).
2. A request in respect of legal entities, in addition to the information specified in paragraph 1 of this article, must contain:
  - (1) name of a legal entity, information on its location, registered office and its management;
  - (2) certified copy of a decision of a court or other competent authority of a requesting Party on penalties (if available);
  - (3) information on the property that can be subjected to arrest, confiscation or forfeiture to the state.
3. Other materials necessary for a due and timely execution of the request may be appended to it.
4. No later than 30 days after the date of receipt of the request, unless otherwise agreed in every specific case, a requested Party shall inform a requesting Party of:
  - (1) actions taken following the request and their results;
  - (2) any circumstances hindering execution of the request or causing a considerable delay in its execution.
5. A requesting Party shall inform a requested Party without delay of:
  - (1) a review of the decision or other circumstances rendering the decision to impose penalties on legal entities partially or completely invalid;
  - (2) changes that render actions under this Convention unfounded.
6. A Party applying to several Parties for imposition of penalties on a legal entity on the basis of the same decision shall inform thereof all the Parties concerned with the enforcement of the decision.

#### *Article 15*

1. A request shall be signed by an authorized official of the competent authority of a requesting Party or by persons acting as their deputies and affixed with an official seal.
2. In case of urgency, a request may be submitted orally, provided that the request and appended documents are confirmed in writing within another 72 hours and with the use of technical means of text transmission, as appropriate.
3. Should there be any doubt as to the authenticity of a request, its contents and appended documents, an additional confirmation or clarification may be requested.
4. In case there are multiple requests submitted in accordance with this Convention and relating to the same circumstances, a requested

Party shall independently determine which of the requests should be executed as a matter of priority and inform the requesting Party thereof in accordance with paragraph 5 of article 14 of this Convention.

5. If the execution of the request is beyond the competence of the competent authority of a requested Party, such authority shall transfer the request to another competent authority of its state without delay and immediately notify thereof the competent authority of the requesting Party.

6. The competent authority of a requested Party may request additional information that it deems necessary to execute the request.

#### *Article 16*

1. The competent authority of a requested Party may postpone implementation of measures upon the request if such measures may prejudice operational search activities, investigation and court proceedings carried out by the competent authorities of the requested Party.

2. The competent authority of a requested Party may refuse to execute the request if the latter may prejudice sovereignty, national security or runs counter to the legislation of the requested Party, or if a requesting Party has failed to confirm its oral request in writing within the period specified in paragraph 2 of article 15 of this Convention.

3. Before refusing or postponing the execution of the request, the competent authority of a requested Party shall consult, as appropriate, the competent authority of a requesting Party that has submitted the request.

#### *Article 17*

1. The Party which is prosecuting persons suspected or accused of committing offences covered by this Convention and has found that those persons are present in the territory of another Party may, having obtained a permission from the competent authorities of that Party, dispatch its officers to the territory of the requested Party to be present during the operational search activities and investigative actions.

2. The dispatched officers of the competent authorities of a requesting Party may be present during the operational search activities and investigative actions in the territory of a requested Party in accordance with the national legislation of the requested Party and international agreements to which they are parties.

3. A requested Party shall establish a procedure for issuing permits for the presence of officers of a requesting Party during the operational search activities and investigative actions on the basis of a request for permission to dispatch an officer.



4. In case of dispatching officers of the competent authorities to be present during the operational search activities and investigative actions, the request for permission to dispatch must contain the following details:

- (1) information on the dispatched officers;
- (2) purpose of the secondment, list of investigative actions, timeline and procedure for their conduct;
- (3) in case transport is used, information thereon, including types of vehicles, their quantity and identification numbers;
- (4) other necessary information.

5. Decision on a request for permission to dispatch an officer shall be made by the competent authority of a requested Party no later than 5 days from the date of receipt of such request, of which the competent authority of the requesting Party shall be immediately notified. Such decision may be subject to certain conditions determined by the competent authority of the requested Party.

6. If the request for permission to dispatch an officer has been issued without due consideration for the requirements set out in paragraph 4 of this Article or the information provided is incomplete, the competent authority of the requested Party is entitled to request further information.

7. Officers of the competent authorities of a requesting Party who have arrived in the territory of a requested Party under an established procedure shall perform their functions in accordance with the legislation of the host Party and provisions regulating their stay and task performance.

8. Officers of the competent authorities of a requesting Party who are present in the territory of a requested Party during the operational search activities and investigative actions conducted by officers of the competent authorities of the requested Party must respect the legislation of the Party in the territory of which they are present as well as comply with legitimate requirement of the authorities of the host Party.

9. Presence of officers of the competent authorities of a requesting Party during the operational search activities and investigative actions shall be terminated as soon as the competent authority of the Party in the territory of which they are conducted makes a relevant demand.

10. The Parties may conclude separate agreements with regard to the provisions of this article.

#### *Article 18*

Evidence obtained by the competent authorities of a requested Party as a result of executing the request in conformity with its legislation

shall have the same legal force as if it were obtained in the territory of a requesting Party.

*Article 19*

1. When executing an order regarding the confiscation of property of individuals or legal entities involved in offences covered by this Convention, a requested Party shall recognize the judicial decision made by a requesting Party concerning the rights of third persons.

2. Recognition of the judicial decision established by paragraph 1 of this Article may be denied in one of the following cases:

- (1) third persons lacked opportunities to claim their rights;
- (2) third persons clearly and justifiably claim their rights;
- (3) the decision contradicts the one already made by the requested Party regarding the same matter;
- (4) the decision is contrary to contradicts the legislation of the requested Party;
- (5) the decision was made contrary to the provisions regarding the exclusive jurisdiction provided for by the legislation of the requested Party;
- (6) the decision made is contrary the basic principles of public order of the requested Party.

*Article 20*

Documents forwarded pursuant to this Convention shall be exempt from any legalization formalities.

Documents that have been issued or certified in the territory of one of the Parties by a competent authority or a specially authorized person within his or her competence, in the prescribed form and affixed with an official seal shall be accepted in the territories of all the other Parties without any special certification.

Documents considered official documents in the territory of one of the Parties shall possess the evidential value of official documents in the territories of the other Parties.

*Article 21*

The Parties shall take necessary measures to prevent granting the refugee status and providing documents confirming it to persons involved in offences covered by this Convention.

*Article 22*

1. A Party shall, in accordance with its national legislation, upon request of another Party, take necessary measures to ensure accountability of a legal entity involved in acts covered by this Convention, in particular:

- (1) seizure of its property, which can be confiscated thereafter;
- (2) blocking (freezing) funds or other property of legal entities;
- (3) suspending certain types of its activity.

2. Measures stipulated in paragraph 1 of this Article shall be implemented in accordance with the legislation of the requested Party and this Convention.

3. Before lifting the measures stipulated in paragraph 1 of this Article, the requested Party shall notify the requesting Party thereof and entitle it to put forward its arguments in support of this measure.

*Article 23*

1. A Party which has received a request to impose penalties on a legal entity (its structural unit) involved in at least one act covered by this Convention and located in its territory or owning property or conducting activities in the above territory shall:

- (1) either execute the decision of the court or another competent authority of the requesting Party on the imposition of the requested penalties;
- (2) or, on the basis of facts and findings set forth in the decision of the court or another competent authority of the requesting Party, in accordance with its legislation, conduct judicial proceedings concerning the imposition of the requested penalties.

2. Penalties against a legal entity shall be imposed in accordance with the legislation of the requested Party.

*Article 24*

For the purposes of ensuring confiscation the Parties, in conformity with their national legislations, shall take measures:

- (1) to seize funds, securities, valuables and other property intended for use (or used) as an instrument or means of committing acts covered by this Convention, or for financing one of the acts covered by this Convention;
- (2) to seize a sum of money equivalent to the value of such property, should the seizure of the property referred to in this Article be impossible.

*Article 25*

1. A request relating to the confiscation of property owned by individuals or legal entities filed in accordance with this Convention shall not affect the right of the requested Party to enforce its decision on the confiscation of property owned by these individuals and legal entities.

2. The total value of the property confiscated upon request may not exceed the sum indicated in the confiscation order. If any of the Parties arrives at a conclusion that the above situation may occur, the Parties shall conduct consultations to prevent such consequences.

3. Property that remains after the satisfaction of creditors' claims and belongs to a legal entity liquidated on the grounds stipulated in this Convention shall be also subject to confiscation.

4. A Party, which has confiscated property upon request shall guarantee its safety and dispose of the confiscated property in accordance with its legislation.

5. The confiscated property or sum of money equivalent to the value of such property may, subject to an agreement between the relevant Parties, be transferred in full or in part to the Party which issued the confiscation order.

*Article 26*

The Parties shall bear the costs related to the implementation of this Convention independently, unless otherwise agreed.

*Article 27*

1. If a claim to repair the damage caused by an unlawful act or omission relating to cooperation under this Convention is filed, the Parties shall consider the possibility of consulting each other to agree upon the distribution of the sums to be paid in reparation of this damage.

2. A Party against which the claim to repair the damage is brought shall inform other Parties concerned thereof.

*Article 28*

This Convention shall not limit the rights of the Parties to conclude other international treaties on matters that constitute the subject of this Convention and are not contrary to its purposes, nor shall it affect the rights and obligations of the Parties arising from other international treaties to which they are parties.

*Article 29*

1. This Convention shall be of unlimited duration.
2. This Convention shall be subject to ratification by signatory States. Instruments of ratification shall be deposited with the Depositary. The Convention shall enter into force on the thirtieth day following the receipt by the Depositary of the fourth instrument of ratification.
3. For a Party, which has ratified this Convention after the receipt by the Depositary of the fourth instrument of ratification, it shall enter into force on the thirtieth day following the receipt of the instrument of ratification submitted by this Party.
4. The Secretariat of the Shanghai Cooperation Organization shall be the Depositary of this Convention.

*Article 30*

1. This Convention shall be open for accession by other States supporting its provisions, subject to the consent of all the Parties, by means of notifying the Depositary of such accession.
2. For the acceding State, this Convention shall enter into force on the thirtieth day following the receipt by the Depositary of the notification of accession.

*Article 31*

This Convention, in accordance with Article 102 of the United Nations Charter, shall be subject to registration in the United Nations Secretariat.

*Article 32*

Amendments and additions may be made to this Convention as its integral part, which shall be drawn as separate protocols. Any of the Parties may propose amendments and additions by means of transmitting notification to the Depositary, who shall immediately submit them for a relevant consideration by the other Parties.

*Article 33*

Any Party may withdraw from this Convention by notifying in writing the Depositary thereof not less than six months prior to the date of anticipated withdrawal. The Depositary shall inform the other Parties thereof within a thirty days period following the receipt of the notification of withdrawal.

*Article 34*

In case disputes and disagreements between the Parties concerning the application or interpretation of the provisions of this Convention arise, the Parties concerned shall settle them through consultation and negotiation.

*Article 35*

1. The working languages to be used by the Parties in their cooperation within the framework of this Convention shall be Russian and Chinese.

2. The original copy of this Convention shall be deposited with the Depositary, who shall circulate certified copies of this Convention to all the signatory States.

DONE at Astana, on June 9, 2017, in one original copy in the Russian and Chinese languages, both texts having equal legal effect.

For the Kyrgyz Republic  
For the People's Republic of China  
For the Republic of Kazakhstan  
For the Republic of Tajikistan  
For the Republic of Uzbekistan  
For the Russian Federation

## **SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC)**

### **43. South Asian Association for Regional Cooperation (SAARC) Regional Convention on Suppression of Terrorism**

*Signed at Kathmandu on 4 November 1987*

*In force on 22 August 1988*

*Depositary: Secretary-General of the South Asian Association for  
Regional Cooperation*

*The member States of the South Asian Association for Regional  
Cooperation (SAARC),*

*Mindful of the principles of cooperation enshrined in the  
SAARC Charter;*

*Recalling that at the Dhaka Summit on December 7–8, 1985, the  
Heads of State or Government of the member States of the SAARC rec-  
ognised the seriousness of the problem of terrorism as it affects the secu-  
rity and stability of the region;*

*Also recalling the Bangalore Summit Declaration of 17 November  
1986, in which the Heads of State or Government of SAARC agreed  
that cooperation among SAARC States was vital if terrorism was to be  
prevented and eliminated from the region; unequivocally condemned  
all acts, methods and practices of terrorism as criminal and deplored  
their impact on life and property, socio-economic development, politi-  
cal stability, regional and international peace and cooperation; and  
recognised the importance of the principles laid down in UN resolu-  
tion 2625 (XXV) which among others required that each State should  
refrain from organising, instigating, assisting or participating in acts  
of civil strife or terrorist acts in another State or acquiescing in organ-  
ised activities within its territory directed towards the commission of  
such acts;*

*Aware of the danger posed by the spread of terrorism and its harm-  
ful effect on peace, cooperation, friendship and good neighbourly rela-  
tions and which could also jeopardise the sovereignty and territorial  
integrity of States;*

*Have resolved* to take effective measures to ensure that perpetrators of terroristic acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to this end,

*Have agreed as follows:*

*Article I*

Subject to the overall requirements of the law of extradition, conduct constituting any of the following offences, according to the law of the Contracting State, shall be regarded as terroristic and for the purpose of extradition shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:

- (a) An offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;
- (b) An offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;
- (c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on December 14, 1973;
- (d) An offence within the scope of any Convention to which the SAARC member States concerned are parties and which obliges the parties to prosecute or grant extradition;
- (e) Murder, manslaughter, assault causing bodily harm, kidnapping, hostage-taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property;
- (f) An attempt or conspiracy to commit an offence described in subparagraphs (a) to (e), aiding, abetting or counselling the commission of such an offence or participating as an accomplice in the offences so described.

*Article II*

For the purpose of extradition between the SAARC member States, any two or more Contracting States may, by agreement, decide to include any other serious offence involving violence, which shall not be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives.



*Article III*

1. The provisions of all extradition treaties and arrangements applicable between Contracting States are hereby amended as between Contracting States to the extent that they are incompatible with this Convention.

2. For the purpose of this Convention and to the extent that any offence referred to in article I or agreed to in terms of article II is not listed as an extraditable offence in any extradition treaty existing between Contracting States, it shall be deemed to be included as such therein.

3. Contracting States undertake to include these offences as extraditable offences in any future extradition treaty to be concluded between them.

4. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested State may, at its option, consider this Convention as the basis for extradition in respect of the offences set forth in article I or agreed to in terms of article II. Extradition shall be subject to the law of the requested State.

5. Contracting States which do not make extradition conditional on the existence of a treaty, shall recognise the offences set forth in article I or agreed to in terms of article II as extraditable offences between themselves, subject to the law of the requested State.

*Article IV*

A Contracting State in whose territory a person suspected of having committed an offence referred to in article I or agreed to in terms of article II is found and which has received a request for extradition from another Contracting State, shall, if it does not extradite that person, submit the case without exception and without delay, to its competent authorities, so that prosecution may be considered. These authorities shall take their decisions in the same manner as in the case of any offence of a serious nature under the law of that State.

*Article V*

For the purpose of article IV, each Contracting State may take such measures as it deems appropriate, consistent with its national laws, subject to reciprocity, to exercise its jurisdiction in the case of an offence under article I or agreed to in terms of article II.

*Article VI*

A Contracting State in whose territory an alleged offender is found, shall, upon receiving a request for extradition from another Contracting State, take appropriate measures, subject to its national laws, so as to ensure his presence for purposes of extradition or prosecution. Such measures shall immediately be notified to the requesting State.

*Article VII*

Contracting States shall not be obliged to extradite, if it appears to the requested State that by reason of the trivial nature of the case or by reason of the request for the surrender or return of a fugitive offender not being made in good faith or in the interests of justice or for any other reason it is unjust or inexpedient to surrender or return the fugitive offender.

*Article VIII*

1. Contracting States shall, subject to their national laws, afford one another the greatest measure of mutual assistance in connection with proceedings brought in respect of the offences referred to in article I or agreed to in terms of article II, including the supply of all evidence at their disposal necessary for the proceedings.

2. Contracting States shall cooperate among themselves, to the extent permitted by their national laws, through consultations between appropriate agencies, exchange of information, intelligence and expertise and such other cooperative measures as may be appropriate, with a view to preventing terroristic activities through precautionary measures.

*Article IX*

1. The Convention shall be open for signature by the member States of SAARC at the SAARC Secretariat in Kathmandu.

2. It shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of SAARC.

*Article X*

The Convention shall enter into force on the fifteenth day following the date of the deposit of the seventh instrument of ratification with the Secretary-General of SAARC.

*Article XI*

The Secretary-General of SAARC shall be the depositary of this Convention and shall notify member States of signatures to this

Convention and all deposits of instruments of ratification. The Secretary-General shall transmit certified copies of such instruments to each member State. The Secretary-General shall also inform member States of the date on which this Convention will have entered into force in accordance with article X.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Kathmandu on this fourth day of November one thousand nine hundred and eighty-seven, in eight originals, in the English language, all texts being equally authentic.

#### **44. Additional Protocol to the South Asian Association for Regional Cooperation (SAARC) Regional Convention on Suppression of Terrorism**

*Signed in Islamabad on 6 January 2004*

*In force on 12 January 2006*

*Depositary: General Secretariat of the SAARC*

*The Members States of the South Asian Association for Regional Cooperation (SAARC),*

*Mindful* of the purposes and the principles of cooperation enshrined in the SAARC Charter and thereafter of the United Nations:

*Recalling* the Declaration of the Eleventh SAARC Summit adopted at Kathmandu on 6th January 2002;

*Further recalling* that, at the Eleventh SAARC Summit, the Heads of State or Government, reiterated their support to the United Nations Security Council resolution 1373 of September 28, 2001 and affirmed their determination to re-double efforts collectively as well as individually, to prevent and suppress terrorism in all its forms and manifestations, including, by increased cooperation and full implementation of the relevant international conventions relating to terrorism to which they are parties and called on all Member States, *inter alia*, to prevent and suppress the financing of terrorist acts by criminalizing the provision, acquisition and collection of funds for such acts;

*Bearing in mind* the decision of the SAARC Council of Ministers at its Twenty Third Session in Kathmandu on 22nd August, 2002, wherein the Council mandated the preparation of an Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism, recognizing the importance of updating the Convention, in order to meet the obligations devolving in terms of Security Council resolution 1373 (2001);

*Have agreed* as follows:

##### *Article 1*

##### *Objectives and purposes*

The purpose of this Additional Protocol is to strengthen the SAARC Regional Convention on Suppression of Terrorism, particularly by criminalizing the provision, collection or acquisition of funds for the purpose of committing terrorist acts and taking further measures to prevent and suppress financing of such acts. Towards this end, State

Parties agree to adopt necessary measures to strengthen cooperation among them, in accordance with the terms of this Additional Protocol.

*Article 2*

*Relationship to SAARC Convention*

This Additional Protocol supplements the SAARC Regional Convention on Suppression of Terrorism, done at Kathmandu on 4th November, 1987 (hereinafter referred to as the “1987 SAARC Convention”). The 1987 SAARC Convention and this Additional Protocol shall be read and interpreted together as a single instrument.

*Article 3*

*Definitions*

1. “Funds” mean assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.

2. “Proceeds” mean any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 4.

*Article 4*

*Offences*

1. Any person commits an offence within the meaning of this Additional Protocol if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the Annex to this Protocol; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act; or

(c) An offence within the scope of any Convention to which SAARC Members are parties and which obliges the parties to prosecute or grant extradition.

2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty

listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.

3. For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraph (a) or (b).

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

5. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;

(c) Contributes to the commission of one or more offences as set forth in paragraph 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

## Article 5

### *Domestic measures*

States Parties, in accordance with the provisions of their respective Constitutions, shall endeavour to become Parties to the international instruments listed in the Annex to which they are not yet a Party.

## Article 6

### *Liability of legal entities*

1. Each State party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in

its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence as set forth in article 4. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of an individual or individuals who have committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

### *Article 7*

#### *Measures to prevent, suppress and eradicate the financing of terrorism*

1. State Parties shall consider and take all practical measures at the national level, *inter alia* by adapting their domestic legislation to prevent, suppress and eradicate the financing of terrorism, and for effective international cooperation with respect thereto including:

(a) A comprehensive domestic regulatory and supervisory regime for banks, other financial institutions and other entities deemed particularly susceptible to being used for the financing of terrorist activities. This regime shall require banks and other financial institutions and other entities to utilize effective measures for the identification of customers, paying special attention to unusual or suspicious transactions and to report promptly to the Competent Authorities, all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose;

(b) Measures to detect and monitor movements across national borders, of cash, bearer negotiable instruments and other appropriate movements of value. These measures shall be subject to safeguards to ensure proper use of information and should not impede legitimate capital movements;

(c) Measures of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of any act constituting an offence within the scope of the international instruments listed in article 4 of this Additional Protocol, including assistance in obtaining evidence in their possession, necessary for the proceedings; and

(d) Establishing and monitoring channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of

offences set forth in article 4, within the conditions prescribed by domestic law.

2. Towards facilitating the above, each State Party shall consider measures to establish and maintain a financial intelligence unit to serve as a national center for the collection, analysis and dissemination of pertinent money laundering and terrorist financing information.

### Article 8

#### *Seizure and confiscation of funds or other assets*

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in article 4 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in article 4 and the proceeds derived from such offences.

3. Each State Party concerned may give consideration to concluding agreements on the sharing with other State Parties, on a regular or case-by-case basis, of the funds derived from the forfeiture referred to in this article.

4. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

5. The measures referred to in paragraph 1 shall apply with respect to offences committed both within and outside the jurisdiction of a State party.

### Article 9

#### *Predicate offences to money laundering*

1. State Parties shall take the necessary measures to ensure that its domestic money laundering legislation also includes as predicate offences those offences set forth in article 4 of this Additional Protocol.

2. Money laundering predicate offences referred to in paragraph 1, shall include those committed both within and outside the jurisdiction of a State Party.



*Article 10*

*Cooperation on immigration and customs controls*

1. States Parties, consistent with their respective domestic legal and administrative regimes, shall promote cooperation and the exchange of information in order to improve immigration and customs control measures to detect and prevent the international movement of terrorists and their accomplices and trafficking in arms, narcotics and psychotropic substances or other materials intended to support terrorist activities.

2. To this end, they shall promote cooperation and the exchange of information to improve their controls on the issuance of travel and identify documents and to prevent their counterfeiting, forgery, or fraudulent use.

3. Such cooperation shall be carried out without prejudice to applicable international commitments in relation to the free movement of people and the facilitation of commerce.

*Article 11*

*Cooperation among law enforcement authorities*

States Parties shall work closely with one another, consistent with the respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action for the prevention, suppression and prosecution of the offences set forth in article 4.

*Article 12*

*Mutual legal assistance*

The provisions of article VIII of the 1987 SAARC Convention relating to Mutual Legal Assistance shall apply, *mutatis mutandis*, in respect of the offences set forth in article 4 of this Additional Protocol.

*Article 13*

*Extradition*

1. The provisions of article III of the 1987 SAARC Convention shall apply, *mutatis mutandis*, in respect of the offences set forth in article 4 of this Additional Protocol.

2. The provisions of article IV of the 1987 SAARC Convention relating to the duty to extradite or prosecute shall apply, *mutatis mutandis*, in respect of the offences set forth in article 4 of this Additional Protocol.

*Article 14*

*Exclusion of fiscal offence exception*

None of the offences set forth in article 4 shall be regarded, for the purpose of extradition or mutual legal assistance, as a fiscal offence. Accordingly, State Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

*Article 15*

*Exclusion of political offence exception*

For the purpose of extradition or mutual legal assistance, none of the offences established in the international instruments set forth in article 4, shall be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives. Accordingly, a request for extradition or mutual assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

*Article 16*

*Denial of refugee status*

Each State Party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has committed an offence set forth in article 4 of this Additional Protocol.

*Article 17*

*Non-discrimination*

None of the provisions of this Additional Protocol shall be interpreted as imposing an obligation to extradite or to provide mutual legal assistance, if the requested State Party has substantial grounds to believe that the request to extradite or to provide mutual legal assistance, has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

*Article 18*

*Principles of sovereign equality and territorial integrity*

1. State Parties shall carry out their obligations under this Additional Protocol in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Additional Protocol entitles a State Party to undertake in the territory of another State Party exercise of jurisdiction or performance of functions that are exclusively reserved for the authorities of that other State Party by its domestic law.

*Article 19*

*Rights and obligations under international law*

Nothing in this Additional Protocol shall be interpreted as affecting other rights and obligations and responsibilities of States and individuals under international law, in particular, the purposes and principles of the Charter of the United Nations, international humanitarian law, and international human rights law.

*Article 20*

*Technical cooperation*

State Parties shall promote, where appropriate, technical cooperation and training programmes with other regional and international organizations conducting activities related to the objectives and purposes of this Additional Protocol.

*Article 21*

*Consultations*

State Parties shall hold periodic consultations, as appropriate, with a view to facilitating: (a) the effective implementation of this Additional Protocol; and (b) the exchange of information and experiences on effective means and methods to prevent, detect, investigate and punish offences within the scope of the Additional Protocol.

*Article 22*

*Signature and ratification*

This Additional Protocol is open for signature by all Member States of SAARC at the SAARC Secretariat in Kathmandu. It shall be subject

to ratification. Instruments of Ratification shall be deposited with the Secretary-General of SAARC.

*Article 23*

*Entry into force*

The Additional Protocol shall enter into force on the thirtieth day following the date of deposit of the seventh Instrument of Ratification with the Secretary-General of SAARC.

*Article 24*

*Depositary*

The Secretary-General of SAARC shall be the depositary of this Additional Protocol and shall notify Member States of signatures to this Additional Protocol and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such instruments to each Member State. The Secretary-General shall also inform Member States of the date on which this Additional Protocol will have entered into force in accordance with article 23.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments have signed this Additional Protocol,

DONE in Islamabad, Pakistan, On This The Sixth Day January Of the Year Two Thousand Four, In Nine Originals, In The English Language, All Texts Being Equally Authentic.

ANNEX

- (a) Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970.
- (b) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.
- (c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, approved by the General Assembly of the United Nations on 14 December 1973.
- (d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
- (e) Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980.
- (f) 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, signed at Montreal on 24 February 1988.

(g) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.

(h) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.

(i) International Convention for the Suppression of Terrorist Bombings, approved by the General Assembly of the United Nations on 15 December 1997.

(j) International Convention for the Suppression of the Financing of Terrorism, approved by the General Assembly of the United Nations on 9 December 1999.



**PART III**

**OTHER INSTRUMENTS**





## 45. Convention on the Safety of United Nations and Associated Personnel

*Adopted by the General Assembly on 9 December 1994*

*In force on 15 January 1999*

*United Nations, Treaty Series, vol. 2051, No. 35457*

*Depositary: Secretary-General of the United Nations*

*The States Parties to this Convention,*

*Deeply concerned* over the growing number of deaths and injuries resulting from deliberate attacks against United Nations and associated personnel,

*Bearing in mind* that attacks against, or other mistreatment of, personnel who act on behalf of the United Nations are unjustifiable and unacceptable, by whomsoever committed,

*Recognizing* that United Nations operations are conducted in the common interest of the international community and in accordance with the principles and purposes of the Charter of the United Nations,

*Acknowledging* the important contribution that United Nations and associated personnel make in respect of United Nations efforts in the fields of preventive diplomacy, peacemaking, peacekeeping, peacebuilding and humanitarian and other operations,

*Conscious* of the existing arrangements for ensuring the safety of United Nations and associated personnel, including the steps taken by the principal organs of the United Nations, in this regard,

*Recognizing* nonetheless that existing measures of protection for United Nations and associated personnel are inadequate,

*Acknowledging* that the effectiveness and safety of United Nations operations are enhanced where such operations are conducted with the consent and cooperation of the host State,

*Appealing* to all States in which United Nations and associated personnel are deployed and to all others on whom such personnel may rely, to provide comprehensive support aimed at facilitating the conduct and fulfilling the mandate of United Nations operations,

*Convinced* that there is an urgent need to adopt appropriate and effective measures for the prevention of attacks committed against United Nations and associated personnel and for the punishment of those who have committed such attacks,

*Have agreed as follows:*

*Article 1*

*Definitions*

For the purposes of this Convention:

- (a) “United Nations personnel” means:
- (i) Persons engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation;
  - (ii) Other officials and experts on mission of the United Nations or its specialized agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a United Nations operation is being conducted;
- (b) “Associated personnel” means:
- (i) Persons assigned by a Government or an intergovernmental organization with the agreement of the competent organ of the United Nations;
  - (ii) Persons engaged by the Secretary-General of the United Nations or by a specialized agency or by the International Atomic Energy Agency;
  - (iii) Persons deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations or with a specialized agency or with the International Atomic Energy Agency, to carry out activities in support of the fulfilment of the mandate of a United Nations operation;
- (c) “United Nations operation” means an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control:
- (i) Where the operation is for the purpose of maintaining or restoring international peace and security; or
  - (ii) Where the Security Council or the General Assembly has declared, for the purposes of this Convention, that there exists an exceptional risk to the safety of the personnel participating in the operation;
- (d) “Host State” means a State in whose territory a United Nations operation is conducted;
- (e) “Transit State” means a State, other than the host State, in whose territory United Nations and associated personnel or their equipment are in transit or temporarily present in connection with a United Nations operation.

*Article 2*

*Scope of application*

1. This Convention applies in respect of United Nations and associated personnel and United Nations operations, as defined in article 1.
2. This Convention shall not apply to a United Nations operation authorized by the Security Council as an enforcement action under Chapter VII of the Charter of the United Nations in which any of the personnel are engaged as combatants against organized armed forces and to which the law of international armed conflict applies.

*Article 3*

*Identification*

1. The military and police components of a United Nations operation and their vehicles, vessels and aircraft shall bear distinctive identification. Other personnel, vehicles, vessels and aircraft involved in the United Nations operation shall be appropriately identified unless otherwise decided by the Secretary-General of the United Nations.
2. All United Nations and associated personnel shall carry appropriate identification documents.

*Article 4*

*Agreements on the status of the operation*

The host State and the United Nations shall conclude as soon as possible an agreement on the status of the United Nations operation and all personnel engaged in the operation including, *inter alia*, provisions on privileges and immunities for military and police components of the operation.

*Article 5*

*Transit*

A transit State shall facilitate the unimpeded transit of United Nations and associated personnel and their equipment to and from the host State.

*Article 6*

*Respect for laws and regulations*

1. Without prejudice to such privileges and immunities as they may enjoy or to the requirements of their duties, United Nations and associated personnel shall:

(a) Respect the laws and regulations of the host State and the transit State; and

(b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

2. The Secretary-General of the United Nations shall take all appropriate measures to ensure the observance of these obligations.

#### *Article 7*

##### *Duty to ensure the safety and security of United Nations and associated personnel*

1. United Nations and associated personnel, their equipment and premises shall not be made the object of attack or of any action that prevents them from discharging their mandate.

2. States Parties shall take all appropriate measures to ensure the safety and security of United Nations and associated personnel. In particular, States Parties shall take all appropriate steps to protect United Nations and associated personnel who are deployed in their territory from the crimes set out in article 9.

3. States Parties shall cooperate with the United Nations and other States Parties, as appropriate, in the implementation of this Convention, particularly in any case where the host State is unable itself to take the required measures.

#### *Article 8*

##### *Duty to release or return United Nations and associated personnel captured or detained*

Except as otherwise provided in an applicable status-of-forces agreement, if United Nations or associated personnel are captured or detained in the course of the performance of their duties and their identification has been established, they shall not be subjected to interrogation and they shall be promptly released and returned to United Nations or other appropriate authorities. Pending their release such personnel shall be treated in accordance with universally recognized standards of human rights and the principles and spirit of the Geneva Conventions of 1949.

#### *Article 9*

##### *Crimes against United Nations and associated personnel*

1. The intentional commission of:

(a) A murder, kidnapping or other attack upon the person or liberty of any United Nations or associated personnel;

- (b) A violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations or associated personnel likely to endanger his or her person or liberty;
- (c) A threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act;
- (d) An attempt to commit any such attack; and
- (e) An act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack,

shall be made by each State Party a crime under its national law.

2. Each State Party shall make the crimes set out in paragraph 1 punishable by appropriate penalties which shall take into account their grave nature.

#### *Article 10*

##### *Establishment of jurisdiction*

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 9 in the following cases:

- (a) When the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;
- (b) When the alleged offender is a national of that State.

2. A State Party may also establish its jurisdiction over any such crime when it is committed:

- (a) By a stateless person whose habitual residence is in that State; or
- (b) With respect to a national of that State; or
- (c) In an attempt to compel that State to do or to abstain from doing any act.

3. Any State Party which has established jurisdiction as mentioned in paragraph 2 shall notify the Secretary-General of the United Nations. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General of the United Nations.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 9 in cases where the alleged offender is present in its territory and it does not extradite such person pursuant to article 15 to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.

5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

*Article 11*

*Prevention of crimes against United Nations and associated personnel*

States Parties shall cooperate in the prevention of the crimes set out in article 9, particularly by:

- (a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories; and
- (b) Exchanging information in accordance with their national law and coordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

*Article 12*

*Communication of information*

1. Under the conditions provided for in its national law, the State Party in whose territory a crime set out in article 9 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to the Secretary-General of the United Nations and, directly or through the Secretary-General, to the State or States concerned all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever a crime set out in article 9 has been committed, any State Party which has information concerning the victim and circumstances of the crime shall endeavour to transmit such information, under the conditions provided for in its national law, fully and promptly to the Secretary-General of the United Nations and the State or States concerned.

*Article 13*

*Measures to ensure prosecution or extradition*

1. Where the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its national law to ensure that person's presence for the purpose of prosecution or extradition.

2. Measures taken in accordance with paragraph 1 shall be notified, in conformity with national law and without delay, to the Secretary-General of the United Nations and, either directly or through the Secretary-General, to:

- (a) The State where the crime was committed;

- (b) The State or States of which the alleged offender is a national or, if such person is a stateless person, in whose territory that person has his or her habitual residence;
- (c) The State or States of which the victim is a national; and
- (d) Other interested States.

*Article 14*

*Prosecution of alleged offenders*

The State Party in whose territory the alleged offender is present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the law of that State. Those authorities shall take their decision in the same manner as in the case of an ordinary offence of a grave nature under the law of that State.

*Article 15*

*Extradition of alleged offenders*

1. To the extent that the crimes set out in article 9 are not extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the conditions provided in the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the conditions provided in the law of the requested State.

4. Each of those crimes shall be treated, for the purposes of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of article 10.

*Article 16*

*Mutual assistance in criminal matters*

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the crimes set out in article 9, including assistance in obtaining evidence at their disposal necessary for the proceedings. The law of the requested State shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations concerning mutual assistance embodied in any other treaty.

*Article 17*

*Fair treatment*

1. Any person regarding whom investigations or proceedings are being carried out in connection with any of the crimes set out in article 9 shall be guaranteed fair treatment, a fair trial and full protection of his or her rights at all stages of the investigations or proceedings.

2. Any alleged offender shall be entitled:

(a) To communicate without delay with the nearest appropriate representative of the State or States of which such person is a national or which is otherwise entitled to protect that person's rights or, if such person is a stateless person, of the State which, at that person's request, is willing to protect that person's rights; and

(b) To be visited by a representative of that State or those States.

*Article 18*

*Notification of outcome of proceedings*

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to other States Parties.

*Article 19*

*Dissemination*

The States Parties undertake to disseminate this Convention as widely as possible and, in particular, to include the study thereof, as well as relevant provisions of international humanitarian law, in their programmes of military instruction.



*Article 20*

*Savings clauses*

Nothing in this Convention shall affect:

- (a) The applicability of international humanitarian law and universally recognized standards of human rights as contained in international instruments in relation to the protection of United Nations operations and United Nations and associated personnel or the responsibility of such personnel to respect such law and standards;
- (b) The rights and obligations of States, consistent with the Charter of the United Nations, regarding the consent to entry of persons into their territories;
- (c) The obligation of United Nations and associated personnel to act in accordance with the terms of the mandate of a United Nations operation;
- (d) The right of States which voluntarily contribute personnel to a United Nations operation to withdraw their personnel from participation in such operation; or
- (e) The entitlement to appropriate compensation payable in the event of death, disability, injury or illness attributable to peace-keeping service by persons voluntarily contributed by States to United Nations operations.

*Article 21*

*Right of self-defence*

Nothing in this Convention shall be construed so as to derogate from the right to act in self-defence.

*Article 22*

*Dispute settlement*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by application in conformity with the Statute of the Court.

2. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by all or part of paragraph 1. The

other States Parties shall not be bound by paragraph 1 or the relevant part thereof with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 23*

*Review meetings*

At the request of one or more States Parties, and if approved by a majority of States Parties, the Secretary-General of the United Nations shall convene a meeting of the States Parties to review the implementation of the Convention, and any problems encountered with regard to its application.

*Article 24*

*Signature*

This Convention shall be open for signature by all States, until 31 December 1995, at United Nations Headquarters in New York.

*Article 25*

*Ratification, acceptance or approval*

This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

*Article 26*

*Accession*

This Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 27*

*Entry into force*

1. This Convention shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into

force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

*Article 28*

*Denunciation*

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.
2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

*Article 29*

*Authentic texts*

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

## 46. Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel

*Adopted by the General Assembly on 8 December 2005*

*In force on 19 August 2010*

*United Nations Treaty Series, vol. 2689, No. 35457*

*Depositary: Secretary-General of the United Nations*

*The States Parties to this Protocol,*

*Recalling* the terms of the Convention on the Safety of United Nations and Associated Personnel, done at New York on 9 December 1994,

*Deeply concerned* over the continuing pattern of attacks against United Nations and associated personnel,

*Recognizing* that United Nations operations conducted for the purposes of delivering humanitarian, political or development assistance in peacebuilding and of delivering emergency humanitarian assistance which entail particular risks for United Nations and associated personnel require the extension of the scope of legal protection under the Convention to such personnel,

*Convinced* of the need to have in place an effective regime to ensure that the perpetrators of attacks against United Nations and associated personnel engaged in United Nations operations are brought to justice,

*Have agreed as follows:*

### *Article I*

#### *Relationship*

This Protocol supplements the Convention on the Safety of United Nations and Associated Personnel, done at New York on 9 December 1994 (hereinafter referred to as “the Convention”), and as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as a single instrument.

### *Article II*

#### *Application of the Convention to United Nations operations*

1. The Parties to this Protocol shall, in addition to those operations as defined in article 1 (c) of the Convention, apply the Convention in respect of all other United Nations operations established by a competent organ of the United Nations in accordance with the Charter of

the United Nations and conducted under United Nations authority and control for the purposes of:

- (a) Delivering humanitarian, political or development assistance in peacebuilding, or
- (b) Delivering emergency humanitarian assistance.

2. Paragraph 1 does not apply to any permanent United Nations office, such as headquarters of the Organization or its specialized agencies established under an agreement with the United Nations.

3. A host State may make a declaration to the Secretary-General of the United Nations that it shall not apply the provisions of this Protocol with respect to an operation under article II (1) (b) which is conducted for the sole purpose of responding to a natural disaster. Such a declaration shall be made prior to the deployment of the operation.

### *Article III*

#### *Duty of a State Party with respect to article 8 of the Convention*

The duty of a State Party to this Protocol with respect to the application of article 8 of the Convention to United Nations operations defined in article II of this Protocol shall be without prejudice to its right to take action in the exercise of its national jurisdiction over any United Nations or associated personnel who violates the laws and regulations of that State, provided that such action is not in violation of any other international law obligation of the State Party.

### *Article IV*

#### *Signature*

This Protocol shall be open for signature by all States at United Nations Headquarters for twelve months, from 16 January 2006 to 16 January 2007.

### *Article V*

#### *Consent to be bound*

1. This Protocol shall be subject to ratification, acceptance or approval by the signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

2. This Protocol shall, after 16 January 2007, be open for accession by any non-signatory State. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

3. Any State that is not a State Party to the Convention may ratify, accept, approve or accede to this Protocol if at the same time it ratifies,

accepts, approves or accedes to the Convention in accordance with articles 25 and 26 thereof.

*Article VI*

*Entry into force*

1. This Protocol shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to this Protocol after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

*Article VII*

*Denunciation*

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

*Article VIII*

*Authentic texts*

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

DONE at New York this eighth day of December two thousand and five.

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**47. Geneva Convention for the Amelioration of the  
Condition of the Wounded and Sick in Armed  
Forces in the Field (selected excerpts)**

*Signed at Geneva on 12 August 1949*

*In force on 21 October 1950*

*United Nations, Treaty Series, vol. 75, No. 970*

*Depositary: Swiss Federal Council*

...

CHAPTER I. GENERAL PROVISIONS

...

*Article 3*

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

...

(b) Taking of hostages;

**48. Geneva Convention for the Amelioration  
of the Condition of the Wounded, Sick and  
Shipwrecked Members of Armed Forces at Sea  
(selected excerpts)**

*Signed at Geneva on 12 August 1949*

*In force on 21 October 1950*

*United Nations, Treaty Series, vol. 75, No. 971*

*Depositary: Swiss Federal Council*

...

CHAPTER I. GENERAL PROVISIONS

...

*Article 3*

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

...

(b) Taking of hostages;



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## 49. Geneva Convention Relative to the Treatment of Prisoners of War (selected excerpts)

*Signed at Geneva on 12 August 1949*

*In force on 21 October 1950*

*United Nations, Treaty Series, vol. 75, No. 972*

*Depositary: Swiss Federal Council*

...

### PART I. GENERAL PROVISIONS

...

#### *Article 3*

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

...

(b) Taking of hostages;

**50. Geneva Convention Relative to the  
Protection of Civilian Persons in Time of War  
(selected excerpts)**

*Signed at Geneva on 12 August 1949*

*In force on 21 October 1950*

*United Nations, Treaty Series, vol. 75, No. 973*

*Depositary: Swiss Federal Council*

...

PART I. GENERAL PROVISIONS

...

*Article 3*

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

...

(b) taking of hostages;

...

PART III. STATUS AND TREATMENT OF  
PROTECTED PERSONS

**Section I. Provisions common to the territories of the parties  
to the conflict and to occupied territories**

...

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*Article 33*

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

*Article 34*

The taking of hostages is prohibited.

...

PART IV. EXECUTION OF THE CONVENTION

Section I. General provisions

...

*Article 146*

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949.

*Article 147*

Grave breaches to which the preceding article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing

great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

**51. Protocol Additional to the Geneva Conventions  
of 12 August 1949, and Relating to the Protection  
of Victims of International Armed Conflicts  
(Protocol I) (selected excerpts)**

*Signed at Geneva on 8 June 1977*

*In force on 7 December 1978*

*United Nations, Treaty Series, vol. 1125, No. 17512*

*Depositary: Swiss Federal Council*

PART I. GENERAL DISPOSITIONS

*Article 1*

*General principles and scope of application*

1. The High Contracting Parties undertake to respect and to ensure respect for this Protocol in all circumstances.

2. In cases not covered by this Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience.

3. This Protocol, which supplements the Geneva Conventions of 12 August 1949 for the protection of war victims, shall apply in the situations referred to in article 2 common to those Conventions.

4. The situations referred to in the preceding paragraph include armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

...

PART III. METHODS AND MEANS OF WARFARE  
COMBATANT AND PRISONER OF WAR STATUS

...

**Section II. Combatant and prisoner of war status**

*Article 43*

*Armed forces*

1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct or its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, *inter alia*, shall enforce compliance with the rules of international law applicable in armed conflict.

...

*Article 44*

*Combatants and prisoners of war*

...

2. While all combatants are obliged to comply with the rules of international law applicable in armed conflict, violations of these rules shall not deprive a combatant of his right to be a combatant or, if he falls into the power of an adverse Party, of his right to be a prisoner of war, except as provided in paragraphs 3 and 4.

...

**PART IV. CIVILIAN POPULATION**

**Section I. General protection against effects of hostilities**

...

**CHAPTER II. CIVILIANS AND CIVILIAN POPULATION**

...

*Article 51*

*Protection of the civilian population*

...

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

**Section III. Treatment of persons in the power of a party to the conflict**

CHAPTER I. FIELD OF APPLICATION AND PROTECTION OF PERSONS AND OBJECTS

...

*Article 75*

*Fundamental guarantees*

...

2. The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:

...

(c) The taking of hostages;

...

PART V. EXECUTION OF THE CONVENTIONS AND OF THIS PROTOCOL

...

**Section II. Repression of breaches of the conventions and of this protocol**

*Article 85*

*Repression of breaches of this Protocol*

...

2. Acts described as grave breaches in the Conventions are grave breaches of this Protocol if committed against persons in the power of an adverse Party protected by articles 44, 45 and 73 of this Protocol, or against the wounded, sick and shipwrecked of the adverse Party who are protected by this Protocol, or against those medical or religious personnel, medical units or medical transports which are under the control of the adverse Party and are protected by this Protocol.

...

*Article 88*

*Mutual assistance in criminal matters*

1. The High Contracting Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of grave breaches of the Conventions or of this Protocol.

2. Subject to the rights and obligations established in the Conventions and in article 85, paragraph 1, of this Protocol, and when circumstances permit, the High Contracting Parties shall cooperate in the matter of extradition. They shall give due consideration to the request of the State in whose territory the alleged offence has occurred.

3. The law of the High Contracting Party requested shall apply in all cases. The provisions of the preceding paragraphs shall not, however, affect the obligations arising from the provisions of any other treaty of a bilateral or multilateral nature which governs or will govern the whole or part of the subject of mutual assistance in criminal matters.



**52. Protocol Additional to the Geneva Conventions  
of 12 August 1949, and Relating to the Protection  
of Victims of Non-International Armed Conflicts  
(Protocol II) (selected excerpts)**

*Signed at Geneva on 8 June 1977*

*In force on 7 December 1978*

*United Nations, Treaty Series, vol. 1125, No. 17513*

*Depositary: Swiss Federal Council*

PART I. SCOPE OF THIS PROTOCOL

*Article 1*

*Material field of application*

1. This Protocol, which develops and supplements article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions or application, shall apply to all armed conflicts which are not covered by article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.

2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

...

PART II. HUMANE TREATMENT

*Article 4*

*Fundamental guarantees*

...

2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:

- ...
- (c) Taking of hostages;
  - (d) Acts of terrorism;
- ...

#### PART IV. CIVILIAN POPULATION

##### *Article 13*

##### *Protection of the civilian population*

...

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

...

## 53. Council of Europe Convention on Offences relating to Cultural Property

*Signed in Nicosia on 19 May 2017*

*Entry into force: In accordance with article 27 of the Convention*

*European Treaty Series (ETS) No. 221*

*Depositary: Secretary General of the Council of Europe*

### *Preamble*

The member States of the Council of Europe and the other signatories to this Convention,

*Considering* that the aim of the Council of Europe is to achieve a greater unity between its members;

*Being* convinced that the diverse cultural property belonging to peoples constitutes a unique and important testimony of the culture and identity of such peoples, and forms their cultural heritage;

*Concerned* that offences related to cultural property are growing and that such offences, to an increasing extent, are leading to the destruction of the world's cultural heritage;

*Considering* that unlawfully excavated and illicitly exported or imported cultural property is increasingly being sold in many different ways, including through antique shops and auction houses, and over the internet;

*Considering* that organised crime is involved in the trafficking of cultural property;

*Concerned* that terrorist groups are involved in the deliberate destruction of cultural heritage and use the illicit trade of cultural property as a source of financing;

*Convinced* of the need for a new Council of Europe Convention on Offences relating to Cultural Property which sets out criminal sanctions in this regard and which will replace the European Convention on Offences relating to Cultural Property (ETS No. 119), opened for signature in Delphi on 23 June 1985;

*Having* regard to the European Cultural Convention (ETS No. 18, 1954), the European Convention on the Protection of the Archaeological Heritage (ETS No. 66, 1969; ETS No. 143, revised in 1992), the Convention for the Protection of the Architectural Heritage of Europe (ETS No. 121, 1985) and the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (CETS No. 199, 2005);

*Having* regard to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30, 1959) and the European Convention on Extradition (ETS No. 24, 1957);

*Bearing* in mind Resolution 2199 (2015) adopted by the Security Council of the United Nations at its 7379th meeting, on 12 February 2015, and in particular paragraphs 15, 16 and 17; Resolution 2253 (2015) adopted by the Security Council of the United Nations at its 7587th meeting, on 17 December 2015, and in particular paragraphs 14 and 15; Resolution 2322 (2016) adopted by the Security Council of the United Nations at its 7831st meeting, on 12 December 2016, and in particular paragraph 12; Resolution 2347 (2017) adopted by the Security Council of the United Nations at its 7907th meeting, on 24 March 2017;

*Bearing* in mind also the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, its First Protocol of 1954 and Second Protocol of 1999; the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and its Operational Guidelines adopted in 2015 by the third Meeting of States Parties; the 1972 UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage; the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects; the 2000 United Nations Convention against Transnational Organized Crime and the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage;

*Also bearing* in mind Resolution 2057 (2015) on cultural heritage in crisis and post-crisis situations, adopted by the Standing Committee of the Parliamentary Assembly of the Council of Europe on 22 May 2015;

*Taking* into consideration the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, adopted by the General Assembly of the United Nations with its Resolution 69/196 of 18 December 2014;

*Considering* that the purpose of this Convention is to protect cultural property through the prevention of and the fight against criminal offences relating to cultural property;

*Recognising* that, to efficiently combat cultural property crimes, close international co-operation between Council of Europe member States and non-member States alike should be encouraged,

*Have agreed* as follows:

CHAPTER I—PURPOSE, SCOPE, USE OF TERMS

*Article 1—Purpose of the Convention*

1. The purpose of this Convention is to:

- (a) prevent and combat the destruction of, damage to, and trafficking of cultural property by providing for the criminalisation of certain acts;
- (b) strengthen crime prevention and the criminal justice response to all criminal offences relating to cultural property;
- (c) promote national and international co-operation in combating criminal offences relating to cultural property;

and thereby protect cultural property.

2. In order to ensure effective implementation of its provisions by the Parties, this Convention sets up a follow-up mechanism.

*Article 2—Scope and use of terms*

1. This Convention applies to the prevention, investigation, and prosecution of the criminal offences referred to in this Convention relating to movable and immovable cultural property.

2. For the purposes of this Convention the term “cultural property” shall mean:

*a.* in respect of movable property, any object, situated on land or underwater or removed therefrom, which is, on religious or secular grounds, classified, defined or specifically designated by any Party to this Convention or to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, as being of importance for archaeology, prehistory, ethnology, history, literature, art or science, and which belongs to the following categories:

- (a) rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
- (b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
- (c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
- (d) elements of artistic or historical monuments or archaeological sites which have been dismembered;
- (e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
- (f) objects of ethnological interest;

- (g) property of artistic interest, such as:
  - (i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
  - (ii) original works of statuary art and sculpture in any material;
  - (iii) original engravings, prints and lithographs;
  - (iv) original artistic assemblages and montages in any material;
- (h) rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
- (i) postage, revenue and similar stamps, singly or in collections;
- (j) archives, including sound, photographic and cinematographic archives;
- (k) articles of furniture more than one hundred years old and old musical instruments;

*b.* in respect of immovable property, any monument, group of buildings, site or structure of any other kind, whether situated on land or underwater, which is, on religious or secular grounds, defined or specifically designated by any Party to this Convention or by any Party to the 1970 UNESCO Convention as being of importance for archaeology, prehistory, ethnology, history, art or science or listed in accordance with Article 1 and Article 11 (*paragraphs 2 or 4*) of the 1972 UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage.

## CHAPTER II—SUBSTANTIVE CRIMINAL LAW

### *Article 3—Theft and other forms of unlawful appropriation*

Each Party shall ensure that the offence of theft and other forms of unlawful appropriation as set out in their domestic criminal law apply to movable cultural property.

### *Article 4—Unlawful excavation and removal*

1. Each Party shall ensure that the following conducts constitute a criminal offence under its domestic law, when committed intentionally:
  - a.* the excavation on land or under water in order to find and remove cultural property without the authorisation required by the law of the State where the excavation took place;

b. the removal and retention of movable cultural property excavated without the authorisation required by the law of the State where the excavation took place;

c. the unlawful retention of movable cultural property excavated in compliance with the authorisation required by the law of the State where the excavation took place.

2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right to provide for non-criminal sanctions, instead of criminal sanctions for the conduct described in paragraph 1 of this article.

#### *Article 5—Illegal importation*

1. Each Party shall ensure that, when committed intentionally, the importation of movable cultural property, the importation of which is prohibited pursuant to its domestic law on the grounds that it has been:

a. stolen in another State;

b. excavated or retained under circumstances described in Article 4 of this Convention; or

c. exported in violation of the law of the State that has classified, defined or specifically designated such cultural property in accordance with Article 2 of this Convention,

constitutes a criminal offence under its domestic law where the offender knew that the cultural property had been stolen, excavated or exported in violation of the law of that other State.

2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right to provide for non-criminal sanctions, instead of criminal sanctions for the conduct described in paragraph 1 of the present article.

#### *Article 6—Illegal exportation*

1. Each Party shall ensure that the exportation of movable cultural property, if the exportation is prohibited or carried out without authorisation pursuant to its domestic law, constitutes a criminal offence under its domestic law, when committed intentionally.

2. Each Party shall consider taking the necessary measures to apply paragraph 1 of the present article also in respect of movable cultural property that had been illegally imported.

*Article 7—Acquisition*

1. Each Party shall ensure that the acquisition of movable cultural property that has been stolen in accordance with Article 3 of this Convention or has been excavated, imported or exported under circumstances described in Articles 4, 5 or 6 of this Convention constitutes a criminal offence under its domestic law where the person knows of such unlawful provenance.

2. Each Party shall consider taking the necessary measures to ensure that the conduct described in paragraph 1 of the present article constitutes a criminal offence also in the case of a person who should have known of the cultural property's unlawful provenance if he or she had exercised due care and attention in acquiring the cultural property.

*Article 8—Placing on the market*

1. Each Party shall ensure that the placing on the market of movable cultural property that has been stolen in accordance with Article 3 of this Convention or has been excavated, imported or exported under circumstances described in Articles 4, 5 or 6 of this Convention constitutes a criminal offence under its domestic law where the person knows of such unlawful provenance.

2. Each Party shall consider taking the necessary measures to ensure that the conduct described in paragraph 1 of this article constitutes a criminal offence also in the case of a person who should have known of the cultural property's unlawful provenance if he or she had exercised due care and attention in placing the cultural property on the market.

*Article 9—Falsification of documents*

Each Party shall ensure that the making of false documents and the act of tampering with documents relating to movable cultural property constitute criminal offences under its domestic law, where these actions are intended to present the property as having licit provenance.

*Article 10—Destruction and damage*

1. Each Party shall ensure that the following conducts constitute a criminal offence under its domestic law, when committed intentionally:

- a.* the unlawful destruction or damaging of movable or immovable cultural property, regardless of the ownership of such property;
- b.* the unlawful removal, in whole or in part, of any elements from movable or immovable cultural property, with a view to importing, exporting or placing on the market these elements under the circumstances described in Articles 5, 6 and 8 of this Convention.



2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply paragraph 1 of the present article, or to apply it only in specific cases or conditions in cases where the cultural property has been destroyed or damaged by the owner of the cultural property or with the owner's consent.

*Article 11—Aiding or abetting and attempt*

1. Each Party shall ensure that the intentional aiding or abetting the commission of a criminal offence referred to in this Convention also constitutes a criminal offence under its domestic law.

2. Each Party shall ensure that the intentional attempt to commit any of the criminal offences referred to in this Convention with the exception of those defined in Article 4, paragraph 1, sub-paragraph a and in Article 8 also constitutes a criminal offence under its domestic law.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, the provision of paragraph 1 of the present article in respect of offences defined in Article 4, paragraph 1, sub-paragraph a.

*Article 12—Jurisdiction*

1. Each Party shall take the necessary measures to establish jurisdiction over the criminal offences referred to in this Convention, when the offence is committed:

- a. in its territory;
- b. on board a ship flying the flag of that Party;
- c. on board an aircraft registered under the laws of that Party; or
- d. by one of its nationals.

2. Each Party shall take the necessary measures to establish jurisdiction over any criminal offence referred to in this Convention, when the alleged offender is present in its territory and cannot be extradited to another State, solely on the basis of his or her nationality.

3. Each State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, the jurisdiction rules laid down in paragraph 1, sub-paragraph d of the present article.

4. Where more than one Party claims jurisdiction over an alleged offence in accordance with this Convention, the Parties concerned shall, where appropriate, consult each other with a view to determining the most appropriate jurisdiction for prosecution.

5. Without prejudice to the general rules of international law, this Convention shall not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.

*Article 13—Liability of legal persons*

1. Each Party shall ensure that legal persons can be held liable for criminal offences referred to in this Convention, when committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within that legal person, based on:

- a. a power of representation of the legal person;
- b. an authority to take decisions on behalf of the legal person;
- c. an authority to exercise control within the legal person.

2. Apart from the cases provided for in paragraph 1 of the present article, each Party shall ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 of the present article has made possible the commission of a criminal offence referred to in this Convention for the benefit of that legal person by a natural person acting under its authority.

3. Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.

4. Such liability shall be without prejudice to the criminal liability of a natural person who has committed the offence.

*Article 14—Sanctions and measures*

1. Each Party shall ensure that the criminal offences referred to in this Convention, when committed by natural persons, are punishable by effective, proportionate and dissuasive sanctions, which take into account the seriousness of the offence. These sanctions shall include, except for offences defined in Article 4, paragraph 1, sub-paragraph a and in Article 5, paragraph 1, sub-paragraphs b and c of this Convention, penalties involving deprivation of liberty that may give rise to extradition.

2. Each Party shall ensure that legal persons held liable in accordance with Article 13 of this Convention are subject to effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal monetary sanctions, and could include other measures, such as:

- a. temporary or permanent disqualification from exercising commercial activity;

- b. exclusion from entitlement to public benefits or aid;
- c. placing under judicial supervision;
- d. a judicial winding-up order.

3. Each Party shall take the necessary legislative and other measures, in accordance with domestic law, to permit seizure and confiscation of the:

- a. instrumentalities used to commit criminal offences referred to in this Convention;
- b. proceeds derived from such offences, or property whose value corresponds to such proceeds.

4. Each Party shall, where cultural property has been seized in the course of criminal proceedings but is no longer required for the purposes of these proceedings, undertake to apply, where appropriate, its criminal procedural law, other domestic law or applicable international treaties when deciding to hand over that property to the State that had specifically designated, classified or defined it as cultural property in accordance with Article 2 of this Convention.

#### *Article 15—Aggravating circumstances*

Each Party shall ensure that the following circumstances, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of domestic law, be taken into consideration as aggravating circumstances in determining the sanctions in relation to the criminal offences referred to in this Convention:

- a. the offence was committed by persons abusing the trust placed in them in their capacity as professionals;
- b. the offence was committed by a public official tasked with the conservation or the protection of movable or immovable cultural property, if he or she has intentionally refrained from properly performing his or her duties with a view to obtaining an undue advantage or a prospect thereof;
- c. the offence was committed in the framework of a criminal organisation;
- d. the perpetrator has previously been convicted of the offences referred to in this Convention.

#### *Article 16—Previous sentences passed by another Party*

Each Party shall take the necessary measures to provide for the possibility to take into account final sentences passed by another Party in relation to the criminal offences referred to in this Convention when determining the sanctions.

CHAPTER III—INVESTIGATION, PROSECUTION AND PROCEDURAL LAW

*Article 17—Initiation of proceedings*

Each Party shall take the necessary legislative and other measures to ensure that investigations or prosecution of criminal offences referred to in this Convention should not be subordinate to a complaint.

*Article 18—Investigations*

Each Party shall consider taking legislative and other measures to ensure that persons, units or services in charge of investigations are specialised in the field of combating the trafficking of cultural property or that persons are trained for this purpose.

*Article 19—International co-operation in criminal matters*

1. The Parties shall co-operate with each other, in accordance with the provisions of this Convention and in pursuance of relevant applicable international and regional instruments and arrangements agreed on the basis of uniform legislation or reciprocity and their domestic law, to the widest extent possible, for the purpose of investigations or proceedings concerning the criminal offences referred to in this Convention, including seizure and confiscation.

2. If a Party that makes extradition or mutual legal assistance in criminal matters conditional on the existence of a treaty receives a request for extradition or legal assistance in criminal matters from a Party with which it has no such a treaty, it may, acting in full compliance with its obligations under international law and subject to the conditions provided for by the domestic law of the requested Party, consider this Convention as the legal basis for extradition or mutual legal assistance in criminal matters in respect of the offences referred to in this Convention and may apply, *mutatis mutandis*, Articles 16 and 18 of the United Nations Convention on Transnational Organized Crime to this effect.

CHAPTER IV—PREVENTIVE MEASURES AND OTHER  
ADMINISTRATIVE MEASURES

*Article 20—Measures at domestic level*

Each Party should, taking into account its obligations under applicable international treaties, consider taking the legislative and other necessary measures to:

- a.* establish or develop inventories or databases of its cultural property defined under Article 2, paragraph 2, of this Convention;
- b.* introduce import and export control procedures, in accordance with the relevant international instruments, including a sys-

tem whereby the importation and exportation of movable cultural property are subject to the issuance of specific certificates;

*c.* introduce due diligence provisions for art and antiquity dealers, auction houses and others involved in the trade in cultural property, and introduce an obligation to establish records of their transactions. These records should be made available to the competent authorities in accordance with domestic law;

*d.* establish a central national authority or empower existing authorities and putting in place other mechanisms for co-ordinating the activities related to the protection of cultural property;

*e.* enable the monitoring and reporting of suspicious dealings or sales on the internet;

*f.* enable the mandatory reporting to the competent authorities of the discovery by chance of cultural property of the archaeological heritage;

*g.* promote awareness-raising campaigns addressed to the general public about the protection of cultural property and the dangers posed by the crimes against it;

*h.* ensure that museums and similar institutions whose acquisition policy is under State control do not acquire illicitly removed cultural property, and provide information and training for the relevant officials on the prevention of and fight against cultural property-related crimes;

*i.* encourage museums and similar institutions, whose acquisition policy is not under State control, to comply with existing ethical rules on the acquisition of movable cultural property and report to law enforcement authorities any suspected trafficking of cultural property;

*j.* encourage internet service providers, internet platforms and web-based sellers to co-operate in preventing the trafficking of cultural property by participating in the elaboration and implementation of relevant policies;

*k.* prevent free ports from being used for the purpose of trafficking of cultural property either through legislative measures or by encouraging them to establish and effectively implement internal norms through self-regulation;

*l.* improve the dissemination of information relating to any cultural property that has been the subject of an offence as defined by this Convention to its customs and police authorities in order to prevent the trafficking of this cultural property.

*Article 21—Measures at international level*

Each Party shall co-operate to the widest extent possible for the purpose of preventing and fighting the intentional destruction of, damage to, and trafficking of cultural property. In particular, the States Parties should:

- a. promote consultation and exchange of information as regards the identification, seizure and confiscation of cultural property that has been the subject of an offence defined by this Convention and that has been recovered within their territory;
- b. contribute to international data collection on trafficking of movable cultural property by sharing or interconnecting national inventories or databases on cultural property that has been the subject of an offence defined by this Convention, and/or contributing to international inventories or databases, such as the Interpol database on stolen works of art;
- c. facilitate co-operation for the purpose of also protecting and preserving cultural property in times of instability or conflict.

CHAPTER V—FOLLOW-UP MECHANISM

*Article 22—Committee of the Parties*

1. The Committee of the Parties shall be composed of representatives of the Parties to the Convention.
2. The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention for the tenth signatory having ratified it. It shall subsequently meet whenever at least one third of the Parties or the Secretary General so requests.
3. The Committee of the Parties shall adopt its own rules of procedure.
4. The Committee of the Parties shall be assisted by the Secretariat of the Council of Europe in carrying out its functions.
5. The Committee of the Parties may propose to the Committee of Ministers appropriate ways to engage relevant expertise in support of the effective implementation of this Convention.

*Article 23—Other representatives*

1. The Parliamentary Assembly of the Council of Europe, the European Committee on Crime Problems (CDPC) and the Steering Committee for Culture, Heritage and Landscape (CDCPP) shall each appoint a representative to the Committee of the Parties in order to contribute to a multisectoral and multidisciplinary approach.

2. The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the Committee of the Parties, after consultation with the committee.

3. Representatives of relevant international bodies may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

4. Representatives of relevant official bodies of the Parties may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

5. Representatives of civil society, and in particular non-governmental organisations, may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

6. In the appointment of representatives under paragraphs 2 to 5 of the present article, a balanced representation of the different sectors and disciplines shall be ensured.

7. Representatives appointed in accordance with paragraphs 1 to 5 of this article shall participate in meetings of the Committee of the Parties without the right to vote.

*Article 24—Functions of the Committee of the Parties*

1. The Committee of the Parties shall monitor the implementation of this Convention. Its rules of procedure shall determine the procedure for evaluating the implementation of this Convention.

2. The Committee of the Parties shall also facilitate the collection, analysis and exchange of information, experience and good practice between States to improve their capacity to prevent and combat trafficking in cultural property. The committee may avail itself of the expertise of other relevant Council of Europe committees and bodies.

3. Furthermore, the Committee of the Parties shall, where appropriate:

*a.* facilitate the effective use and implementation of this Convention, including the identification of any problems that may arise and the effects of any declaration or reservation made under this Convention;

*b.* express an opinion on any question concerning the application of this Convention and facilitate the exchange of information on significant legal, policy or technological developments;

*c.* make specific recommendations to Parties concerning the implementation of this Convention.

4. The European Committee on Crime Problems and the Steering Committee for Culture, Heritage and Landscape shall be kept

periodically informed about the activities mentioned in paragraphs 1, 2 and 3 of this article.

CHAPTER VI—RELATIONSHIP WITH OTHER  
INTERNATIONAL INSTRUMENTS

*Article 25—Relationship with other international instruments*

1. This Convention shall not affect the rights and obligations arising from the provisions of other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention. However, where Parties establish their relations in respect of the matters dealt with in the present Convention other than as regulated therein, they shall do so in a manner that is not inconsistent with the Convention's objectives and principles.

2. The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

CHAPTER VII—AMENDMENTS TO THE CONVENTION

*Article 26—Amendments*

1. Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member States of the Council of Europe, the non-member States which have participated in its elaboration and to any State which has acceded to, or has been invited to accede to this Convention in accordance with the provisions of Article 28.

2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems and the Steering Committee for Culture, Heritage and Landscape, which shall submit to the Committee of the Parties their opinions on that proposed amendment.

3. The Committee of Ministers of the Council of Europe shall consider the proposed amendment and the opinion submitted by the Committee of Parties and, after having consulted the Parties to this Convention that are not members of the Council of Europe, may adopt the amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.



5. Any amendment adopted in accordance with paragraph 3 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

#### CHAPTER VIII—FINAL CLAUSES

##### *Article 27—Signature and entry into force*

1. This Convention shall be open for signature by the member States of the Council of Europe and the non-member States which have participated in its elaboration.

2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five Signatories, including at least three member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

4. In respect of any Signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force, in its respect, on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

##### *Article 28—Accession to the Convention*

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consulting the Contracting States to this Convention and obtaining their unanimous consent, invite any non-member State of the Council of Europe which has not participated in the elaboration of the Convention to accede to this Convention by a decision taken by the majority provided for in Article 20 d of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

*Article 29—Territorial application*

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any State may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in any such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

*Article 30—Reservations*

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or more of the reservations provided for in Articles 4, 5, 10, 11 and 12, paragraph 3, of this Convention. No other reservation may be made in respect of any provision of this Convention.

2. Each Party which has made a reservation may, at any time, withdraw it entirely or partially by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect from the date of the receipt of such notification by the Secretary General.

3. A Party which has made a reservation in respect of a provision of this Convention may not claim the application of that provision by any other Party; it may, however, if the reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

*Article 31—Denunciation*

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

*Article 32—Notifications*

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the non-member States which have participated in its elaboration, any Signatory, any Contracting State and any other State which has been invited to accede to this Convention of:

- a.* any signature;
- b.* the deposit of any instrument of ratification, acceptance, approval or accession;
- c.* any date of entry into force of this Convention in accordance with Article 27, paragraphs 3 and 4; Article 28, paragraph 2, and Article 29, paragraph 2;
- d.* any amendment adopted in accordance with Article 26 and the date on which such an amendment enters into force;
- e.* any reservation and withdrawal of reservation made in pursuance of Article 30;
- f.* any denunciation made in pursuance of Article 31;
- g.* any other act, declaration, notification or communication relating to this Convention.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Nicosia, this 19th day of May 2017, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, and to any State invited to accede to this Convention.

