

## **International Convention for the Suppression of Acts of Nuclear Terrorism** (*New York, 13 April 2005*)

### **OBJECTIVES**

The General Assembly, by its resolution 51/210 of 17 December 1996, established an Ad Hoc Committee with the task to elaborate, among other instruments, a convention on nuclear terrorism. The Ad Hoc Committee finalized the text of International Convention for the Suppression of Acts of Nuclear Terrorism (the Convention) at its ninth session, held from 28 March to 1 April 2005. The General Assembly, by its resolution 59/290 adopted without a vote the Convention on 13 April 2005. The main objective of the Convention is to prevent and suppress acts of nuclear terrorism.

### **KEY PROVISIONS**

Article 1 of the Convention provides for the definitions of, *inter alia*, “radioactive material”, “nuclear material”, “nuclear facility”, “device”, “State or government facility” and “military forces of a State”.

In accordance with article 2, the Convention applies to acts committed by individuals. Within the meaning of the Convention, any person commits an offence if that person possesses radioactive material or makes or possesses a device with the intent to cause death or serious bodily injury or to cause substantial damage to property or to the environment. The use or threat of use of radioactive material or a device constitutes an offence under the Convention. Any person also commits a crime if that person attempts to commit an offence or participates as an accomplice in the commission of the above acts.

The Convention does not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, and no other State has a basis to exercise jurisdiction.

The Convention does not apply to the activities of armed forces during an armed conflict, which are governed by international humanitarian law. Nor does it apply to the activities of military forces in the exercise of their official duties in as much as they are governed by other rules of international law. The Convention does not address the issue of the legality of the use or threat of use of nuclear weapons by States.

Parties are required to establish the acts referred to in article 2 as criminal offences under their national laws, and to make such offences punishable by appropriate penalties.

The Convention places an obligation on the Parties to cooperate in preventing acts of nuclear terrorism by, *inter alia*, exchanging accurate and verified information to detect, suppress and investigate the above offences.

Each Party is required to establish its jurisdiction over the offences committed in its territory or onboard a vessel or aircraft registered in that State, or when the alleged offender is a national of that State.

The Convention requires the Parties either to prosecute or extradite the alleged offender. It provides for the widest measure of mutual legal assistance between the Parties in connection with criminal proceedings.

Moreover, the Convention stipulates that each Party taking control of radioactive material, devices or nuclear facilities should adopt measures to render harmless such items and ensure that any nuclear material is held in accordance with IAEA safeguards. This article also regulates the return of the seized nuclear material or devices to the Parties concerned.

### ***ENTRY INTO FORCE***

The Convention is not in force. The 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 (article 25).

### ***HOW TO BECOME A PARTY***

The Convention will be open for signature by all States on 14 September 2005 until 31 December 2006. The Convention is subject to ratification, acceptance or approval, and is open to accession (article 24).

### ***OPTIONAL AND/OR MANDATORY DECLARATIONS AND NOTIFICATIONS***

Upon ratifying, accepting, approving or acceding to the Convention, each Party shall notify the Secretary-General of the jurisdiction it has established under its national law in accordance with paragraph 2 of article 9. Should any change take place, the Party concerned shall immediately notify the Secretary-General (article 9 (3)).

Parties shall inform the Secretary-General of their competent authorities and liaison points responsible for sending and receiving the information referred to in article 7 (article 7 (4)).

When a Party, pursuant to article 10, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General, the Parties which have established jurisdiction in accordance with articles 9 (1) and (2) and, if it considers it advisable, any other interested Parties, of the fact that the person is in custody and of the circumstances which warrant that person's detention.

The 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, who shall transmit the information to the other Parties (article 19).

### ***RESERVATIONS***

Each State may, at the time of signature, ratification, acceptance or approval of the Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of article 23 (mandatory arbitration and referral to the International Court of Justice) (article 23).

### ***DENUNCIATION/WITHDRAWAL***

Any Party may denounce the Convention by written notification to the Secretary-General. The denunciation shall take effect one year following the date on which notification is received by the Secretary-General (article 27).