

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



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CONTENTS

	<i>Page</i>
Preface by the Secretary-General	ix
Introduction.	xi

Part I. Universal instruments

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963	3
2. Convention for the Suppression of Unlawful Seizure of Aircraft, 1970	12
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971	18
4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973	25
5. International Convention against the Taking of Hostages, 1979	32
6. Convention on the Physical Protection of Nuclear Material, 1979	40
7. 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, 1988	51
8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988.	55
9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988.	65
10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991.	70
11. International Convention for the Suppression of Terrorist Bombings, 1997.	78
12. International Convention for the Suppression of the Financing of Terrorism, 1999	89

	<i>Page</i>
13. International Convention for the Suppression of Acts of Nuclear Terrorism, 2005	104
14. Amendment to the Convention on the Physical Protection of Nuclear Material, 2005	118
15. Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005.	129
16. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005	151

Part II. Regional instruments

17. 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, 1971	159
18. European Convention on the Suppression of Terrorism, as amended by its Protocol, 1977	163
19. South Asian Association for Regional Cooperation (SAARC) Regional Convention on Suppression of Terrorism, 1987	174
20. The Arab Convention on the Suppression of Terrorism, 1998.	178
21. Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism, 1999.	194
22. Convention of the Organization of the Islamic Conference on Combating International Terrorism, 1999	204
23. Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism, 1999.	220
24. Shanghai Convention against Terrorism, Separatism and Extremism, 2001	232
25. Inter-American Convention against Terrorism, 2002	241
26. Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism, 2004	250
27. Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism, 2004	259

	<i>Page</i>
28. Protocol to the Organization of the African Union Convention on the Prevention and Combating of Terrorism, 2004.	272
29. 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, 2004.	279
30. Council of Europe Convention on the Prevention of Terrorism, 2005.	285
31. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, 2005	303
32. Association of Southeast Asian Nations (ASEAN) Convention on Counter-Terrorism, 2007	336

Part III. United Nations Declarations

33. Declaration on Measures to Eliminate International Terrorism, 1994.	349
34. Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, 1996	353
35. The United Nations Global Counter-Terrorism Strategy, 2006.	355

*Part IV. Resolutions of the Security Council**

36. Resolution 1373 (2001)—Establishment of Counter-Terrorism Committee (CTC)—threats to international peace and security caused by terrorist acts	367
37. Resolution 1377 (2001)—Ministerial declaration on the global effort to combat terrorism	371

*The following resolutions of the Security Council condemning various terrorist attacks have not been reproduced in the present edition: resolution 1368 (2001)—condemnation of the 11 September 2001 terrorist attacks against the United States of America; resolution 1438 (2002)—condemnation of the bomb attacks in Bali; resolution 1440 (2002)—condemnation of the taking of hostages in Moscow; resolution 1450 (2002)—condemnation of the terrorist attacks in Kenya; resolution 1465 (2003)—condemnation of the bomb attacks in Bogotá, Colombia; resolution 1516 (2003)—condemnation of the bomb attacks in Istanbul; resolution 1530 (2004)—condemnation of the bomb attacks in Madrid; resolution 1611 (2005)—condemnation of the terrorist attacks in London; and resolution 1618 (2005)—condemnation of the terrorist attacks in Iraq.

	<i>Page</i>
38. Resolution 1390 (2002)—The situation in Afghanistan	373
39. Resolution 1452 (2002)—Threats to international peace and security caused by terrorist acts	377
40. Resolution 1455 (2003)—Threats to international peace and security caused by terrorist acts	379
41. Resolution 1456 (2003)—Declaration of the Ministers for Foreign Affairs on the issue of combating terrorism.	383
42. Resolution 1526 (2004)—Threats to international peace and security caused by terrorist acts	386
43. Resolution 1535 (2004)—Establishment of the Executive Directorate Counter-Terrorism Committee (CTED)	391
44. Resolution 1540 (2004)—Non-proliferation of weapons of mass destruction	394
45. Resolution 1566 (2004)—Establishment of a working group to consider measures to be imposed upon individuals, groups or entities other than those designated by the Al-Qaida Taliban Sanctions Committee	398
46. Resolution 1617 (2005)—Threats to international peace and security caused by terrorist acts	401
47. Resolution 1624 (2005)—Prohibition of incitement to commit terrorist acts	407
48. Resolution 1735 (2006)—Threats to international peace and security caused by terrorist acts	411

Part V. Other instruments

49. Convention on the Safety of United Nations and Associated Personnel, 1994	421
50. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949 (selected excerpts)	431
51. Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949 (selected excerpts)	432
52. Geneva Convention Relative to the Treatment of Prisoners of War, 1949 (selected excerpts)	433
53. Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949 (selected excerpts)	434

	<i>Page</i>
54. 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)	436
55. 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)	439

PREFACE

Terrorism is one of the main contemporary threats to international peace and security. Perpetrators of terrorist acts undermine human rights, fundamental freedoms and the rule of law, which are the pillars of international stability and of the action of the United Nations.

The Organization plays a leading role in the fight against terrorism, which calls for a global response. It is the forum for the development and adoption of international conventions that provide the international community with common instruments for combating terrorism in all its forms and manifestations.

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

This third edition updates the compendium of universal and regional counter-terrorism instruments and takes into account a number of new additions to the body of instruments. The present edition, which reflects developments in this field, contributes to the dissemination and promotion of these instruments in 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.

BAN Ki-moon

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 is 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 is in five parts. Part one contains universal treaties on the prevention and suppression of international terrorism while part two deals with instruments adopted at the regional level. They have both been updated to take into account developments since 2005 and the publication of the second edition. Part three reproduces two United Nations declarations used as the legal framework for international measures for the prevention and suppression of international terrorism in recent years as well as for the United Nations Global Counter-Terrorism Strategy adopted on 8 September 2008. Part four contains the texts of substantive Security Council resolutions on that subject. Part five reproduces some extracts of international treaties relating to the question, namely, the Convention on the Safety of United Nations Personnel and Associated Personnel adopted by the United Nations General Assembly in 1994, and the Geneva Conventions of 1949 and the Additional Protocols thereto, of 1977.

The present compendium is not exhaustive: it does not include other instruments on the topic, such as bilateral treaties, or instruments relating to other forms of crime, such as drug trafficking, arms trafficking, smuggling, money-laundering and organized crime.

Information on the status of multilateral treaties deposited with the United Nations Secretary-General and on their entry into force can be obtained from the United Nations Treaty Series website at <http://untreaty.un.org/>. The Secretary-General also submits every year to the General Assembly a report on measures to eliminate international terrorism

which contains, among other things, detailed information on the status of all the treaties reproduced in parts I and II of the present compendium. Electronic versions of these reports can be obtained from the website of the Sixth Committee of the General Assembly at <http://www.un.org/ga/sixth>. The most recent version was published during the sixty-second session of the General Assembly in 2007 as document A/62/160.

The present compendium, which is the fruit of collaboration between the Codification Division of the United Nations Office of Legal Affairs and the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime, will be published in Arabic, Chinese, English, French, Russian and Spanish.

New York
February 2008

Part I

UNIVERSAL INSTRUMENTS

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft

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.

2. Convention for the Suppression of Unlawful Seizure of Aircraft

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.

3. 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 para-

graph 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.

4. 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

Depository: 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.

5. 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

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 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 co operation 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 I

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 inter-governmental 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.

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 co operation 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 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,

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; 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; 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 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, 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 co operation shall be determined by the States Parties concerned.

3. States Parties shall co operate 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 ^c
1. Plutonium ^a	Unirradiated ^b	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 ^b	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 20% ²³⁵ U or more			Less than 10 kg but more than 1 kg
	-uranium enriched to 10% ²³⁵ U but less than 20%			10 kg or more
	-uranium enriched above natural, but less than 10% ²³⁵ U			10 kg or more
3. Uranium-233	Unirradiated ^b	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) ^{d,e}	

^a All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

^b 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.

^c Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

^d 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.

^e 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. 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.

8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

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 co operation 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 co operation 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 co operation 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 re-

quest, 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 co operate 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.

9. 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.

10. 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 Depository.

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 Depository. 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 Depository, 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 Depository 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 1: 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 10⁻⁴ 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 cyclotetramethylene-tetranitramine (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.

11. 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

U.N. Doc. A/RES/52/164, 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,

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.

12. 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

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

Depositary: 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 transac-

tions 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.

13. 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

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 pur-

suant 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.

14. 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

Depositary: Director General of the IAEA

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 physi-

cal 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:

^b 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:

^e 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.

15. 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 addi-

tional 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 in-

struments, 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 multi-component 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 2bis

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 3ter

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 3quater

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 5bis

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 8bis

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, *3bis*, *3ter* or *3quater* 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, *3bis*, *3ter* or *3quater*, 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, *3bis*, *3ter* or *3quater* 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, *3bis*, *3ter* or *3quater* 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, *3bis*, *3ter* or *3quater* 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, *3bis*, *3ter* or *3quater* 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, *3bis*, *3ter* or *3quater* 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 opportu-

nity 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, *3bis*, *3ter* and *3quater* 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, *3bis*, *3ter* and *3quater*. 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, *3bis*, *3ter* and *3quater* 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, *3bis*, *3ter* and *3quater* 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 11bis

None of the offences set forth in article 3, *3bis*, *3ter* or *3quater* 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 11ter

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, *3bis*, *3ter* or *3quater* 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, *3bis*, *3ter* and *3quater*, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. The following text is added as article *12bis* of the Convention:

Article 12bis

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, *3bis*, *3ter* or *3quater* 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, *3bis*, *3ter* and *3quater*, 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, *3bis*, *3ter* and *3quater*.

2. When, due to the commission of an offence set forth in article 3, *3bis*, *3ter* or *3quater*, 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, *3bis*, *3ter* or *3quater* 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.

16. Protocol 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 2bis, 5, 5bis and 7, and of articles 10 to 16, including articles 11bis, 11ter and 12bis, 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, *2bis* and *2ter* 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 *2bis*:

Article 2bis

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 *2ter*:

Article 2ter

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, *2bis* and *2ter* 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 *4bis* 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 re-

quest 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

17. 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

Depository: General Secretariat of the Organization of American States

Whereas:

The defense 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.

18. European Convention on the Suppression of Terrorism, as amended by its Protocol

Done at Strasbourg on 27 January 1977

Entry into force of the Convention on 4 August 1978

Entry into force of the Protocol in accordance with its article 18

United Nations, Treaty Series, vol. 1137, No. 17828, and European Treaty Series ETS No. 190

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

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, concluded at Montreal on 23 September 1971;

(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;

(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.

2. In so far 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

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:

(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

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

1. 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. Contracting States undertake to consider such offences as extraditable offences in every extradition treaty subsequently concluded between them.

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 5

1. 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.

2. Nothing in this Convention shall be interpreted as imposing 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 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 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 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 10

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.

Article 11

1. Any dispute between Contracting States concerning the interpretation or application of this Convention, which has not been settled either in the framework of article 10 (e) or by negotiation, shall, at the request of any Party to the dispute, be referred to arbitration. Each Party shall nominate an arbitrator and the arbitrators shall nominate a referee.

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.

6. The arbitration tribunal shall lay down its own procedure. Its decisions shall be taken by majority vote. Where a majority cannot be reached, the referee shall have a casting vote. The tribunal's judgment shall be final.

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 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 14

1. This Convention shall be open to signature by the member States of and Observer States to the Council of Europe. It shall be subject to ratification, acceptance, approval or accession. Instruments of ratification, acceptance, approval or accession 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. 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. In respect of a signatory State ratifying, accepting, approving or acceding subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

Article 15

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 or shall not apply.

2. Any State may, when depositing its instrument of ratification, acceptance, approval or accession 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 16

1. Any State Party to the Convention on 15 May 2003 may, at the time of signature or when depositing its instrument of ratification, acceptance or approval of the Protocol amending the Convention, 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. 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:

(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. When applying paragraph 1 of this article, a Contracting State shall indicate the offences to which its reservation applies.

3. Any Contracting State may wholly or partly withdraw a reservation it has made in accordance with paragraph 1 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 Contracting 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.

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 Secretary 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 grave 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 follow-up committee.

8. The decision to refuse the extradition request, on the basis of 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 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 co-operation in the area of the fight against terrorism and, where co-operation 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 18

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 19

The Secretary General of the Council of Europe shall notify the Contracting States of:

(a) Any signature;

(b) Any deposit of an instrument of ratification, acceptance, approval or accession;

(c) Any date of entry into force of this Convention in accordance with article 14 thereof;

(d) Any declaration or notification received in pursuance of the provisions of article 15;

(e) Any notification received in pursuance of article 18 and the date on which denunciation takes effect.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Strasbourg, this 27th day of February 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.

19. 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 recognised the seriousness of the problem of terrorism as it affects the security 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, political stability, regional and international peace and cooperation; and recognised the importance of the principles laid down in UN resolution 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 organised activities within its territory directed towards the commission of such acts;

Aware of the danger posed by the spread of terrorism and its harmful effect on peace, cooperation, friendship and good neighbourly relations 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.

20. 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 determined 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 valid-

ity. 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.

21. 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 provi-

sion 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.

22. Convention of the Organization of the Islamic Conference on Combating International Terrorism

Adopted at Ouagadougou on 1 July 1999

In force on 7 November 2002

Depositary: General Secretariat of the Organization of the Islamic Conference

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;

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.

23. Organization of African Unity Convention on the Prevention and Combating of Terrorism

Adopted at Algiers on 14 July 1999

In force on 6 December 2002

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Depositary: Secretary-General of the Organization of African Unity

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;

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 co-operation 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 terrorist 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 co-operation 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.

24. 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 co-operation 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, philo-

sophical, 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.

25. **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, “offenses” means the offenses 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 offenses 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 terrorist 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 offenses 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 offenses established in the international instruments listed in article 2 of this Convention.

2. The measures referred to in paragraph 1 shall apply to offenses committed both within and outside the jurisdiction of the State Party.

Article 6

Predicate offenses 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 offenses those offenses established in the international instruments listed in article 2 of this Convention.

2. The money laundering predicate offenses 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 offenses 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

offenses 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 offenses 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 offenses 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 offense exception

For the purposes of extradition or mutual legal assistance, none of the offenses established in the international instruments listed in article 2 shall be regarded as a political offense or an offense connected with a political offense or an offense 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 offense or an offense connected with a political offense or an offense 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 offense 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 offense 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 polit-

ical 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 Con-

vention 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.

26. Additional Protocol to the South Asian Association for Regional Co-operation (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 Co-operation (SAARC),

Mindful of the purposes and the principles of co-operation 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 co-operation 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 co-operation 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

Co-operation on immigration and customs controls

1. States Parties, consistent with their respective domestic legal and administrative regimes, shall promote co-operation 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 co-operation 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 co-operation 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

Co-operation 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 co-operation

State Parties shall promote, where appropriate, technical co-operation 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.

27. Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism*

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 coordination and to ensure that their actions are comprehensive and mutually complementary,

* 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.

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 facili-

tating 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 protec-

tion 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 hand-over 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.

28. Protocol to the Organization of the African Union Convention on the Prevention and Combating of Terrorism

Signed in Addis Ababa on 8 July 2004

Entry into force: 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

29. 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 Depository 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 Depository 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 bio-

logical 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 Depositary 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 Depository.

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.

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 co-operation 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 po-

litical, 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 co-operation, 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 co-operation 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 co-operation 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 co-operation 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 polit-

ical 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: 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 co-operation 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 co-operation 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 co-operation, 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 CO-OPERATION

Section 1. Principles of international co-operation

Article 15

General principles and measures for international co-operation

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 co-operation

Article 28

Grounds for refusal

1. Co-operation 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 co-operation under

Section 2 only in so far as the assistance sought involves coercive action. Where dual criminality is required for co-operation 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. Co-operation 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, co-operation 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. Co-operation 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 con-

ducted 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 co-operation under this chapter. Where its domestic law so requires, a Party may require that a request for co-operation 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 co-operation 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 co-operation 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 co-operation 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 co-operation 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 co-operation 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 co-operation 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 co-operation 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 co-operation 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 co-operation 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 co-operation 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. CO-OPERATION BETWEEN FIUS

Article 46

Co-operation 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 co-operation 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 ques-

tionnaires, 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 co-operation.

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 co-operation 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. 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 co-operation 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.

Part III

UNITED NATIONS DECLARATIONS

33. Declaration on Measures to Eliminate International Terrorism

GENERAL ASSEMBLY RESOLUTION 49/60
OF 9 DECEMBER 1994

ANNEX

Declaration on Measures to Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the Declaration on the Strengthening of International Security, the Definition of Aggression, the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Deeply disturbed by the worldwide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States,

Deeply concerned by the increase, in many regions of the world, of acts of terrorism based on intolerance or extremism,

Concerned at the growing and dangerous links between terrorist groups and drug traffickers and their paramilitary gangs, which have resorted to all types of violence, thus endangering the constitutional order of States and violating basic human rights,

Convinced of the desirability for closer coordination and cooperation among States in combating crimes closely connected with terrorism, including drug trafficking, unlawful arms trade, money laundering and smuggling of nuclear and other potentially deadly materials, and bearing in mind the role that could be played by both the United Nations and regional organizations in this respect,

Firmly determined to eliminate international terrorism in all its forms and manifestations,

Convinced also that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is an essential element for the maintenance of international peace and security,

Convinced further that those responsible for acts of international terrorism must be brought to justice,

Stressing the imperative need to further strengthen international cooperation between States in order to take and adopt practical and effective measures to prevent, combat and eliminate all forms of terrorism that affect the international community as a whole,

Conscious of the important role that might be played by the United Nations, the relevant specialized agencies and States in fostering widespread cooperation in preventing and combating international terrorism, *inter alia*, by increasing public awareness of the problem,

Recalling the existing international treaties relating to various aspects of the problem of international terrorism, *inter alia*, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973, the International Convention against the Taking of Hostages, adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980, 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, signed at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 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, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991,

Welcoming the conclusion of regional agreements and mutually agreed declarations to combat and eliminate terrorism in all its forms and manifestations,

Convinced of the desirability of keeping under review the scope of existing international legal provisions to combat terrorism in all its forms and manifestations, with the aim of ensuring a comprehensive legal framework for the prevention and elimination of terrorism,

Solemnly declare the following:

I

1. 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;

2. Acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States,

hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society;

3. Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them;

II

4. States, guided by the purposes and principles of the Charter of the United Nations and other relevant rules of international law, must refrain from organizing, instigating, assisting or participating in terrorist acts in territories of other States, or from acquiescing in or encouraging activities within their territories directed towards the commission of such acts;

5. States must also fulfil their obligations under the Charter of the United Nations and other provisions of international law with respect to combating international terrorism and are urged to take effective and resolute measures in accordance with the relevant provisions of international law and international standards of human rights for the speedy and final elimination of international terrorism, in particular:

(a) To refrain from organizing, instigating, facilitating, financing, encouraging or tolerating terrorist activities and to take appropriate practical measures to ensure that their respective territories are not used for terrorist installations or training camps, or for the preparation or organization of terrorist acts intended to be committed against other States or their citizens;

(b) To ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of their national law;

(c) To endeavour to conclude special agreements to that effect on a bilateral, regional and multilateral basis, and to prepare, to that effect, model agreements on cooperation;

(d) To cooperate with one another in exchanging relevant information concerning the prevention and combating of terrorism;

(e) To take promptly all steps necessary to implement the existing international conventions on this subject to which they are parties, including the harmonization of their domestic legislation with those conventions;

(f) To take appropriate measures, before granting asylum, for the purpose of ensuring that the asylum seeker has not engaged in terrorist activities and, after granting asylum, for the purpose of ensuring that the refugee status is not used in a manner contrary to the provisions set out in subparagraph (a) above;

6. In order to combat effectively the increase in, and the growing international character and effects of, acts of terrorism, States should enhance their cooperation in this area through, in particular, systematizing the exchange of information concerning the prevention and combating of terrorism, as well as by effective implementation of the relevant international conventions and conclusion of mutual judicial assistance and extradition agreements on a bilateral, regional and multilateral basis;

7. In this context, States are encouraged 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;

8. Furthermore States that have not yet done so are urged to consider, as a matter of priority, becoming parties to the international conventions and protocols relating to various aspects of international terrorism referred to in the preamble to the present Declaration;

III

9. The United Nations, the relevant specialized agencies and intergovernmental organizations and other relevant bodies must make every effort with a view to promoting measures to combat and eliminate acts of terrorism and to strengthening their role in this field;

10. The Secretary-General should assist in the implementation of the present Declaration by taking, within existing resources, the following practical measures to enhance international cooperation:

(a) A collection of data on the status and implementation of existing multilateral, regional and bilateral agreements relating to international terrorism, including information on incidents caused by international terrorism and criminal prosecutions and sentencing, based on information received from the depositaries of those agreements and from Member States;

(b) A compendium of national laws and regulations regarding the prevention and suppression of international terrorism in all its forms and manifestations, based on information received from Member States;

(c) An analytical review of existing international legal instruments relating to international terrorism, in order to assist States in identifying aspects of this matter that have not been covered by such instruments and could be addressed to develop further a comprehensive legal framework of conventions dealing with international terrorism;

(d) A review of existing possibilities within the United Nations system for assisting States in organizing workshops and training courses on combating crimes connected with international terrorism;

IV

11. All States are urged to promote and implement in good faith and effectively the provisions of the present Declaration in all its aspects;

12. Emphasis is placed on the need to pursue efforts aiming at eliminating definitively all acts of terrorism by the strengthening of international cooperation and progressive development of international law and its codification, as well as by enhancement of coordination between, and increase of the efficiency of, the United Nations and the relevant specialized agencies, organizations and bodies.

34. Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism

GENERAL ASSEMBLY RESOLUTION 51/210
OF 17 DECEMBER 1996

ANNEX

Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

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

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

Deeply disturbed by the worldwide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States,

Underlining the importance of States developing extradition agreements or arrangements as necessary in order to ensure that those responsible for terrorist acts are brought to justice,

Noting that the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, does not provide a basis for the protection of perpetrators of terrorist acts, noting also in this context Articles 1, 2, 32 and 33 of the Convention, and emphasizing in this regard the need for States parties to ensure the proper application of the Convention,

*Stressing the importance of full compliance by States with their obligations under the provisions of the 1951 Convention¹⁸ and the 1967 Protocol relating to the Status of Refugees, including the principle of non *refoulement* of refugees to places where their life or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group or political opinion, and affirming that the present Declaration does not affect the protection afforded under the terms of the Convention and Protocol and other provisions of international law,*

Recalling Article 4 of the Declaration on Territorial Asylum adopted by the General Assembly by its resolution 2312 (XXII) of 14 December 1967,

Stressing the need further to strengthen international cooperation between States in order to prevent, combat and eliminate terrorism in all its forms and manifestations,

Solemnly declares the following:

1. 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 whomsoever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States;

2. The States Members of the United Nations reaffirm that acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations; they declare that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

3. The States Members of the United Nations reaffirm that States should take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not participated in terrorist acts, considering in this regard relevant information as to whether the asylum-seeker is subject to investigation for or is charged with or has been convicted of offences connected with terrorism and, after granting refugee status, for the purpose of ensuring that that status is not used for the purpose of preparing or organizing terrorist acts intended to be committed against other States or their citizens;

4. The States Members of the United Nations emphasize that asylum-seekers who are awaiting the processing of their asylum applications may not thereby avoid prosecution for terrorist acts;

5. The States Members of the United Nations reaffirm the importance of ensuring effective cooperation between Member States so that those who have participated in terrorist acts, including their financing, planning or incitement, are brought to justice; they stress their commitment, in conformity with the relevant provisions of international law, including international standards of human rights, to work together to prevent, combat and eliminate terrorism and to take all appropriate steps under their domestic laws either to extradite terrorists or to submit the cases to their competent authorities for the purpose of prosecution;

6. In this context, and while recognizing the sovereign rights of States in extradition matters, States are encouraged, when concluding or applying extradition agreements, not to regard as political offences excluded from the scope of those agreements offences connected with terrorism which endanger or represent a physical threat to the safety and security of persons, whatever the motives which may be invoked to justify them;

7. States are also encouraged, even in the absence of a treaty, to consider facilitating the extradition of persons suspected of having committed terrorist acts, insofar as their national laws permit;

8. The States Members of the United Nations emphasize the importance of taking steps to share expertise and information about terrorists, their movements, their support and their weapons and to share information regarding the investigation and prosecution of terrorist acts.

35. The United Nations Global Counter-Terrorism Strategy

GENERAL ASSEMBLY, RESOLUTION 60/288
OF 8 SEPTEMBER 2006

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and reaffirming its role under the Charter, including on questions related to international peace and security,

Reiterating its strong condemnation of terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as it constitutes one of the most serious threats to international peace and security,

Reaffirming the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 51/210 of 17 December 1996, and the 2005 World Summit Outcome, in particular its section on terrorism,

Recalling all General Assembly resolutions on measures to eliminate international terrorism, including resolution 46/51 of 9 December 1991, and Security Council resolutions on threats to international peace and security caused by terrorist acts, as well as relevant resolutions of the General Assembly on the protection of human rights and fundamental freedoms while countering terrorism,

Recalling also that, in the 2005 World Summit Outcome, world leaders rededicated themselves to support all efforts to uphold the sovereign equality of all States, respect their territorial integrity and political independence, to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations, to uphold the resolution of disputes by peaceful means and in conformity with the principles of justice and international law, the right to self-determination of peoples which remain under colonial domination or foreign occupation, non-interference in the internal affairs of States, respect for human rights and fundamental freedoms, respect for the equal rights of all without distinction as to race, sex, language or religion, international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and the fulfilment in good faith of the obligations assumed in accordance with the Charter,

Recalling further the mandate contained in the 2005 World Summit Outcome that the General Assembly should develop without delay the elements identified by the Secretary-General for a counter-terrorism strategy, with a view to adopting and implementing a strategy to promote comprehensive, coordinated and consistent responses, at the national, regional and international levels, to counter terrorism, which also takes into account the conditions conducive to the spread of terrorism,

Reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,

Reaffirming also that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,

Reaffirming further Member States' determination to make every effort to reach an agreement on and conclude a comprehensive convention on international terrorism, including by resolving the outstanding issues related to the legal definition and scope of the acts covered by the convention, so that it can serve as an effective instrument to counter terrorism,

Continuing to acknowledge that the question of convening a high-level conference under the auspices of the United Nations to formulate an international response to terrorism in all its forms and manifestations could be considered,

Recognizing that development, peace and security, and human rights are interlinked and mutually reinforcing,

Bearing in mind the need to address the conditions conducive to the spread of terrorism,

Affirming Member States' determination to continue to do all they can to resolve conflict, end foreign occupation, confront oppression, eradicate poverty, promote sustained economic growth, sustainable development, global prosperity, good governance, human rights for all and rule of law, improve intercultural understanding and ensure respect for all religions, religious values, beliefs or cultures,

1. *Expresses its appreciation* for the report entitled "Uniting against terrorism: recommendations for a global counter-terrorism strategy" submitted by the Secretary-General to the General Assembly;

2. *Adopts* the present resolution and its annex as the United Nations Global Counter-Terrorism Strategy ("the Strategy");

3. *Decides*, without prejudice to the continuation of the discussion in its relevant committees of all their agenda items related to terrorism

and counter-terrorism, to undertake the following steps for the effective follow-up of the Strategy:

(a) To launch the Strategy at a high-level segment of its sixty-first session;

(b) To examine in two years progress made in the implementation of the Strategy, and to consider updating it to respond to changes, recognizing that many of the measures contained in the Strategy can be achieved immediately, some will require sustained work through the coming few years and some should be treated as long-term objectives;

(c) To invite the Secretary-General to contribute to the future deliberations of the General Assembly on the review of the implementation and updating of the Strategy;

(d) To encourage Member States, the United Nations and other appropriate international, regional and subregional organizations to support the implementation of the Strategy, including through mobilizing resources and expertise;

(e) To further encourage non-governmental organizations and civil society to engage, as appropriate, on how to enhance efforts to implement the Strategy;

4. *Decides* to include in the provisional agenda of its sixty-second session an item entitled “The United Nations Global Counter-Terrorism Strategy”.

*99th plenary meeting
8 September 2006*

ANNEX

Plan of action

We, the States Members of the United Nations, resolve:

1. To consistently, unequivocally and strongly condemn terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as it constitutes one of the most serious threats to international peace and security;

2. To take urgent action to prevent and combat terrorism in all its forms and manifestations and, in particular:

(a) To consider becoming parties without delay to the existing international conventions and protocols against terrorism, and implementing them, and to make every effort to reach an agreement on and conclude a comprehensive convention on international terrorism;

(b) To implement all General Assembly resolutions on measures to eliminate international terrorism and relevant General Assembly resolutions on the protection of human rights and fundamental freedoms while countering terrorism;

(c) To implement all Security Council resolutions related to international terrorism and to cooperate fully with the counter-terrorism subsidiary bodies of the Security Council in the fulfilment of their tasks, recognizing that many States continue to require assistance in implementing these resolutions;

3. To recognize that international cooperation and any measures that we undertake to prevent and combat terrorism must comply with our obligations under international law, including the Charter of the United Nations and relevant international conventions and protocols, in particular human rights law, refugee law and international humanitarian law.

I

MEASURES TO ADDRESS THE CONDITIONS CONDUCTIVE TO THE SPREAD OF TERRORISM

We resolve to undertake the following measures aimed at addressing the conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism:

1. To continue to strengthen and make best possible use of the capacities of the United Nations in areas such as conflict prevention, negotiation, mediation, conciliation, judicial settlement, rule of law, peacekeeping and peacebuilding, in order to contribute to the successful prevention and peaceful resolution of prolonged unresolved conflicts. We recognize that the peaceful resolution of such conflicts would contribute to strengthening the global fight against terrorism;

2. To continue to arrange under the auspices of the United Nations initiatives and programmes to promote dialogue, tolerance and understanding among civilizations, cultures, peoples and religions, and to promote mutual respect for and prevent the defamation of religions, religious values, beliefs and cultures. In this regard, we welcome the launching by the Secretary-General of the initiative on the Alliance of Civilizations. We also welcome similar initiatives that have been taken in other parts of the world;

3. To promote a culture of peace, justice and human development, ethnic, national and religious tolerance and respect for all religions, religious values, beliefs or cultures by establishing and encouraging, as appropriate, education and public awareness programmes involving all sectors of society. In this regard, we encourage the United Nations Educational, Scientific and Cultural Organization to play a key role, including through inter-faith and intra-faith dialogue and dialogue among civilizations;

4. To continue to work to adopt such measures as may be necessary and appropriate and in accordance with our respective obligations under international law to prohibit by law incitement to commit a terrorist act or acts and prevent such conduct;

5. To reiterate our determination to ensure the timely and full realization of the development goals and objectives agreed at the major United Nations

conferences and summits, including the Millennium Development Goals. We reaffirm our commitment to eradicate poverty and promote sustained economic growth, sustainable development and global prosperity for all;

6. To pursue and reinforce development and social inclusion agendas at every level as goals in themselves, recognizing that success in this area, especially on youth unemployment, could reduce marginalization and the subsequent sense of victimization that propels extremism and the recruitment of terrorists;

7. To encourage the United Nations system as a whole to scale up the cooperation and assistance it is already conducting in the fields of rule of law, human rights and good governance to support sustained economic and social development;

8. To consider putting in place, on a voluntary basis, national systems of assistance that would promote the needs of victims of terrorism and their families and facilitate the normalization of their lives. In this regard, we encourage States to request the relevant United Nations entities to help them to develop such national systems. We will also strive to promote international solidarity in support of victims and foster the involvement of civil society in a global campaign against terrorism and for its condemnation. This could include exploring at the General Assembly the possibility of developing practical mechanisms to provide assistance to victims.

II

MEASURES TO PREVENT AND COMBAT TERRORISM

We resolve to undertake the following measures to prevent and combat terrorism, in particular by denying terrorists access to the means to carry out their attacks, to their targets and to the desired impact of their attacks:

1. To refrain from organizing, instigating, facilitating, participating in, financing, encouraging or tolerating terrorist activities and to take appropriate practical measures to ensure that our respective territories are not used for terrorist installations or training camps, or for the preparation or organization of terrorist acts intended to be committed against other States or their citizens;

2. To cooperate fully in the fight against terrorism, in accordance with our obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle of extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or perpetration of terrorist acts or provides safe havens;

3. To ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of national and international law, in particular human rights law, refugee law and international humanitarian law. We will endeavour to conclude and implement to that effect mutual judicial assistance and extradition agreements and to strengthen cooperation between law enforcement agencies;

4. To intensify cooperation, as appropriate, in exchanging timely and accurate information concerning the prevention and combating of terrorism;

5. To strengthen coordination and cooperation among States in combating crimes that might be connected with terrorism, including drug trafficking in all its

aspects, illicit arms trade, in particular of small arms and light weapons, including man-portable air defence systems, money-laundering and smuggling of nuclear, chemical, biological, radiological and other potentially deadly materials;

6. To consider becoming parties without delay to the United Nations Convention against Transnational Organized Crime and to the three protocols supplementing it, and implementing them;

7. To take appropriate measures, before granting asylum, for the purpose of ensuring that the asylum-seeker has not engaged in terrorist activities and, after granting asylum, for the purpose of ensuring that the refugee status is not used in a manner contrary to the provisions set out in section II, paragraph 1, above;

8. To encourage relevant regional and subregional organizations to create or strengthen counter-terrorism mechanisms or centres. Should they require co-operation and assistance to this end, we encourage the Counter-Terrorism Committee and its Executive Directorate and, where consistent with their existing mandates, the United Nations Office on Drugs and Crime and the International Criminal Police Organization, to facilitate its provision;

9. To acknowledge that the question of creating an international centre to fight terrorism could be considered, as part of international efforts to enhance the fight against terrorism;

10. To encourage States to implement the comprehensive international standards embodied in the Forty Recommendations on Money-Laundering and Nine Special Recommendations on Terrorist Financing of the Financial Action Task Force, recognizing that States may require assistance in implementing them;

11. To invite the United Nations system to develop, together with Member States, a single comprehensive database on biological incidents, ensuring that it is complementary to the biocrimes database contemplated by the International Criminal Police Organization. We also encourage the Secretary-General to update the roster of experts and laboratories, as well as the technical guidelines and procedures, available to him for the timely and efficient investigation of alleged use. In addition, we note the importance of the proposal of the Secretary-General to bring together, within the framework of the United Nations, the major biotechnology stakeholders, including industry, the scientific community, civil society and Governments, into a common programme aimed at ensuring that biotechnology advances are not used for terrorist or other criminal purposes but for the public good, with due respect for the basic international norms on intellectual property rights;

12. To work with the United Nations with due regard to confidentiality, respecting human rights and in compliance with other obligations under international law, to explore ways and means to:

(a) Coordinate efforts at the international and regional levels to counter terrorism in all its forms and manifestations on the Internet;

(b) Use the Internet as a tool for countering the spread of terrorism, while recognizing that States may require assistance in this regard;

13. To step up national efforts and bilateral, subregional, regional and international cooperation, as appropriate, to improve border and customs controls in order to prevent and detect the movement of terrorists and prevent and

detect the illicit traffic in, inter alia, small arms and light weapons, conventional ammunition and explosives, and nuclear, chemical, biological or radiological weapons and materials, while recognizing that States may require assistance to that effect;

14. To encourage the Counter-Terrorism Committee and its Executive Directorate to continue to work with States, at their request, to facilitate the adoption of legislation and administrative measures to implement the terrorist travel related obligations and to identify best practices in this area, drawing whenever possible on those developed by technical international organizations, such as the International Civil Aviation Organization, the World Customs Organization and the International Criminal Police Organization;

15. To encourage the Committee established pursuant to Security Council resolution 1267 (1999) to continue to work to strengthen the effectiveness of the travel ban under the United Nations sanctions regime against Al Qaida and the Taliban and associated individuals and entities, as well as to ensure, as a matter of priority, that fair and transparent procedures exist for placing individuals and entities on its lists, for removing them and for granting humanitarian exceptions. In this regard, we encourage States to share information, including by widely distributing the International Criminal Police Organization/United Nations special notices concerning people subject to this sanctions regime;

16. To step up efforts and cooperation at every level, as appropriate, to improve the security of manufacturing and issuing identity and travel documents and to prevent and detect their alteration or fraudulent use, while recognizing that States may require assistance in doing so. In this regard, we invite the International Criminal Police Organization to enhance its database on stolen and lost travel documents, and we will endeavour to make full use of this tool, as appropriate, in particular by sharing relevant information;

17. To invite the United Nations to improve coordination in planning a response to a terrorist attack using nuclear, chemical, biological or radiological weapons or materials, in particular by reviewing and improving the effectiveness of the existing inter-agency coordination mechanisms for assistance delivery, relief operations and victim support, so that all States can receive adequate assistance. In this regard, we invite the General Assembly and the Security Council to develop guidelines for the necessary cooperation and assistance in the event of a terrorist attack using weapons of mass destruction;

18. To step up all efforts to improve the security and protection of particularly vulnerable targets, such as infrastructure and public places, as well as the response to terrorist attacks and other disasters, in particular in the area of civil protection, while recognizing that States may require assistance to this effect.

III

MEASURES TO BUILD STATES' CAPACITY TO PREVENT AND COMBAT TERRORISM AND TO STRENGTHEN THE ROLE OF THE UNITED NATIONS SYSTEM IN THIS REGARD

We recognize that capacity-building in all States is a core element of the global counter-terrorism effort, and resolve to undertake the following measures to develop State capacity to prevent and combat terrorism and enhance coordina-

tion and coherence within the United Nations system in promoting international cooperation in countering terrorism:

1. To encourage Member States to consider making voluntary contributions to United Nations counter-terrorism cooperation and technical assistance projects, and to explore additional sources of funding in this regard. We also encourage the United Nations to consider reaching out to the private sector for contributions to capacity-building programmes, in particular in the areas of port, maritime and civil aviation security;

2. To take advantage of the framework provided by relevant international, regional and subregional organizations to share best practices in counter-terrorism capacity-building, and to facilitate their contributions to the international community's efforts in this area;

3. To consider establishing appropriate mechanisms to rationalize States' reporting requirements in the field of counter-terrorism and eliminate duplication of reporting requests, taking into account and respecting the different mandates of the General Assembly, the Security Council and its subsidiary bodies that deal with counter-terrorism;

4. To encourage measures, including regular informal meetings, to enhance, as appropriate, more frequent exchanges of information on cooperation and technical assistance among Member States, United Nations bodies dealing with counter-terrorism, relevant specialized agencies, relevant international, regional and subregional organizations and the donor community, to develop States' capacities to implement relevant United Nations resolutions;

5. To welcome the intention of the Secretary-General to institutionalize, within existing resources, the Counter-Terrorism Implementation Task Force within the Secretariat in order to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system;

6. To encourage the Counter-Terrorism Committee and its Executive Directorate to continue to improve the coherence and efficiency of technical assistance delivery in the field of counter-terrorism, in particular by strengthening its dialogue with States and relevant international, regional and subregional organizations and working closely, including by sharing information, with all bilateral and multilateral technical assistance providers;

7. To encourage the United Nations Office on Drugs and Crime, including its Terrorism Prevention Branch, to enhance, in close consultation with the Counter-Terrorism Committee and its Executive Directorate, its provision of technical assistance to States, upon request, to facilitate the implementation of the international conventions and protocols related to the prevention and suppression of terrorism and relevant United Nations resolutions;

8. To encourage the International Monetary Fund, the World Bank, the United Nations Office on Drugs and Crime and the International Criminal Police Organization to enhance cooperation with States to help them to comply fully with international norms and obligations to combat money-laundering and the financing of terrorism;

9. To encourage the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons to continue their efforts, within their respective mandates, in helping States to build capacity to prevent terrorists

from accessing nuclear, chemical or radiological materials, to ensure security at related facilities and to respond effectively in the event of an attack using such materials;

10. To encourage the World Health Organization to step up its technical assistance to help States to improve their public health systems to prevent and prepare for biological attacks by terrorists;

11. To continue to work within the United Nations system to support the reform and modernization of border management systems, facilities and institutions at the national, regional and international levels;

12. To encourage the International Maritime Organization, the World Customs Organization and the International Civil Aviation Organization to strengthen their cooperation, work with States to identify any national shortfalls in areas of transport security and provide assistance, upon request, to address them;

13. To encourage the United Nations to work with Member States and relevant international, regional and subregional organizations to identify and share best practices to prevent terrorist attacks on particularly vulnerable targets. We invite the International Criminal Police Organization to work with the Secretary-General so that he can submit proposals to this effect. We also recognize the importance of developing public-private partnerships in this area.

IV

MEASURES TO ENSURE RESPECT FOR HUMAN RIGHTS FOR ALL AND THE RULE OF LAW AS THE FUNDAMENTAL BASIS OF THE FIGHT AGAINST TERRORISM

We resolve to undertake the following measures, reaffirming that the promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism:

1. To reaffirm that General Assembly resolution 60/158 of 16 December 2005 provides the fundamental framework for the “Protection of human rights and fundamental freedoms while countering terrorism”;

2. To reaffirm that States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law;

3. To consider becoming parties without delay to the core international instruments on human rights law, refugee law and international humanitarian law, and implementing them, as well as to consider accepting the competence of international and relevant regional human rights monitoring bodies;

4. To make every effort to develop and maintain an effective and rule of law-based national criminal justice system that can ensure, in accordance with our obligations under international law, that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in support of terrorist acts is brought to justice, on the basis of the principle to extradite or prosecute, with due respect for human rights and fundamental freedoms, and that

such terrorist acts are established as serious criminal offences in domestic laws and regulations. We recognize that States may require assistance in developing and maintaining such effective and rule of law-based criminal justice systems, and we encourage them to resort to the technical assistance delivered, *inter alia*, by the United Nations Office on Drugs and Crime;

5. To reaffirm the important role of the United Nations system in strengthening the international legal architecture by promoting the rule of law, respect for human rights and effective criminal justice systems, which constitute the fundamental basis of our common fight against terrorism;

6. To support the Human Rights Council and to contribute, as it takes shape, to its work on the question of the promotion and protection of human rights for all in the fight against terrorism;

7. To support the strengthening of the operational capacity of the Office of the United Nations High Commissioner for Human Rights, with a particular emphasis on increasing field operations and presences. The Office should continue to play a lead role in examining the question of protecting human rights while countering terrorism, by making general recommendations on the human rights obligations of States and providing them with assistance and advice, in particular in the area of raising awareness of international human rights law among national law-enforcement agencies, at the request of States;

8. To support the role of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. The Special Rapporteur should continue to support the efforts of States and offer concrete advice by corresponding with Governments, making country visits, liaising with the United Nations and regional organizations and reporting on these issues.

Part IV

SECURITY COUNCIL RESOLUTIONS

36. Resolution 1373 (2001)

ESTABLISHMENT OF COUNTER-TERRORISM COMMITTEE (CTC): THREATS TO INTERNATIONAL PEACE AND SECURITY CAUSED BY TERRORIST ACTS

*Adopted by the Security Council at its 4385th meeting,
on 28 September 2001*

The Security Council,

Reaffirming its resolutions 1269 (1999) of 19 October 1999 and 1368 (2001) of 12 September 2001,

Reaffirming also its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts,

Reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security,

Reaffirming the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368 (2001),

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Deeply concerned by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism,

Calling on States to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism,

Recognizing the need for States to complement international cooperation by taking additional measures to prevent and suppress, in their territories through all lawful means, the financing and preparation of any acts of terrorism,

Reaffirming the principle established by the General Assembly in its declaration of October 1970 (resolution 2625 (XXV)) and reiterated by the Security Council in its resolution 1189 (1998) of 13 August 1998, namely that every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

2. *Decides* also that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(e) 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 and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to

the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(g) Prevent the movement of terrorists or terrorist groups by effective border controls 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;

3. *Calls* upon all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

4. *Notes* with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security;

5. *Declares* that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and calls upon all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;

7. *Directs* the Committee to delineate its tasks, submit a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the Secretary-General;

8. *Expresses* its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter;

9. *Decides* to remain seized of this matter.

37. Resolution 1377 (2001)

MINISTERIAL DECLARATION ON THE GLOBAL EFFORT TO COMBAT TERRORISM

*Adopted by the Security Council at its 4413th meeting,
on 12 November 2001*

*The Security Council,
Decides to adopt the attached declaration on the global effort to
combat terrorism.*

ANNEX

*The Security Council,
Meeting at the Ministerial level,
Recalling its resolutions 1269 (1999) of 19 October 1999, 1368 (2001) of
12 September 2001 and 1373 (2001) of 28 September 2001,*

*Declares that acts of international terrorism constitute one of the most serious
threats to international peace and security in the twenty-first century,*

*Further declares that acts of international terrorism constitute a challenge
to all States and to all of humanity,*

*Reaffirms its unequivocal condemnation of all acts, methods and practices
of terrorism as criminal and unjustifiable, regardless of their motivation, in all
their forms and manifestations, wherever and by whomever committed,*

*Stresses that acts of international terrorism are contrary to the purposes and
principles of the Charter of the United Nations, and that the financing, planning
and preparation of as well as any other form of support for acts of international
terrorism are similarly contrary to the purposes and principles of the Charter of
the United Nations,*

*Underlines that acts of terrorism endanger innocent lives and the dignity
and security of human beings everywhere, threaten the social and economic
development of all States and undermine global stability and prosperity,*

*Affirms that a sustained, comprehensive approach involving the active
participation and collaboration of all Member States of the United Nations, and in
accordance with the Charter of the United Nations and international law, is
essential to combat the scourge of international terrorism,*

*Stresses that continuing international efforts to broaden the understanding
among civilizations and to address regional conflicts and the full range of global
issues, including development issues, will contribute to international cooperation
and collaboration, which themselves are necessary to sustain the broadest
possible fight against international terrorism,*

*Welcomes the commitment expressed by States to fight the scourge of
international terrorism, including during the General Assembly plenary debate from*

1 to 5 October 2001, calls on all States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, and encourages Member States to take forward work in this area,

Calls on all States to take urgent steps to implement fully resolution 1373 (2001), and to assist each other in doing so, and underlines the obligation on States to deny financial and all other forms of support and safe haven to terrorists and those supporting terrorism,

Expresses its determination to proceed with the implementation of that resolution in full cooperation with the whole membership of the United Nations, and welcomes the progress made so far by the Counter-Terrorism Committee established by paragraph 6 of resolution 1373 (2001) to monitor implementation of that resolution,

Recognizes that many States will require assistance in implementing all the requirements of resolution 1373 (2001), and invites States to inform the Counter-Terrorism Committee of areas in which they require such support,

In that context, *invites* the Counter-Terrorism Committee to explore ways in which States can be assisted, and in particular to explore with international, regional and subregional organizations:

—The promotion of best-practice in the areas covered by resolution 1373 (2001), including the preparation of model laws as appropriate,

—The availability of existing technical, financial, regulatory, legislative or other assistance programmes which might facilitate the implementation of resolution 1373 (2001),

—The promotion of possible synergies between these assistance programmes,

Calls on all States to intensify their efforts to eliminate the scourge of international terrorism.

38. Resolution 1390 (2002)

THE SITUATION IN AFGHANISTAN

*Adopted by the Security Council at its 4452nd meeting,
on 16 January 2002*

The Security Council,

Recalling its resolutions 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000 and 1363 (2001) of 30 July 2001,

Reaffirming its previous resolutions on Afghanistan, in particular resolutions 1378 (2001) of 14 November 2001 and 1383 (2001) of 6 December 2001,

Reaffirming also its resolutions 1368 (2001) of 12 September 2001 and 1373 (2001) of 28 September 2001, and reiterating its support for international efforts to root out terrorism, in accordance with the Charter of the United Nations,

Reaffirming its unequivocal condemnation of the terrorist attacks which took place in New York, Washington and Pennsylvania on 11 September 2001, expressing its determination to prevent all such acts, noting the continued activities of Usama bin Laden and the Al-Qaida network in supporting international terrorism, and expressing its determination to root out this network,

Noting the indictments of Usama bin Laden and his associates by the United States of America for, inter alia, the 7 August 1998 bombings of the United States embassies in Nairobi, Kenya and Dar es Salaam, Tanzania,

Determining that the Taliban have failed to respond to the demands in paragraph 13 of resolution 1214 (1998) of 8 December 1998, paragraph 2 of resolution 1267 (1999) and paragraphs 1, 2 and 3 of resolution 1333 (2000),

Condemning the Taliban for allowing Afghanistan to be used as a base for terrorists training and activities, including the export of terrorism by the Al-Qaida network and other terrorist groups as well as for using foreign mercenaries in hostile actions in the territory of Afghanistan,

Condemning the Al-Qaida network and other associated terrorist groups, for the multiple criminal, terrorist acts, aimed at causing the deaths of numerous innocent civilians, and the destruction of property,

Reaffirming further that acts of international terrorism constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to continue the measures imposed by paragraph 8 (c) of resolution 1333 (2000) and takes note of the continued application of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), in accordance with paragraph 2 below, and decides to terminate the measures imposed in paragraph 4 (a) of resolution 1267 (1999);

2. *Decides* that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as “the Committee”;

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons’ benefit, by their nationals or by any persons within their territory;

(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case-by-case basis only that entry or transit is justified;

(c) Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities;

3. *Decides* that the measures referred to in paragraphs 1 and 2 above will be reviewed in 12 months and that at the end of this period the Council will either allow these measures to continue or decide to improve them, in keeping with the principles and purposes of this resolution;

4. *Recalls* the obligation placed upon all Member States to implement in full resolution 1373 (2001), including with regard to any member of the Taliban and the Al-Qaida organization, and any individuals, groups, undertakings and entities associated with the Taliban and the Al-Qaida organization, who have participated in the financing, planning,

facilitating and preparation or perpetration of terrorist acts or in supporting terrorist acts;

5. *Requests* the Committee to undertake the following tasks and to report on its work to the Council with its observations and recommendations;

(a) To update regularly the list referred to in paragraph 2 above, on the basis of relevant information provided by Member States and regional organizations;

(b) To seek from all States information regarding the action taken by them to implement effectively the measures referred to in paragraph 2 above, and thereafter to request from them whatever further information the Committee may consider necessary;

(c) To make periodic reports to the Council on information submitted to the Committee regarding the implementation of this resolution;

(d) To promulgate expeditiously such guidelines and criteria as may be necessary to facilitate the implementation of the measures referred to in paragraph 2 above;

(e) To make information it considers relevant, including the list referred to in paragraph 2 above, publicly available through appropriate media;

(f) To cooperate with other relevant Security Council Sanctions Committees and with the Committee established pursuant to paragraph 6 of its resolution 1373 (2001);

6. *Requests* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement the measures referred to in paragraph 2 above;

7. *Urges* all States, relevant United Nations bodies, and, as appropriate, other organizations and interested parties to cooperate fully with the Committee and with the Monitoring Group referred to in paragraph 9 below;

8. *Urges* all States to take immediate steps to enforce and strengthen through legislative enactments or administrative measures, where appropriate, the measures imposed under domestic laws or regulations against their nationals and other individuals or entities operating on their territory, to prevent and punish violations of the measures referred to in paragraph 2 of this resolution, and to inform the Committee of the adoption of such measures, and invites States to report the results of all related investigations or enforcement actions to the Committee unless to do so would compromise the investigation or enforcement actions;

9. *Requests* the Secretary-General to assign the Monitoring Group established pursuant to paragraph 4 (a) of resolution 1363 (2001), whose

mandate expires on 19 January 2002, to monitor, for a period of 12 months, the implementation of the measures referred to in paragraph 2 of this resolution;

10. *Requests* the Monitoring Group to report to the Committee by 31 March 2002 and thereafter every 4 months;

11. *Decides* to remain actively seized of the matter.

39. Resolution 1452 (2002)

THREATS TO INTERNATIONAL PEACE AND SECURITY CAUSED BY TERRORIST ACTS

*Adopted by the Security Council at its 4678th meeting,
on 20 December 2002*

The Security Council,

Recalling its resolutions 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1363 (2001) of 30 July 2001 and 1390 (2002) of 16 January 2002,

Expressing its determination to facilitate the implementation of counter-terrorism obligations in accordance with relevant Security Council resolutions,

Reaffirming its resolution 1373 (2001) of 28 September 2001, and reiterating its support for international efforts to root out terrorism, in accordance with the Charter of the United Nations,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that the provisions of paragraph 4 (b) of resolution 1267 (1999), and paragraphs 1 and 2 (a) of resolution 1390 (2002), do not apply to funds and other financial assets or economic resources that have been determined by the relevant State(s) to be:

(a) Necessary for basic expenses, including payments for food-stuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources, after notification by the relevant State(s) to the Committee established pursuant to resolution 1267 (1999) (hereinafter referred to as “the Committee”) of the intention to authorize, where appropriate, access to such funds, assets or resources and in the absence of a negative decision by the Committee within 48 hours of such notification;

(b) Necessary for extraordinary expenses, provided that such determination has been notified by the relevant State(s) to the Committee and has been approved by the Committee;

2. *Decides* that all States may allow for the addition to accounts subject to the provisions of paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002) of:

(a) Interest or other earnings due on those accounts, or

(b) Payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of resolutions 1267 (1999), 1333 (2000), or 1390 (2002), provided that any such interest, other earnings and payments continue to be subject to those provisions;

3. *Decides* that the Committee shall, in addition to the tasks set forth in paragraph 6 of resolution 1267 (1999) and paragraph 5 of resolution 1390 (2002):

(a) Maintain and regularly update a list of the States that have notified the Committee of their intent to apply the provisions of paragraph 1 (a) above in their implementation of the relevant resolutions and as to which there was no negative decision by the Committee; and

(b) Consider and approve, if appropriate, requests for extraordinary expenses as provided for in paragraph 1 (b) above;

4. *Decides* that the exception provided for in paragraph 4 (b) of resolution 1267 (1999) will cease to have effect from the date of adoption of this resolution;

5. *Urges* Member States to take full account of the considerations set out above in their implementation of resolution 1373 (2001);

6. *Decides* to remain seized of the matter.

40. Resolution 1455 (2003)

THREATS TO INTERNATIONAL PEACE AND SECURITY CAUSED BY TERRORIST ACTS

*Adopted by the Security Council at its 4686th meeting,
on 17 January 2003*

The Security Council,

Recalling its resolutions 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1363 (2001) of 30 July 2001, 1373 (2001) of 28 September 2001, 1390 (2002) of 16 January 2002 and 1452 (2002) of 20 December 2002,

Underlining the obligation placed upon all Member States to implement, in full, resolution 1373 (2001), including with regard to any member of the Taliban and the Al-Qaida organization, and any individuals, groups, undertakings and entities associated with the Taliban and the Al-Qaida organization, who have participated in the financing, planning, facilitating and preparation or perpetration of terrorist acts or in supporting terrorist acts, as well as to facilitate the implementation of counter terrorism obligations in accordance with relevant Security Council resolutions,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations and international law, threats to international peace and security caused by terrorist acts,

Noting that, in giving effect to the measures in paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002), full account is to be taken of the provisions of paragraphs 1 and 2 of resolution 1452 (2002),

Reiterating its condemnation of the Al-Qaida network and other associated terrorist groups for ongoing and multiple criminal terrorist acts, aimed at causing the deaths of innocent civilians, and other victims, and the destruction of property,

Reiterating its unequivocal condemnation of all forms of terrorism and terrorist acts as noted in resolutions 1368 (2001) of 12 September 2001, 1438 (2002) of 14 October 2002, 1440 (2002) of 24 October 2002, and 1450 (2002) of 13 December 2002,

Reaffirming that acts of international terrorism constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to improve the implementation of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c)

of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002);

2. *Decides* that the measures referred to in paragraph 1 above will be further improved in 12 months, or sooner if necessary;

3. *Stresses* the need for improved coordination and increased exchange of information between the Committee established pursuant to resolution 1267 (1999) (hereinafter referred to as “the Committee”) and the Committee established pursuant to resolution 1373 (2001);

4. *Requests* the Committee to communicate to Member States the list referred to in paragraph 2 of resolution 1390 (2002) at least every three months, and stresses to all Member States the importance of submitting to the Committee the names and identifying information, to the extent possible, of and about members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them so that the Committee can consider adding new names and details to its list, unless to do so would compromise investigations or enforcement actions;

5. *Calls upon* all States to continue to take urgent steps to enforce and strengthen through legislative enactments or administrative measures, where appropriate, the measures imposed under domestic laws or regulations against their nationals and other individuals or entities operating in their territory, to prevent and punish violations of the measures referred to in paragraph 1 of this resolution, and to inform the Committee of the adoption of such measures, and invites States to report the results of all related investigations or enforcement actions to the Committee, unless to do so would compromise the investigation or enforcement actions;

6. *Calls upon* all States to submit an updated report to the Committee no later than 90 days from adoption of this resolution on all steps taken to implement the measures referred to in paragraph 1 above and all related investigations and enforcement actions, including a comprehensive summary of frozen assets of listed individuals and entities within Member State territories, unless to do so would compromise investigations or enforcement actions;

7. *Calls upon* all States, relevant United Nations bodies, and, as appropriate, other organizations and interested parties to cooperate fully with the Committee and with the Monitoring Group referred to in paragraph 8 below, including supplying such information as may be sought by the Committee pursuant to all pertinent resolutions and by providing all relevant information, to the extent possible, to facilitate proper identification of all listed individuals and entities;

8. *Requests* the Secretary-General, upon adoption of this resolution and acting in consultation with the Committee, to reappoint five

experts, drawing, as much as possible and as appropriate, on the expertise of the members of the Monitoring Group established pursuant to paragraph 4 (a) of resolution 1363 (2001), to monitor for a further period of 12 months the implementation of the measures referred to in paragraph 1 of this resolution and to follow up on relevant leads relating to any incomplete implementation of the measures referred to in paragraph 1 above;

9. *Requests* the Chairman of the Committee to report orally at least every 90 days to the Council in detail on the overall work of the Committee and the Monitoring Group and stipulates that these updates shall include a summary of progress in submitting the reports referred to in paragraph 6 of resolution 1390 (2002) and paragraph 6 above;

10. *Requests* the Secretary-General to ensure that the Monitoring Group and the Committee and its Chairman have access to sufficient expertise and resources as and when required to assist in the discharge of their responsibilities;

11. *Requests* the Committee to consider, where and when appropriate, a visit to selected countries by the Chairman of the Committee and/or Committee members to enhance the full and effective implementation of the measures referred to in paragraph 1 above, with a view to encouraging States to implement all relevant Council resolutions;

12. *Requests* the Monitoring Group to submit a detailed work programme within 30 days of the adoption of this resolution and to assist the Committee in providing guidance for Member States on the format of the reports referred to in paragraph 6 above;

13. *Further requests* the Monitoring Group to submit two written reports to the Committee, the first by 15 June 2003 and the second by 1 November 2003, on implementation of the measures referred to in paragraph 1 above and to brief the Committee when the Committee so requests;

14. *Further requests* the Committee, through its Chairman, to provide the Council by 1 August 2003 and by 15 December 2003 with detailed oral assessments of Member State implementation of the measures referred to in paragraph 1 above based on Member State reports referred to in paragraph 6 above, paragraph 6 of resolution 1390 (2002) and all pertinent parts of Member State reports submitted under resolution 1373 (2001), and in line with transparent criteria to be determined by the Committee and communicated to all Member States, in addition to considering supplementary recommendations by the Monitoring Group, with a view to recommending further measures for Council consideration to improve the measures referred to in paragraph 1 above;

15. *Requests* the Committee, based on its oral assessments, through its Chairman, to the Council referred to in paragraph 14 above,

to prepare and then to circulate a written assessment to the Council of actions taken by States to implement the measures referred to in paragraph 1 above;

16. *Decides* to remain actively seized of the matter.

41. Resolution 1456 (2003)

DECLARATION OF THE MINISTERS FOR FOREIGN AFFAIRS ON THE ISSUE OF COMBATING TERRORISM

*Adopted by the Security Council at its 4688th meeting,
on 20 January 2003*

The Security Council,
Decides to adopt the attached declaration on the issue of combating terrorism.

ANNEX

The Security Council,
Meeting at the level of Ministers for Foreign Affairs on 20 January 2003 reaffirms that:

—Terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security;

—Any acts of terrorism are criminal and unjustifiable, regardless of their motivation, whenever and by whomsoever committed and are to be unequivocally condemned, especially when they indiscriminately target or injure civilians;

—There is a serious and growing danger of terrorist access to and use of nuclear, chemical, biological and other potentially deadly materials, and therefore a need to strengthen controls on these materials;

—It has become easier, in an increasingly globalized world, for terrorists to exploit sophisticated technology, communications and resources for their criminal objectives;

—Measures to detect and stem the flow of finance and funds for terrorist purposes must be urgently strengthened;

—Terrorists must also be prevented from making use of other criminal activities such as transnational organized crime, illicit drugs and drug trafficking, money-laundering and illicit arms trafficking;

—Since terrorists and their supporters exploit instability and intolerance to justify their criminal acts the Security Council is determined to counter this by contributing to peaceful resolution of disputes and by working to create a climate of mutual tolerance and respect;

—Terrorism can only be defeated, in accordance with the Charter of the United Nations and international law, by a sustained comprehensive approach involving the active participation and collaboration of all States, international and regional organizations, and by redoubled efforts at the national level.

* * *

The Security Council therefore calls for the following steps to be taken:

1. All States must take urgent action to prevent and suppress all active and passive support to terrorism, and in particular comply fully with all relevant resolutions of the Security Council, in particular resolutions 1373 (2001), 1390 (2002) and 1455 (2003);

2. The Security Council calls upon States to:

(a) Become a party, as a matter of urgency, to all relevant international conventions and protocols relating to terrorism, in particular the 1999 International Convention for the Suppression of the Financing of Terrorism and to support all international initiatives taken to that aim, and to make full use of the sources of assistance and guidance which are now becoming available;

(b) Assist each other, to the maximum extent possible, in the prevention, investigation, prosecution and punishment of acts of terrorism, wherever they occur;

(c) Cooperate closely to implement fully the sanctions against terrorists and their associates, in particular Al-Qaeda and the Taliban and their associates, as reflected in resolutions 1267 (1999), 1390 (2002) and 1455 (2003), to take urgent actions to deny them access to the financial resources they need to carry out their actions, and to cooperate fully with the Monitoring Group established pursuant to resolution 1363 (2001);

3. States must bring to justice those who finance, plan, support or commit terrorist acts or provide safe havens, in accordance with international law, in particular on the basis of the principle of extradite or prosecute;

4. The Counter-Terrorism Committee must intensify its efforts to promote the implementation by Member States of all aspects of resolution 1373 (2001), in particular through reviewing States' reports and facilitating international assistance and cooperation, and through continuing to operate in a transparent and effective manner, and in that regard the Council;

(i) Stresses the obligation on States to report to the CTC, according to the timetable set by the CTC, calls on the 13 States who have not yet submitted a first report and on the 56 States who are late in submitting further reports to do so by 31 March, and requests the CTC to report regularly on progress;

(ii) Calls on States to respond promptly and fully to the CTC's requests for information, comments and questions in full and on time, and instructs the CTC to inform the Council of progress, including any difficulties it encounters;

(iii) Requests the CTC in monitoring the implementation of resolution 1373 (2001) to bear in mind all international best practices, codes and standards which are relevant to the implementation of resolution 1373 (2001), and underlines its support for the CTC's approach in constructing a dialogue with each State on further action required to fully implement resolution 1373 (2001);

5. States should assist each other to improve their capacity to prevent and fight terrorism, and notes that such cooperation will help facilitate the full and timely implementation of resolution 1373 (2001), and invites the CTC to step up

its efforts to facilitate the provision of technical and other assistance by developing targets and priorities for global action;

6. States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law;

7. International organizations should evaluate ways in which they can enhance the effectiveness of their action against terrorism, including by establishing dialogue and exchanges of information with each other and with other relevant international actors, and directs this appeal in particular to those technical agencies and organizations whose activities relate to the control of the use of or access to nuclear, chemical, biological and other deadly materials; in this context the importance of fully complying with existing legal obligations in the field of disarmament, arms limitation and non-proliferation and, where necessary, strengthening international instruments in this field should be underlined;

8. Regional and subregional organizations should work with the CTC and other international organizations to facilitate sharing of best practice in the fight against terrorism, and to assist their members in fulfilling their obligation to combat terrorism;

9. Those participating in the Special Meeting of the Counter-Terrorism Committee with international regional and subregional organizations on 7 March 2003 should use that opportunity to make urgent progress on the matters referred to in this declaration which involve the work of such organizations;

* * *

The Security Council also:

10. *Emphasizes* that continuing international efforts to enhance dialogue and broaden the understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, to further strengthen the campaign against terrorism, and to address unresolved regional conflicts and the full range of global issues, including development issues, will contribute to international cooperation and collaboration, which by themselves are necessary to sustain the broadest possible fight against terrorism;

11. *Reaffirms* its strong determination to intensify its fight against terrorism in accordance with its responsibilities under the Charter of the United Nations, and takes note of the contributions made during its meeting on 20 January 2003 with a view to enhancing the role of the United Nations in this regard, and invites Member States to make further contributions to this end;

12. *Invites* the Secretary-General to present a report within 28 days summarizing any proposals made during its ministerial meeting and any commentary or response to these proposals by any Security Council member;

13. *Encourages* Member States of the United Nations to cooperate in resolving all outstanding issues with a view to the adoption, by consensus, of the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism;

14. *Decides* to review actions taken towards the realization of this declaration at further meetings of the Security Council.

42. Resolution 1526 (2004)

THREATS TO INTERNATIONAL PEACE AND SECURITY CAUSED BY TERRORIST ACTS

*Adopted by the Security Council at its 4908th meeting,
on 30 January 2004*

The Security Council,

Recalling its resolutions 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1363 (2001) of 30 July 2001, 1373 (2001) of 28 September 2001, 1390 (2002) of 16 January 2002, 1452 (2002) of 20 December 2002, and 1455 (2003) of 17 January 2003,

Underlining the obligation placed upon all Member States to implement, in full, resolution 1373 (2001), including with regard to any member of the Taliban and the Al-Qaida organization, and any individuals, groups, undertakings and entities associated with the Taliban and the Al-Qaida organization, who have participated in the financing, planning, facilitating and preparation or perpetration of terrorist acts or in supporting terrorist acts, as well as to facilitate the implementation of counter-terrorism obligations in accordance with relevant Security Council resolutions,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations and international law, threats to international peace and security caused by terrorist acts,

Noting that, in giving effect to the measures in paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002), full account is to be taken of the provisions of paragraphs 1 and 2 of resolution 1452 (2002),

Reiterating its condemnation of the Al-Qaida network and other associated terrorist groups for ongoing and multiple criminal terrorist acts, aimed at causing the deaths of innocent civilians, and other victims, and the destruction of property, and greatly undermining stability,

Reiterating its unequivocal condemnation of all forms of terrorism and terrorist acts,

Stressing to all States, international bodies, and regional organizations, the importance of ensuring that resources are committed, including through international partnership, to meet the ongoing threat the Al-Qaida organization and members of the Taliban, and any individuals, groups, undertakings and entities associated with them, represent to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to improve, as set out in the following paragraphs of this resolution, the implementation of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000), and paragraphs 1 and 2 of resolution 1390 (2002) with respect to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) (the “Committee list”), namely to:

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons’ benefit, by their nationals or by any persons within their territory;

(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case-by-case basis only that entry or transit is justified;

(c) Prevent the direct or indirect supply, sale or transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities; and *recalls* that all States shall implement the measures with respect to listed individuals and entities;

2. *Decides* to strengthen the mandate of the Committee established pursuant to resolution 1267 (1999) (“the Committee”) to include, in addition to the oversight of States’ implementation of the measures referred to in paragraph 1 above, a central role in assessing information for the Council’s review regarding effective implementation of the measures, as well as in recommending improvements to the measures;

3. *Decides* that the measures referred to in paragraph 1 above will be further improved in 18 months, or sooner if necessary;

4. *Calls upon* States to move vigorously and decisively to cut the flows of funds and other financial assets and economic resources to individuals and entities associated with the Al-Qaida organization, Usama bin Laden and/or the Taliban, taking into account, as appropriate, international codes and standards for combating the financing of terrorism,

including those designed to prevent the abuse of non-profit organizations and informal/alternative remittance systems;

5. *Urges* all States and encourages regional organizations, as appropriate, to establish internal reporting requirements and procedures on the trans-border movement of currency based on applicable thresholds;

6. *Decides*, in order to assist the Committee in the fulfilment of its mandate, to establish for a period of 18 months a New York-based Analytical Support and Sanctions Monitoring Team (hereinafter referred to as “the Monitoring Team”) under the direction of the Committee with the responsibilities enumerated in the Annex to this resolution;

7. *Requests* the Secretary-General, upon adoption of this resolution and acting in close consultation with the Committee, to appoint, consistent with United Nations rules and procedures, no more than eight members, including a coordinator, of the Monitoring Team, who demonstrate one or more of the following areas of expertise related to activities of the Al-Qaida organization and/or the Taliban, including: counter-terrorism and related legislation; financing of terrorism and international financial transactions, including technical banking expertise; alternative remittance systems, charities, and use of couriers; border enforcement, including port security; arms embargoes and export controls; and drug trafficking;

8. *Further requests* the Monitoring Team to submit, in writing, three comprehensive, independent reports to the Committee, the first by 31 July 2004, the second by 15 December 2004, and the third by 30 June 2005, on implementation by States of the measures referred to in paragraph 1 above, including concrete recommendations for improved implementation of the measures and possible new measures;

9. *Requests* the Secretary-General to provide cost-effective support, as needed by the Committee, in light of the increased workload entailed by this resolution;

10. *Requests* the Committee to consider, where and when appropriate, visits to selected countries by the Chairman and/or Committee members to enhance the full and effective implementation of the measures referred to in paragraph 1 above, with a view to encouraging States to comply fully with this resolution and resolutions 1267 (1999), 1333 (2000), 1390 (2002), and 1455 (2003);

11. *Further requests* the Committee to follow up via oral and/or written communications with States regarding effective implementation of the sanctions measures and to provide States with an opportunity, at the Committee’s request, to send representatives to meet with the Committee for more in-depth discussion of relevant issues;

12. *Requests* the Committee, through its Chairman, to report orally at least every 120 days to the Council in detail on the overall work

of the Committee and the Team, including a summary of States' progress in submitting the reports referred to in paragraph 6 of resolution 1455 (2003) and any follow-up communications with States regarding additional requests for information and assistance;

13. *Further requests* the Committee, based on its ongoing oversight of States' implementation of the measures referred to in paragraph 1 above, to prepare and then to circulate within 17 months after the adoption of this resolution a written analytical assessment to the Council on implementation of the measures, including States' successes and challenges in implementing them, with a view to recommending further measures for the Council's consideration;

14. *Requests* all States, and encourages regional organizations, relevant United Nations bodies, and, as appropriate, other organizations and interested parties to cooperate fully with the Committee and the Monitoring Team, including supplying such information as may be sought by the Committee pursuant to this resolution and resolutions 1267 (1999), 1333 (2000), 1390 (2002), 1452 (2002) and 1455 (2003), to the extent possible;

15. *Reiterates* the need for close coordination and concrete exchange of information between the Committee and the Committee established pursuant to resolution 1373 (the "Counter-Terrorism Committee");

16. *Reiterates* to all States the importance of proposing to the Committee the names of members of the Al-Qaida organization and the Taliban or associated with Usama bin Laden and other individuals, groups, undertakings and entities associated with them for inclusion in the Committee's list, unless to do so would compromise investigations or enforcement actions;

17. *Calls upon* all States, when submitting new names to the Committee's list, to include identifying information and background information, to the greatest extent possible, that demonstrates the individual(s) and/or entity(ies)' association with Usama bin Laden or with members of the Al-Qaida organization and/or the Taliban, in line with the Committee's guidelines;

18. *Strongly encourages* all States to inform, to the extent possible, individuals and entities included in the Committee's list of the measures imposed on them, and of the Committee's guidelines and resolution 1452 (2002);

19. *Requests* the Secretariat to communicate to Member States the Committee's list at least every three months to facilitate States' implementation of the measures on entry and travel imposed by paragraph 2 (b) of resolution 1390 (2002), and *further requests* that the Committee's list, whenever amended, be automatically conveyed by the Secretariat to all

States, regional and subregional organizations for inclusion, to the extent possible, of listed names in their respective electronic databases and relevant border enforcement and entry/exit tracking systems;

20. *Reiterates* the urgency for all States to comply with their existing obligations to implement the measures referred to in paragraph 1 above and to ensure that their domestic legislative enactments or administrative measures, as appropriate, permit the immediate implementation of those measures with respect to their nationals and other individuals or entities located or operating in their territory, and with respect to funds, other financial assets and economic resources over which they have jurisdiction, and to inform the Committee of the adoption of such measures, and *invites* States to report the results of all related investigations and enforcement actions to the Committee, unless to do so would compromise the investigation or enforcement actions;

21. *Requests* that the Committee seek from States, as appropriate, status reports on the implementation of the measures referred to in paragraph 1 above concerning listed individuals and entities, specifically with respect to the aggregate amounts of the listed individuals' and entities' frozen assets;

22. *Requests* all States that have not yet done so to submit to the Committee by 31 March 2004 the updated reports called for under paragraph 6 of resolution 1455 (2003), following as closely as possible the guidance document previously provided by the Committee; and *further requests* that all States that have not submitted these reports to explain in writing to the Committee by 31 March 2004 their reasons for non-reporting;

23. *Requests* the Committee to circulate to the Council a list of those States that have not submitted by 31 March 2004 reports pursuant to paragraph 6 of resolution 1455 (2003), including an analytical summary of the reasons put forward by States for non-reporting;

24. *Urges* all States and encourages relevant international, regional and subregional organizations to become more directly involved in capacity-building efforts and to offer technical assistance in areas identified by the Committee, in consultation with the Counter-Terrorism Committee;

25. *Decides* to remain actively seized of the matter.

43. Resolution 1535 (2004)

ESTABLISHMENT OF THE EXECUTIVE DIRECTORATE OF THE COUNTER-TERRORISM COMMITTEE (CTED)

*Adopted by the Security Council at its 4936th meeting,
on 26 March 2004*

The Security Council,

Reaffirming its resolution 1373 (2001) of 28 September 2001, adopted under Chapter VII of the Charter of the United Nations, and the Ministerial Declarations annexed respectively to resolution 1377 (2001) of 12 November 2001 and to resolution 1456 (2003) of 20 January 2003, as well as its other resolutions concerning threats to international peace and security caused by terrorism,

Reaffirming further that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security,

Reaffirming its reinforced determination to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations,

Reminding States that they must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law,

Reaffirming its call upon States to become a party, as a matter of urgency, to all relevant international conventions and protocols relating to terrorism, and to support all international initiatives taken to that aim, and to make full use of the sources of assistance and guidance which are now available,

Commending Member States for their cooperation with the Counter-Terrorism Committee and calling upon all of them to continue to cooperate fully with the Committee,

Commending the progress made so far by the Counter-Terrorism Committee established by the Security Council under paragraph 6 of resolution 1373 (2001) acting under Chapter VII of the Charter in discharging its important responsibility to monitor the implementation of that resolution,

Stressing the important role that international, regional and sub-regional organizations play in the fight against terrorism, *urging* them to intensify their assistance to Member States with respect to the imple-

mentation of resolution 1373 (2001), and commending the Committee's coordination of counter-terrorism efforts with such organizations,

Recognizing that many States continue to require assistance in implementing resolution 1373 (2001), and *urging* States and organizations to inform the Committee of areas in which they are able to offer assistance,

Recognizing also the need for the Committee, where appropriate, to visit States, with the consent of the State concerned, and to engage in a detailed discussion to monitor the implementation of resolution 1373 (2001),

Recognizing that such visits should be conducted, when appropriate, in close cooperation with relevant international, regional and sub-regional organizations and other United Nations bodies, including the United Nations Office on Drugs and Crime, in particular with its Terrorism Prevention Branch, taking special care of the assistance that might be available to address States' needs,

Stressing the importance of enhancing the monitoring of the implementation of resolution 1373 (2001),

Having considered the report of the Chairman of the Committee (S/2004/70) on the problems encountered both by Member States and the Committee itself in the implementation of resolution 1373 (2001),

Stressing the importance of addressing these difficulties so as to enable the Committee to monitor effectively the implementation of resolution 1373 (2001) and to enhance the capacity-building work in which it is engaged,

Bearing in mind the special nature of resolution 1373 (2001), the continuing threats to peace and security caused by terrorism, the important role the United Nations and the Security Council must continue to play in the global fight against terrorism, the need to reinforce the Committee as the Security Council subsidiary body responsible in this area, and without setting a precedent for other bodies of the Security Council,

1. *Endorses* the report of the Committee on its revitalization (S/2004/124);

2. *Decides* that the revitalized Committee will consist of the Plenary—composed of the Security Council member States—and the Bureau, the latter composed of the Chair and the Vice-Chairs, assisted by the Counter-Terrorism Committee Executive Directorate (hereinafter “CTED”) to be established as a special political mission, under the policy guidance of the Plenary, for an initial period ending 31 December 2007 and subject to a comprehensive review by the Security Council by 31 December 2005, so as to enhance the Committee's ability to monitor

the implementation of resolution 1373 (2001) and effectively continue the capacity-building work in which it is engaged;

3. *Decides* further that the CTED, headed by an Executive Director, will be responsible for the tasks stated in the report of the Committee (S/2004/124) and requests the Secretary-General, within 45 days of the adoption of this resolution, to appoint, after consultation with and subject to the approval of the Council, an Executive Director of the CTED who will take up office as soon as possible;

4. *Requests* the Executive Director of the CTED, within 30 days of taking office, in consultation with and through the Secretary-General, to submit to the Plenary, for its endorsement, an organizational plan for the CTED, consistent with the Committee's report (S/2004/124) and United Nations rules and regulations, including its structure, staffing requirements, budget needs, management guidelines, recruitment procedures, recognizing in particular the need for an effective, cooperative management structure for the new body, and staffing with suitably qualified and experienced personnel, who would be international civil servants subject to article 100 of the Charter, securing the highest standards of efficiency, competence and integrity and paying due regard to the importance of recruiting the staff on as wide a geographical basis as possible;

5. *Requests* the Chairman of the Committee to present such an organizational plan to the Security Council for its endorsement, and further *requests* the Secretary-General to take the appropriate steps to implement it on an expedited basis, including, at the appropriate time, seeking the General Assembly's approval;

6. *Decides* that the Committee will continue to report to the Council on a regular basis;

7. *Stresses* the importance of ensuring that the Committee continues to operate effectively during the consolidation of the Committee's support structure into the CTED, and in this regard, decides that the Committee will continue to operate with its present support structure until the Committee, in consultation with the Secretary-General, determines that the CTED is operational;

8. *Decides* to remain actively seized of the matter.

44. Resolution 1540 (2004)

NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

*Adopted by the Security Council at its 4956th meeting,
on 28 April 2004*

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,* constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation,

* Definitions for the purpose of this resolution only:

Means of delivery: Missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-State actor: Individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

Related materials: Materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

Affirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Gravely concerned by the threat of terrorism and the risk that non-State actors* such as those identified in the United Nations list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

Recognizing the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

Recognizing further 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,

Encouraging all Member States to implement fully the disarmament treaties and agreements to which they are party,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Determined to facilitate henceforth an effective response to global threats in the area of non-proliferation,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. *Decides* that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Con-

vention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.

45. Resolution 1566 (2004)

ESTABLISHMENT OF A WORKING GROUP TO CONSIDER
MEASURES TO BE IMPOSED UPON INDIVIDUALS, GROUPS
OR ENTITIES OTHER THAN THOSE DESIGNATED
BY THE AL-QAIDA/TALIBAN SANCTIONS COMMITTEE

*Adopted by the Security Council at its 5053rd meeting,
on 8 October 2004*

The Security Council,

Reaffirming its resolutions 1267 (1999) of 15 October 1999 and 1373 (2001) of 28 September 2001 as well as its other resolutions concerning threats to international peace and security caused by terrorism,

Recalling in this regard its resolution 1540 (2004) of 28 April 2004,

Reaffirming also the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations and international law,

Deeply concerned by the increasing number of victims, including children, caused by acts of terrorism motivated by intolerance or extremism in various regions of the world,

Calling upon States to cooperate fully with the Counter-Terrorism Committee (CTC) established pursuant to resolution 1373 (2001), including the recently established Counter-Terrorism Committee Executive Directorate (CTED), the “Al-Qaida/Taliban Sanctions Committee” established pursuant to resolution 1267 (1999) and its Analytical Support and Sanctions Monitoring Team, and the Committee established pursuant to resolution 1540 (2004), and *further calling upon* such bodies to enhance cooperation with each other,

Reminding States that they must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law,

Reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security,

Considering that acts of terrorism seriously impair the enjoyment of human rights and threaten the social and economic development of all States and undermine global stability and prosperity,

Emphasizing that enhancing dialogue and broadening the understanding among civilizations, in an effort to prevent the indiscriminate

targeting of different religions and cultures, and addressing unresolved regional conflicts and the full range of global issues, including development issues, will contribute to international cooperation, which by itself is necessary to sustain the broadest possible fight against terrorism,

Reaffirming its profound solidarity with victims of terrorism and their families,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security;

2. *Calls upon* States to cooperate fully in the fight against terrorism, especially with those States where or against whose citizens terrorist acts are committed, in accordance with their obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle to extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens;

3. *Recalls* that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and *calls upon* all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature;

4. *Calls upon* all States to become party, as a matter of urgency, to the relevant international conventions and protocols whether or not they are a party to regional conventions on the matter;

5. *Calls upon* Member States to cooperate fully on an expedited basis in resolving all outstanding issues with a view to adopting by consensus the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism;

6. *Calls upon* relevant international, regional and subregional organizations to strengthen international cooperation in the fight against terrorism and to intensify their interaction with the United Nations and, in particular, the CTC with a view to facilitating full and timely implementation of resolution 1373 (2001);

7. *Requests* the CTC in consultation with relevant international, regional and subregional organizations and the United Nations bodies to develop a set of best practices to assist States in implementing the provisions of resolution 1373 (2001) related to the financing of terrorism;

8. *Directs* the CTC, as a matter of priority and, when appropriate, in close cooperation with relevant international, regional and subregional organizations to start visits to States, with the consent of the States concerned, in order to enhance the monitoring of the implementation of resolution 1373 (2001) and facilitate the provision of technical and other assistance for such implementation;

9. *Decides* to establish a working group consisting of all members of the Security Council to consider and submit recommendations to the Council on practical measures to be imposed upon individuals, groups or entities involved in or associated with terrorist activities, other than those designated by the Al-Qaida/Taliban Sanctions Committee, including more effective procedures considered to be appropriate for bringing them to justice through prosecution or extradition, freezing of their financial assets, preventing their movement through the territories of Member States, preventing supply to them of all types of arms and related material, and on the procedures for implementing these measures;

10. *Requests* further the working group, established under paragraph 9 to consider the possibility of establishing an international fund to compensate victims of terrorist acts and their families, which might be financed through voluntary contributions, which could consist in part of assets seized from terrorist organizations, their members and sponsors, and submit its recommendations to the Council;

11. *Requests* the Secretary-General to take, as a matter of urgency, appropriate steps to make the CTED fully operational and to inform the Council by 15 November 2004;

12. *Decides* to remain actively seized of the matter.

46. Resolution 1617 (2005)

THREATS TO INTERNATIONAL PEACE AND SECURITY CAUSED BY TERRORIST ACTS

*Adopted by the Security Council at its 5244th meeting,
on 29 July 2005*

The Security Council,

Recalling its resolutions 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1363 (2001) of 30 July 2001, 1373 (2001) of 28 September 2001, 1390 (2002) of 16 January 2002, 1452 (2002) of 20 December 2002, 1455 (2003) of 17 January 2003, 1526 (2004) of 30 January 2004 and 1566 (2004) of 8 October 2004, and the relevant statements of its President,

Reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivations, whenever and by whomsoever committed; and reiterating its unequivocal condemnation of Al-Qaida, Usama bin Laden, the Taliban—and associated individuals, groups, undertakings and entities—for ongoing and multiple criminal terrorist acts aimed at causing the death of innocent civilians and other victims, destruction of property and greatly undermining stability,

Expressing its concern over the use of various media, including the Internet, by Al-Qaida, Usama bin Laden, and the Taliban, and their associates, including for terrorist propaganda and inciting terrorist violence, and urging the working group established pursuant to resolution 1566 (2004) to consider these issues,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations and international law, threats to international peace and security caused by terrorist acts, stressing in this regard the important role the United Nations plays in leading and coordinating this effort,

Emphasizing the obligation placed upon all Member States to implement, in full, resolution 1373 (2001), including with regard to the Taliban or Al-Qaida, and any individuals, groups, undertakings or entities associated with Al-Qaida, Usama bin Laden or the Taliban, who have participated in financing, planning, facilitating, recruiting for, preparing, perpetrating, or otherwise supporting terrorist activities or acts, as well as to facilitate the implementation of counter-terrorism obligations in accordance with relevant Security Council resolutions,

Stressing the importance of clarifying which individuals, groups, undertakings and entities are subject to listing in light of information regarding the changing nature of, and threat from, Al-Qaida, particularly as reported by the Analytical Support and Sanctions Monitoring Team (“Monitoring Team”),

Underscoring the importance of Member State designations pursuant to relevant resolutions and robust implementation of existing measures as a significant preventive measure in combating terrorist activity,

Noting that, in giving effect to the measures in paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002), full account is to be taken of the provisions of paragraphs 1 and 2 of resolution 1452 (2002),

Welcoming the efforts of the International Civil Aviation Organization to prevent travel documents from being made available to terrorists and their associates,

Encouraging Member States to work in the framework of Interpol, in particular through the use of the Interpol database of stolen and lost travel documents, to reinforce the implementation of the measures against Al-Qaida, Usama bin Laden, and the Taliban, and their associates,

Expressing its concern over the possible use by Al-Qaida, Usama bin Laden, or the Taliban, and their associates of Man-Portable Air Defence Systems (MANPADS), commercially available explosives and chemical, biological, radiation or nuclear weapons and material, and encouraging Member States to consider possible action to reduce these threats,

Urging all States, international bodies, and regional organizations to allocate sufficient resources, including through international partnership, to meet the ongoing and direct threat posed by Al-Qaida, Usama bin Laden and the Taliban, and individuals, groups, undertakings and entities associated with them,

Stressing the importance of meeting the ongoing threat that Al-Qaida, Usama bin Laden and the Taliban, and individuals, groups, undertakings and entities associated with them represent to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that all States shall take the measures as previously imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000), and paragraphs 1 and 2 of resolution 1390 (2002) with respect to Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) (the “Consolidated List”):

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory;

(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee established pursuant to resolution 1267 (1999) ("the Committee") determines on a case-by-case basis only that entry or transit is justified;

(c) Prevent the direct or indirect supply, sale or transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities;

2. *Further decides* that acts or activities indicating that an individual, group, undertaking, or entity is "associated with" Al-Qaida, Usama bin Laden or the Taliban include:

—Participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of;

—Supplying, selling or transferring arms and related materiel to;

—Recruiting for; or

—Otherwise supporting acts or activities of;

Al-Qaida, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof;

3. *Further decides* that any undertaking or entity owned or controlled, directly or indirectly, by, or otherwise supporting, such an individual, group, undertaking or entity associated with Al-Qaida, Usama bin Laden or the Taliban shall be eligible for designation;

4. *Decides* that, when proposing names for the Consolidated List, States shall act in accordance with paragraph 17 of resolution 1526 (2004) and henceforth also shall provide to the Committee a statement of case describing the basis of the proposal; and further encourages States to identify any undertakings and entities owned or controlled, directly or indirectly, by the proposed subject;

5. *Requests* relevant States to inform, to the extent possible, and in writing where possible, individuals and entities included in the Consolidated List of the measures imposed on them, the Committee's guidelines, and, in particular, the listing and delisting procedures and the provisions of resolution 1452 (2002);

6. *Decides* that the statement of case submitted by the designating State referred to in paragraph 4 above may be used by the Committee in responding to queries from Member States whose nationals, residents or entities have been included on the Consolidated List; decides also that the Committee may decide on a case-by-case basis to release the information to other parties, with the prior consent of the designating State, for example, for operational reasons or to aid the implementation of the measures; decides also that States may continue to provide additional information which shall be kept on a confidential basis within the Committee unless the submitting State agrees to the dissemination of such information;

7. *Strongly urges* all Member States to implement the comprehensive, international standards embodied in the Financial Action Task Force's (FATF) Forty Recommendations on Money Laundering and the FATF Nine Special Recommendations on Terrorist Financing;

8. *Requests* the Secretary-General to take the necessary steps to increase cooperation between the United Nations and Interpol in order to provide the Committee with better tools to fulfil its mandate more effectively and to give Member States better tools to implement the measures referred to in paragraph 1 above;

9. *Urges* all Member States, in their implementation of the measures called for in paragraph 1 above, to ensure that stolen and lost passports and other travel documents are invalidated as soon as possible and share information on those documents with other Member States through the Interpol database;

10. *Calls* on all Member States to use the checklist contained in annex II of this resolution to report by 1 March 2006 to the Committee on specific actions that they have taken to implement the measures outlined in paragraph 1 above with regard to individuals and entities henceforth added to the Consolidated List, and thereafter at intervals to be determined by the Committee;

11. *Directs* the Committee to encourage the submission of names and additional identifying information from Member States for inclusion on the Consolidated List;

12. *Calls upon* the Committee, working in cooperation with the Committee established pursuant to resolution 1373 (the "Counter-Terrorism Committee" or "CTC") to inform the Council of specific ad-

ditional steps that States could take to implement the measures outlined in paragraph 1 above;

13. *Reiterates* the need for ongoing close cooperation and exchange of information among the Committee, the CTC, and the Committee established pursuant to resolution 1540 (2004), as well as their respective groups of experts, including enhanced information sharing, coordinated visits to countries, technical assistance, and other issues of relevance to all three committees;

14. *Further reiterates* the importance of having the Committee follow up via oral and/or written communications with Member States regarding effective implementation of the sanctions measures and provide Member States with an opportunity, at the Committee's request, to send representatives to meet the Committee for more in-depth discussion of relevant issues;

15. *Requests* the Committee to consider, where and when appropriate, visits to selected countries by the Chairman and/or Committee members to enhance the full and effective implementation of the measures referred to in paragraph 1 above, with a view to encouraging States to comply fully with this resolution and resolutions 1267 (1999), 1333 (2000), 1390 (2002), 1455 (2003) and 1526 (2004);

16. *Requests* the Committee to report orally, through its Chairman, at least every 120 days to the Council on the overall work of the Committee and the Monitoring Team, and, as appropriate, in conjunction with the reports by the Chairmen of the CTC and the Committee established pursuant to resolution 1540 (2004), including briefings for all interested Member States;

17. *Reminds* the Committee of its responsibilities as outlined in paragraph 14 of resolution 1455 (2003) and paragraph 13 of resolution 1526 (2004), and calls upon the Committee to provide the Council no later than 31 July 2006 with an update of the written assessment referred to in paragraph 13 of resolution 1526 (2004) of actions taken by Member States to implement the measures described in paragraph 1 above;

18. *Requests* that the Committee continue its work on the Committee's guidelines, including on listing and delisting procedures, and implementation of resolution 1452 (2002) and requests the Chairman, in his periodic reports to the Council pursuant to paragraph 16 above, to provide progress reports on the Committee's work on these issues;

19. *Decides*, in order to assist the Committee in the fulfilment of its mandate, to extend the mandate of the New York-based Monitoring Team for a period of 17 months, under the direction of the Committee with the responsibilities outlined in annex I;

20. *Requests* the Secretary-General, upon adoption of this resolution and acting in close consultation with the Committee, to appoint,

consistent with United Nations rules and procedures, no more than eight members, including a coordinator, to the Monitoring Team, taking into account the areas of expertise referred to in paragraph 7 of resolution 1526 (2004);

21. *Decides* to review the measures described in paragraph 1 above with a view to their possible further strengthening in 17 months, or sooner if necessary;

22. *Decides* to remain actively seized of the matter.

47. Resolution 1624 (2005)

PROHIBITION OF INCITEMENT TO COMMIT TERRORIST ACTS

*Adopted by the Security Council at its 5261st meeting,
on 14 September 2005*

The Security Council,

Reaffirming its resolutions 1267 (1999) of 15 October 1999, 1373 (2001) of 28 September 2001, 1535 (2004) of 26 March 2004, 1540 (2004) of 28 April 2004, 1566 (2004) of 8 October 2004, and 1617 (2005) of 29 July 2005, the declaration annexed to its resolution 1456 (2003) of 20 January 2003, as well as its other resolutions concerning threats to international peace and security caused by acts of terrorism,

Reaffirming also the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations, and also stressing that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights law, refugee law, and humanitarian law,

Condemning in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security, and *reaffirming* the primary responsibility of the Security Council for the maintenance of international peace and security under the Charter of the United Nations,

Condemning also in the strongest terms the incitement of terrorist acts and repudiating attempts at the justification or glorification (*apologie*) of terrorist acts that may incite further terrorist acts,

Deeply concerned that incitement of terrorist acts motivated by extremism and intolerance poses a serious and growing danger to the enjoyment of human rights, threatens the social and economic development of all States, undermines global stability and prosperity, and must be addressed urgently and proactively by the United Nations and all States, and *emphasizing* the need to take all necessary and appropriate measures in accordance with international law at the national and international level to protect the right to life,

Recalling the right to freedom of expression reflected in article 19 of the Universal Declaration of Human Rights adopted by the General Assembly in 1948 (“the Universal Declaration”), and recalling also the right to freedom of expression in article 19 of the International Covenant

on Civil and Political Rights adopted by the General Assembly in 1966 (“ICCPR”) and that any restrictions thereon shall only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of article 19 of the ICCPR,

Recalling in addition the right to seek and enjoy asylum reflected in article 14 of the Universal Declaration and the non-refoulement obligation of States under the Convention relating to the Status of Refugees adopted on 28 July 1951, together with its Protocol adopted on 31 January 1967 (“the Refugees Convention and its Protocol”), and also *recalling* that the protections afforded by the Refugees Convention and its Protocol shall not extend to any person with respect to whom there are serious reasons for considering that he has been guilty of acts contrary to the purposes and principles of the United Nations,

Reaffirming that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations,

Deeply concerned by the increasing number of victims, especially among civilians of diverse nationalities and beliefs, caused by terrorism motivated by intolerance or extremism in various regions of the world, *reaffirming* its profound solidarity with the victims of terrorism and their families, and *stressing* the importance of assisting victims of terrorism and providing them and their families with support to cope with their loss and grief,

Recognizing the essential role of the United Nations in the global effort to combat terrorism and *welcoming* the Secretary-General’s identification of elements of a counter-terrorism strategy to be considered and developed by the General Assembly without delay with a view to adopting and implementing a strategy to promote comprehensive, coordinated and consistent responses at the national, regional and international level to counter terrorism,

Stressing its call upon all States to become party, as a matter of urgency, to the international counter-terrorism Conventions and Protocols whether or not they are party to regional Conventions on the matter, and to give priority consideration to signing the International Convention for the Suppression of Nuclear Terrorism adopted by the General Assembly on 13 April 2005,

Re-emphasizing that continuing international efforts to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, and addressing unresolved regional conflicts and the full range of global issues, including development issues, will contribute to strengthening the international fight against terrorism,

Stressing the importance of the role of the media, civil and religious society, the business community and educational institutions in those efforts to enhance dialogue and broaden understanding, and in promoting tolerance and coexistence, and in fostering an environment which is not conducive to incitement of terrorism,

Recognizing the importance that, in an increasingly globalized world, States act cooperatively to prevent terrorists from exploiting sophisticated technology, communications and resources to incite support for criminal acts,

Recalling that all States must cooperate fully in the fight against terrorism, in accordance with their obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle of extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens,

1. *Calls upon* all States to adopt such measures as may be necessary and appropriate and in accordance with their obligations under international law to:

(a) Prohibit by law incitement to commit a terrorist act or acts;

(b) Prevent such conduct;

(c) Deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct;

2. *Calls upon* all States to cooperate, inter alia, to strengthen the security of their international borders, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures with a view to preventing those guilty of the conduct in paragraph 1 (a) from entering their territory;

3. *Calls upon* all States to continue international efforts to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, and to take all measures as may be necessary and appropriate and in accordance with their obligations under international law to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters;

4. *Stresses* that States must ensure that any measures taken to implement paragraphs 1, 2 and 3 of this resolution comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law;

5. *Calls upon* all States to report to the Counter-Terrorism Committee, as part of their ongoing dialogue, on the steps they have taken to implement this resolution;

6. *Directs* the Counter-Terrorism Committee to:

(a) Include in its dialogue with Member States their efforts to implement this resolution;

(b) Work with Member States to help build capacity, including through spreading best legal practice and promoting exchange of information in this regard;

(c) Report back to the Council in twelve months on the implementation of this resolution.

7. *Decides* to remain actively seized of the matter.

48. Resolution 1735 (2006)

THREATS TO INTERNATIONAL PEACE AND SECURITY CAUSED BY TERRORIST ACTS

*Adopted by the Security Council at its 5609th meeting,
on 22 December 2006*

The Security Council,

Recalling its resolutions 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1363 (2001) of 30 July 2001, 1373 (2001) of 28 September 2001, 1390 (2002) of 16 January 2002, 1452 (2002) of 20 December 2002, 1455 (2003) of 17 January 2003, 1526 (2004) of 30 January 2004, 1566 (2004) of 8 October 2004, 1617 (2005) of 29 July 2005, 1624 (2005) of 14 September 2005, and 1699 (2006) of 8 August 2006, and the relevant statements of its President,

Reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivations, whenever and by whomsoever committed; and reiterating its unequivocal condemnation of Al-Qaida, Usama bin Laden, the Taliban, and other individuals, groups, undertakings, and entities associated with them, for ongoing and multiple criminal terrorist acts aimed at causing the death of innocent civilians and other victims, destruction of property and greatly undermining stability,

Expressing its deep concern about the increased violent and terrorist activities in Afghanistan of the Taliban and Al-Qaida, and other individuals, groups, undertakings, and entities associated with them,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations and international law, threats to international peace and security caused by terrorist acts, stressing in this regard the important role the United Nations plays in leading and coordinating this effort,

Stressing that terrorism can only be defeated by a sustained and comprehensive approach involving the active participation and collaboration of all States, and international and regional organizations to impede, impair, isolate, and incapacitate the terrorist threat,

Emphasizing that dialogue between the Committee established pursuant to resolution 1267 (1999) (“the Committee”) and Member States is vital to the full implementation of the measures,

Recognizing that one of the most effective means of dialogue between the Committee and Member States is through direct contact, including country visits,

Welcoming the expanded cooperation with Interpol, including the establishment of “Interpol–UN Security Council Special Notices” and the passage of resolution 1699 (2006), and encouraging Member States to work in the framework of Interpol and other international and regional organizations in order to reinforce the implementation of the measures against Al-Qaida, Usama bin Laden, and the Taliban, and other individuals, groups, undertakings and entities associated with them,

Noting the need for robust implementation of the measures in paragraph 1 of this resolution as a significant tool in combating terrorist activity,

Reiterating that the measures referred to in paragraph 1 below, are preventative in nature and are not reliant upon criminal standards set out under national law,

Underscoring that, in giving effect to the measures in paragraph 1 of resolution 1617 (2005) and other relevant resolutions, full account is to be taken of the provisions regarding exemptions in paragraphs 1 and 2 of resolution 1452 (2002),

Taking note of the Committee’s document on the arms embargo (SCA/2/06(20)), which is intended to be a useful tool to assist States in the implementation of the measures in paragraph 1 (c) of this resolution,

Expressing its deep concern about criminal misuse of the internet by Al-Qaida, Usama bin Laden, and the Taliban, and other individuals, groups, undertakings, and entities associated with them, in furtherance of terrorist acts,

Noting with concern the changing nature of the threat presented by Al-Qaida, Usama bin Laden and the Taliban, and other individuals, groups, undertakings and entities associated with them, in particular the ways in which terrorist ideologies are promoted,

Stressing the importance of meeting all aspects of the threat that Al-Qaida, Usama bin Laden and the Taliban, and other individuals, groups, undertakings and entities associated with them represent to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

Measures

1. *Decides* that all States shall take the measures as previously imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000), paragraphs 1 and 2 of resolution 1390 (2002), with respect to Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them, as

referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) (the “Consolidated List”):

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons’ benefit, or by their nationals or by persons within their territory;

(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee established pursuant to resolution 1267 (1999) (“the Committee”) determines on a case-by-case basis only that entry or transit is justified;

(c) Prevent the direct or indirect supply, sale, or transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical and training advice, assistance, or training related to military activities;

2. *Reminds* States of their obligation to freeze without delay the funds and other financial assets or economic resources pursuant to paragraph 1 (a) of this resolution;

3. *Confirms* that the requirements in paragraph 1 (a) of this resolution apply to economic resources of every kind;

4. *Calls upon* States to redouble their efforts to implement the measure in paragraph 1 (b) and 1 (c) of this resolution;

Listing

5. *Decides* that, when proposing names to the Committee for inclusion on the Consolidated List, States shall act in accordance with paragraph 17 of resolution 1526 (2004) and paragraph 4 of resolution 1617 (2005) and provide a statement of case; the statement of case should provide as much detail as possible on the basis(es) for the listing, including: (i) specific information supporting a determination that the individual or entity meets the criteria above; (ii) the nature of the information and (iii) supporting information or documents that can be provided; States should include details of any connection between the proposed designee and any currently listed individual or entity;

6. *Requests* designating States, at the time of submission, to identify those parts of the statement of case which may be publicly released for the purposes of notifying the listed individual or entity, and those parts which may be released upon request to interested States;

7. *Calls upon* States to use the cover sheet attached in Annex I when proposing names for the Consolidated List, in order to ensure clarity and consistency in requests for listing;

8. *Directs* the Committee to encourage the submission of names from Member States for inclusion on the Consolidated List;

9. *Directs* the Committee to encourage States to submit additional identifying and other information on listed individuals and entities, including updates on assets frozen and the movement of listed individuals as such information becomes available;

10. *Decides* that the Secretariat shall, after publication but within two weeks after a name is added to the Consolidated List, notify the Permanent Mission of the country or countries where the individual or entity is believed to be located and, in the case of individuals, the country of which the person is a national (to the extent this information is known), and include with this notification a copy of the publicly releasable portion of the statement of case, a description of the effects of designation, as set forth in the relevant resolutions, the Committee's procedures for considering delisting requests, and the provisions of resolution 1452 (2002);

11. *Calls upon* States receiving notification as in paragraph 10 to take reasonable steps according to their domestic laws and practices to notify or inform the listed individual or entity of the designation and to include with this notification a copy of the publicly releasable portion of the statement of case, a description of the effects of designation, as provided in the relevant resolutions, the Committee's procedures for considering delisting requests, the provisions of resolution 1452 (2002);

12. *Encourages* States to submit to the Committee for inclusion on the Consolidated List names of individuals and entities participating in the financing or support of acts or activities of Al-Qaida, Usama bin Laden and the Taliban, and other individuals, groups, undertakings and entities associated with them, as described in paragraph 2 of resolution 1617 (2005), by any means, including but not limited to using proceeds derived from illicit cultivation, production, and trafficking of narcotic drugs originating in Afghanistan, and their precursors;

Delisting

13. *Decides* that the Committee shall continue to develop, adopt, and apply guidelines regarding the de-listing of individuals and entities on the Consolidated List;

14. *Decides* that the Committee, in determining whether to remove names from the Consolidated List, may consider, among other things, (i) whether the individual or entity was placed on the Consolidated List due to a mistake of identity, or (ii) whether the individual or entity no longer meets the criteria set out in relevant resolutions, in particular resolution 1617 (2005); in making the evaluation in (ii) above, the Committee may consider, among other things, whether the individual is deceased, or whether it has been affirmatively shown that the individual or entity has severed all association, as defined in resolution 1617 (2005), with Al-Qaida, Usama bin Laden, the Taliban, and their supporters, including all individuals and entities on the Consolidated List;

Exemptions

15. *Decides* to extend the period for consideration by the Committee of notifications submitted pursuant to paragraph 1 (a) of resolution 1452 (2002) from 48 hours to 3 working days;

16. *Reiterates* that the Committee must make a negative decision on notifications submitted pursuant to paragraph 1 (a) of resolution 1452 (2002), in order to prevent the release of funds and other financial assets or economic resources that have been determined by the notifying State(s) to be necessary for basic expenses;

17. *Directs* the Committee to review its guidelines with respect to the provisions of paragraph 1 (a) of resolution 1452 (2002) as reiterated in paragraph 15 above;

18. *Encourages* States that submit requests to the Committee, pursuant to paragraph 1 (b) of resolution 1452 (2002), to report in a timely way on the use of such funds, with a view to preventing such funds from being used to finance terrorism;

Measures implementation

19. *Encourages* States to identify, and if necessary introduce, adequate procedures to fully implement all aspects of the measures described in paragraph 1 of this resolution;

20. *Stresses* that the measures imposed by paragraph 1 (a) of this resolution apply to all forms of financial resources, including but not limited to those used for the provision of Internet hosting or related services, used for the support of Al Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them;

21. *Directs* the Committee to identify possible cases of non-compliance with the measures pursuant to paragraph 1 above, and requests the Chairman, in his periodic reports to the Council pursuant to paragraph 31 below, to provide progress reports on the Committee's work on this issue;

22. *Requests* States to ensure that the most up-to-date version of the Consolidated List is promptly made available to relevant Government offices and other relevant bodies, in particular, those offices responsible for the assets freeze and border control;

23. *Requests* the Secretary-General to take the necessary steps to increase cooperation between the United Nations and relevant international and regional organizations, including Interpol, ICAO, IATA, and the WCO, in order to provide the Committee with better tools to fulfil its mandate more effectively and to give Member States better tools to implement the measures referred to in paragraph 1 of this resolution;

Taliban

24. *Encourages* States to submit names of individuals and entities currently associated with the Taliban to the Committee for inclusion on the Consolidated List;

25. *Directs* the Committee to encourage States to provide additional identifying and other information on listed Taliban individuals and entities;

26. *Directs* the Committee to work, in accordance with its guidelines, to consider requests for inclusion on the Consolidated List, names of individuals and entities associated with the Taliban, and to consider petitions for the removal of listed members and/or associates of the Taliban who are no longer associated with the Taliban;

Coordination

27. *Reiterates* the need for ongoing close cooperation and exchange of information among the Committee, the Counter-Terrorism Committee (“CTC”), and the Committee established pursuant to resolution 1540 (2004), as well as their respective groups of experts, including enhanced information sharing, coordinated visits to countries, technical assistance, and other issues of relevance to all three committees;

Outreach

28. *Further reiterates* the importance of having the Committee follow up via oral and/or written communications with Member States regarding effective implementation of the sanctions measures;

29. *Strongly encourages* Member States to send representatives to meet the Committee for more in-depth discussion of relevant issues;

30. *Requests* the Committee to consider, where and when appropriate, visits to selected countries by the Chairman and/or Committee members to enhance the full and effective implementation of the measures referred to in paragraph 1 above, with a view to encouraging States to comply fully with this resolution and resolutions 1267 (1999), 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004) and 1617 (2005);

31. *Requests* the Committee to report orally, through its Chairman, at least every 180 days to the Council on the overall work of the Committee and the Analytical Support and Sanctions Monitoring Team (“Monitoring Team”), and, as appropriate, in conjunction with the reports by the Chairmen of the CTC and the Committee established pursuant to resolution 1540 (2004), including briefings for all interested Member States;

Monitoring Team and Reviews

32. *Decides*, in order to assist the Committee in the fulfilment of its mandate, to extend the mandate of the current New York-based Monitoring Team, appointed by the Secretary-General pursuant to paragraph 20 of resolution 1617 (2005), for a further period of 18 months, under the direction of the Committee with the responsibilities outlined in Annex II, and requests the Secretary-General to make the necessary arrangements to this effect;

33. *Decides* to review the measures described in paragraph 1 of this resolution with a view to their possible further strengthening in 18 months, or sooner if necessary;

34. *Decides* to remain actively seized of the matter.

Part V

OTHER INSTRUMENTS

49. 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 I

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 peacekeeping 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.

**50. 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;

51. 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;

52. 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;

53. 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

...

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.

**54. 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.

**55. 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.

...