



UNITED NATIONS  
*Office on Drugs and Crime*

*The global legal framework against nuclear terrorism*

International Symposium on Nuclear Security  
*Vienna International Centre*  
*31 March 2009*

# UN Global Counter-Terrorism Strategy



NATIONS UNIES

*Office contre la drogue et le crime*

I. Measures to address the conditions conducive to the spread of terrorism

II. Measures to prevent and combat terrorism

III. Measures to build States' Capacity to prevent and combat Terrorism and to strengthen the Role of the UN system in this regard

IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism



*“Member States to take full ownership of the Strategy and its implementation”*

*Ban Ki-moon  
16 Feb. 2007*

*United Nations to assist Member States*



*Co-ordination by CTITF*



Security Council  
resolution 1373

Security Council  
resolutions 1540  
and 1673  
(weapons of mass  
destruction)

Security Council  
resolution 1822  
(Al Qaida/  
Taliban sanctions  
regime)

16 treaties, e.g.  
IAEA Instruments on  
physical protection of  
nuclear material  
2005 IMO Protocols on safety of  
maritime navigation  
1997 Terrorist Bombings  
Convention  
2005 Nuclear terrorism  
Convention



## Resolution 1373 (2001)

Notes with concern the close connection between international terrorism and illegal movement of nuclear material

- Legally binding on the basis of Chapter VII of the United Nations Charter
- Bring terrorists to justice
- Criminalization of support conducts
- Ratification and full implementation of the universal treaties against terrorism
- Terrorist acts do not constitute “political offences”
- effective border controls



## Resolution 1540 (2004)

- All States must **prohibit** non-state actors to manufacture, possess, develop, transport or use:
  - ✓ nuclear, chemical and biological weapons (WMD)
  - ✓ means of delivery
- In particular for terrorist purposes



## Resolution 1822 (2008)

- **Arms embargo:** prohibition to supply of any kind of weapons to listed individuals and entities
- **Travel ban:** deny entry into or transit of listed individuals through States' territory
- Travel ban is potentially useful against listed people trying to engage in nuclear smuggling



## Universal Counter-Terrorism Treaties

- Nuclear terrorism related offences contained in several conventions
- Negotiated within different international organisations
- Each instrument ratified by a varying number of States
- 2005 IMO protocols and 2005 IAEA amendments not yet in force



## Conventions' common elements

- Define specific offences and require States Parties to establish them as offences in their domestic legislation
- Establish the principle *aut dedere aut judicare*
- Provide for extradition and mutual legal assistance mechanisms
- Compatibility with existing instruments dealing with WMD (ex. Chemical Weapons Convention, NPT treaty, etc.)





## Instruments of the offences

- **Nuclear material :**
  - Convention on the Physical Protection of Nuclear Material (CPPMN with 2005 Amendment)
  - Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- **Radioactives material:**
  - International Convention for the Suppression of Acts of Nuclear Terrorism (2005)
  - Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
  - Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf
- **Nuclear facilities:**
  - International Convention for the Suppression of Acts of Nuclear Terrorism (2005)
  - Convention on the Physical Protection of Nuclear Material (CPPMN with 2005 Amendment)
- **Nuclear weapons:**
  - International Convention for the Suppression of Acts of Nuclear Terrorism (2005)
  - Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
  - Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf
  - International Convention for the Suppression of Terrorist Bombings (1997)



## Instruments related to civil aviation

1963 Convention on offences and Certain other Acts committed on Board Aircraft	184 States Parties
1970 Convention for the Suppression of the Unlawful Seizure of Aircrafts	184 States Parties
1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	187 States Parties
1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation	168 States Parties
1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection	140 States Parties



## United Nations Conventions

1973 Convention on prevention and punishment of crimes against internationally protected persons	171 States Parties
1979 International convention against the Taking of Hostages	166 States Parties
1997 International convention for the Suppression of Terrorist Bombing	161 States Parties
1999 Convention against Terrorist Financing	167 States Parties
2005 International convention for the Suppression of acts of Nuclear Terrorism	52 States Parties



## Terrorist Bombings Convention

- **Delivering, placing, discharging** devices designed or capable to cause death, serious bodily injury or substantial material damage
- Through release, dissemination or impact of toxic chemicals, **biological agents or toxins or similar substances or radiation or radioactive material**
- Convention covers preparatory conducts, not only the actual explosion



## Nuclear Terrorism convention

- Broadly criminalizes possession and use of radioactive material
- Introduces concept of “nuclear facility”
- Using or damaging **nuclear facilities** in manner which risks release of radioactive materials



## Maritime agreements

<p>1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation</p> <p>+ 2005 Protocol to the Convention for the suppression of unlawful acts against the safety of maritime navigation</p>	<p>152 States Parties</p> <p>8 States Parties <i>Cook Islands, Estonia, Fiji, Marshall Islands, Saint-Kitts-et-Nevis, Spain, Switzerland, Vanuatu</i></p> <p>Not yet in force</p>
<p>1988 Protocol for the Suppression of Unlawful Acts against Fixed Platforms Located on the Continental Shelf</p> <p>+ 2005 Protocol of 2005 to the Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf</p>	<p>140 States Parties</p> <p>6 States Parties <i>Estonia, Fiji, Marshall Islands, Spain, Switzerland,</i></p> <p>Not yet in force</p>



## Convention on the physical protection of nuclear material

1980 Convention on the Physical  
Protection of Nuclear Material

+ 2005 Amendment to the Convention  
on the Physical Protection of Nuclear  
Material –

139 States Parties

Not yet in force,  
24 States Parties



## Environmental protection through criminal law

- the maritime treaties 2005
- Nuclear Terrorism Convention

### Criminalization of the use of

- Radiological materials or
- nuclear, biological or chemical weapons or
- oil, liquefied natural gas, or other hazardous or noxious substances

### If the purpose is

- to intimidate a population or
- To compel a government or an international organization





## The challenges ?

- ratification of the treaties
- Incorporation into domestic law
- Nuclear terrorism related offences are scattered over several legal instruments while overlapping
- Adopt and draft national laws
- Be aware of the gaps in the domestic legislation
- Penalties ?



## The options

- Criminalize through the penal code or nuclear law ?
- In which part of the penal code ? Terrorist acts, environmental crimes or elsewhere ?
- Definitions (e.g. nuclear facilities, reference to the IAEA Statute in one of the 2005 Protocols)



## Go beyond the requirements ?

- Implementation of the treaties in the context of the criminal justice policy of each state
- Extend the criminalization of terrorism financing to nuclear terrorism related acts ?
- Extend the maritime offences to other means of transportation ?



**UNODC's Assistance in  
countering nuclear  
terrorism**



## UNODC's Terrorism Prevention Branch Helps countries to:

- **Become parties** to all universal legal instruments against terrorism (incl. nuclear terrorism)
- **Develop and apply domestic legislation** that conform to universal instruments
- **Strengthen the capacity** of national criminal justice systems to implement the universal instruments by training criminal justice officials, judges and prosecutors
- **Reinforce international, regional and sub-regional cooperation** against terrorism



TPB Accomplishments: Highlights  
January 2003 – August 2008

<i>Overall assistance provided</i>	<i>158 countries</i>
<i>Direct assistance provided</i>	<i>114 countries</i>
<i>Legislative drafting assistance/advise provided</i>	<i>85 countries</i>
<i>Criminal justice officers provided with specialised briefings on counter-terrorism legal regime</i>	<i>7,350</i>
<i>Regional and sub-regional workshops held</i>	<i>58</i>



# UNODC's technical assistance methodology

## 5 steps



- Analysis of national legislation
- Advice on drafting and amending laws
- Training on newly adopted counter-terrorism legislation and international cooperation
- In-depth specialized training of criminal justice officials
- Assistance in drafting responses to SC Committees dealing with counter-terrorism



## UNODC's Assistance tools



- Legislative guides (Overview of the instruments, Advice for the drafting of domestic legislation, Examples of implementing laws, Legislative model provisions)
- Legislative database (Text of penal codes and criminal procedure codes of more than 100 countries - Apply for a password online: [www.unodc.org/tldb](http://www.unodc.org/tldb))
- Manual on international cooperation
- Online Training: *Global norms against terrorism at work, Getting International Law in Motion (Who can apply: Criminal justice officers, practicing diplomats, civil servants, and others who work in the legal areas of international cooperation in criminal matters, or are involved in legislative drafting of criminal law texts: [www.unodc.org/unodc/en/terrorism/online-training-course.html](http://www.unodc.org/unodc/en/terrorism/online-training-course.html)*





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