

NATIONAL IMPLEMENTATION MEASURES FOR THE 2005 INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM (ICSANT)

FACTS ABOUT THE CONVENTION

The 2005 International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT) was opened for signature on 14 September 2005 and entered into force on 7 July 2007. The depositary for the Convention is the Secretary-General of the United Nations.



A border patrolman checks a vehicle's trunk for radiation during an exercise to combat nuclear trafficking. Vadim Mouchkin/IAEA Image Bank

ICSANT's preamble warns that 'acts of nuclear terrorism may result in the gravest consequences and may pose a threat to international peace and security', and furthermore, that 'existing multilateral legal provisions do not adequately address those attacks'.

ICSANT was a response to this perceived gap in the international legal framework. The Convention is based on the principle of prosecuting or extraditing those who commit criminal acts involving radioactive material, and it calls for the effective prosecution of individuals or groups who possess or use radioactive material with the intent specified in the Convention.

'Radioactive material' is defined in Article 1(1) as '... 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 the environment'.

The definition for 'nuclear material' in Article 1(2) of ICSANT is borrowed from the Convention on the Physical Protection of Nuclear Material (CPPNM) (see VERTIC Fact Sheet 4), and incorporated into the definition of radioactive material.



IS MY STATE UNDER AN OBLIGATION TO IMPLEMENT ICSANT?

Yes, if your State has ratified or acceded to ICSANT. The Convention calls for certain measures to be implemented in your national legal system. For instance:

- Article 2 lists a number of acts, which must be criminalized and punished by appropriate penalties pursuant to Article 5; while
- Article 6 requires your State to adopt any necessary measures to ensure that the criminal acts within the scope of ICSANT are not justifiable by political, philosophical, ideological, racial, ethnic, religious or other considerations.

WHAT FORMS OF LEGISLATION SHOULD MY STATE CONSIDER?

In Article 2, ICSANT calls for your State to adopt measures to criminalize certain acts, including unlawfully and intentionally:

- possessing radioactive material with the intention to cause death, serious bodily injury or substantial damage to property or the environment;
- possessing or making a nuclear explosive device or radioactive material dispersal or radiation-emitting device to cause death, serious bodily injury or substantial damage to property or the environment;
- using radioactive material, a nuclear explosive device or a radioactive material dispersal or radiation-emitting device to cause death, serious bodily injury or substantial damage to property or the environment, or for terrorist purposes; and
- using or damaging a nuclear facility in a manner which releases or risks the release of radioactive material to cause death, serious bodily injury or substantial damage to property or the environment, or for terrorist purposes.

States must also criminalize certain threats, demands and attempts, as well as participating as an accomplice in, organizing or directing others, or otherwise

contributing to the criminal acts prohibited by the Convention.

Article 9 of ICSANT requires States Parties to establish jurisdiction over the criminal offenses above, which may necessitate amendments to your State's criminal or criminal procedure code.

States Parties may also require additional measures to facilitate prosecution or extradition of alleged offenders, as well as mutual legal assistance in criminal matters, pursuant to Articles 10 to 17 of ICSANT. This may require amendments to your State's criminal procedure code or laws for mutual legal assistance and international co-operation.

ARE THERE ADDITIONAL MEASURES MY STATE SHOULD TAKE?

Your State may need to implement several *administrative, regulatory* and other *enforcement* measures as follows:

- Article 7 requires States Parties to take measures to prevent and counter the criminal offenses in ICSANT and for the exchange of information with other States Parties, while protecting confidential information, and
- Article 8 requires States Parties to take appropriate measures to ensure the protection of radioactive material, taking into account recommendations and functions of the International Atomic Energy Agency (IAEA).

In the event a criminal offense is committed under ICSANT, States Parties are required under Article 18 to take steps to render harmless any radioactive material, nuclear explosive device, radioactive material dispersal or radiation-emitting device, or nuclear facility, once they have seized or taken control of any of these items. They must also ensure that any nuclear material in their possession is held in accordance with applicable IAEA safeguards and take into account IAEA physical protection recommendations and health and safety standards. Accordingly, your State may need to implement certain administrative, regulatory and other enforcement measures to handle situations where it has seized or taken control of prohibited items. Your State will also need to consider measures for their return or disposal.

WHERE SHOULD MY STATE'S LEGISLATIVE DRAFTERS TURN FOR ASSISTANCE?

- The **Terrorism Prevention Branch (TPB)** of the United Nations Office on Drugs and Crime (UNODC) focuses on providing assistance to States, upon request, in the legal and related aspects of counterterrorism, especially for ratifying and implementing the international legal instruments against terrorism, including ICSANT, and strengthening the capacity of the national criminal justice systems to apply the provisions of these instruments in compliance with the principles of the rule of law.
- **VERTIC's NIM Programme** assists States in understanding what measures are required at the national level to comply with the prohibitions and preventive measures in the Biological Weapons Convention, the Chemical Weapons Convention, UN Security Council Resolution 1540 and the international instruments to secure nuclear and other radioactive material. VERTIC's NIM Programme provides cost-free legislative assistance to interested States for the implementation of certain CBRN treaties and related legal instruments. Such assistance can include reviewing and commenting on existing draft legislation or providing assistance in the drafting of new legislation during workshops in capitals.

HOW CAN MY STATE CONTACT UNODC'S TERRORISM PREVENTION BRANCH?

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HOW CAN MY STATE CONTACT VERTIC?

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