

Self-assessment questionnaire

International Convention for the Suppression of Acts of Nuclear Terrorism

Introduction

The self-assessment questionnaire has been developed for countries considering accession to the International Convention for the Suppression of Acts of Nuclear Terrorism of 2005. It is intended to assist States in analysing their legal capacity to implement the provisions of the Convention on the basis of their existing domestic laws or, if there is a need to update those laws or draft new legislation, in accordance with their respective legal traditions and internal legal processes.

States have their own law-making procedures, based on their respective practices, institutions and legal systems. However, the technical aspects of nuclear security pose unique challenges and it is essential that national laws on nuclear security be uniform and harmonized with existing legal instruments that are in force in States, as well as with international guidance documents.

Ultimately, responsibility for establishing a robust national regime for nuclear security lies entirely with States, which must ensure the security of nuclear and radioactive material in nuclear facilities within their jurisdiction where radioactive sources are handled. Each State should establish a nuclear security regime in accordance with its national and constitutional processes. Furthermore, the application of national legal instruments relating to national security requires the involvement of a wide range of national interest groups, such as government bodies, research institutions and universities, medical centres and the industrial sector.

It is important to adopt an approach that is harmonized and consistent with international practices in order to ensure international cooperation and assistance and the prosecution and extradition of suspects in connection with nuclear security matters and to counter threats to nuclear security, including terrorism.

The questionnaire is divided into sections that briefly describe certain issues or key procedures that have proved useful in analysing national legislation and the capacities of States with respect to nuclear security. This is the basis for the formulation of the questions to be answered by States interested in acceding to the Convention, irrespective of their level of development and the scale of their peaceful use of radioactive and nuclear materials.

The questionnaire is intended for information purposes only and is not legally binding but, rather, provides a reference framework that States may use if they so wish. The questionnaire is not a tool for measuring the degree of compliance by States with their nuclear security obligations. The responses to the questionnaire do not reflect or serve as a basis for any discussion concerning the compliance of a State with its nuclear security obligations.

Name of State:

Date:

Methodology

The symbols used in the questionnaire only indicate facts, not the degree of compliance achieved.

An “X” means only that the State has taken the necessary measures or has provided specific references to applicable legal regulations or enforcement provisions in support of such measures.

A “?” means that references to legislative or other measures may not be directly relevant or may be incomplete.

When the field is left blank, this means that the question cannot be answered with an “X” or a “?” because the information available is insufficient.

Section I

Assessment of the national legislative and regulatory framework

One of the key aspects of assessing legislation on nuclear security is to correctly analyse the State’s nuclear activities – both those in progress and those that can reasonably be foreseen. If such activities are, or are expected to be, only limited – for example, the use of radioactive sources in medicine, industry and agriculture – the scope of application of a law on nuclear security may be much more limited than if an ambitious nuclear energy programme is in place or undertaken.

The State’s current and future nuclear programme and its existing legal and regulatory framework should be assessed at the same time. Discrepancies between nuclear security laws and other relevant laws can lead to problems with respect to application. There are many national laws and regulatory agreements that are relevant to the implementation of a nuclear programme. The following are the most important examples: general administrative law; national criminal law or penal code; legislation and procedures relating to the enforcement of civil and criminal penalties, including the code of criminal procedure; environmental legislation; legislation on exports, imports, strategic trade and customs; legislation on immigration and border control; legislation on emergency preparedness and response; economic legislation, including legislation covering tax-related and financial matters; the safety and protection of the health of workers; legislation on intellectual property; the gathering and use of information; legislation on the use of confidential or classified information; legislation on liability for damage, including damage resulting from terrorist or criminal activities; legislation on transport, especially transport safety and security; and legislation on combating terrorism.

<p>1. To which agreements and conventions (international, regional, subregional or bilateral) on the prevention and combating of terrorism is your State a party? Information additional to that set out in the annex to this questionnaire.</p>
<p>2. What national legislation has been adopted in your State in order to implement the above-mentioned agreements and conventions? Laws, nuclear law (articles of the Criminal Code) and/or other national regulatory provisions that establish offences pursuant to the agreements listed in the annex (to the present questionnaire) or implement those agreements.</p>
<p>3. Does the Criminal Code, or any other legislation establishing criminal offences, cover offences involving unauthorized access to or unauthorized disclosure of sensitive information related to the physical protection of nuclear facilities and the transport of radioactive and/or nuclear material? If so (X), indicate the legislation concerned</p>
<p>4. Has your State changed, or does it intend to change, the Criminal Code or any other relevant legislation containing penal provisions relating to offences involving nuclear or other radioactive material? If so (X), indicate the legislation concerned</p>
<p>5. Are the key terms set out in article 1 of the Convention defined clearly and consistently in your State's legislation? If so (X), indicate the legislation concerned</p>
<p>6. Are the offences established in article 2 of the Convention defined clearly and consistently in your State's legislation? If so (X), indicate the legislation concerned</p>
<p>7. Do the existing laws in your State permit the extradition to another State party of a person alleged to have committed an offence under the Convention? If so (X), indicate the legislation concerned</p>
<p>8. Does your State intend to make any reservations when depositing its instrument of ratification, acceptance or approval of the Convention? If so (X), indicate which</p>

9. Have formal agreements been concluded in your country for the purposes of cooperation between all competent authorities (regulatory body, law enforcement, customs, intelligence, etc.) in relation to possible criminal incidents involving nuclear and other radioactive material?

If so (X), indicate which

10. Is your State developing new national strategies or action plans related to nuclear terrorism?

If so (X), indicate which

Section II

Article 1 – Definitions

Article 2 – List of offences; criminalization and penalties

<p><i>Taking into account the definitions set out in article 1 of the Convention and the offences established in article 2, does national legislation prohibit persons or entities from engaging in any of the activities listed below?</i></p> <p><i>Are there measures to ensure compliance with that legislation?</i></p>		National legal framework		Measures to ensure compliance and civil/criminal penalties		Comments
		X/?	Please indicate national legislation source document	X/?	Please indicate source document	
1	Manufacture/production					
2	Acquisition					
3	Possession					
4	Use					
5	Transport		5			
6	Transfer					
7	Threatening to carry out an offence referred to in the Convention					
8	Intent to carry out an offence referred to in the Convention					
9	Participation as an accomplice in an offence referred to in the Convention					
10	Organizing or directing the commission of an offence referred to in the Convention					
11	Contributing in any other way to the commission of an offence referred to in the Convention					

Section III. Assistance measures; international cooperation; jurisdiction and extradition

<p><i>Does your State have legislation relating to the application of measures for the protection of information, legal assistance, jurisdiction and extradition in the area of international cooperation and to the scope of the provisions of the Convention?</i></p>	<p><i>Please indicate source document</i></p>	<p><i>Comments</i></p>
<p>1 Current legislation on levels of protection and classification of information</p>		
<p>2 International cooperation focal points for the exchange of information relating to the use of radioactive and/or nuclear material</p>		
<p>3 Existence of laws on extradition and mutual legal assistance and/or any specific changes in relevant national legislation or policy</p>		
<p>4 Application of relevant international standards (Council of Europe, Europol, INTERPOL, etc.)</p>		
<p>5 Information regarding bilateral agreements on extradition and/or mutual legal assistance</p>		
<p>6 Additional safeguards in place relating to human rights issues (for example, safeguards introduced as a result of judgments issued by the European Court of Human Rights or other judgments)</p>		

Section IV. Measures to protect radioactive material

<p><i>Are measures in place for the establishment of internal controls in order to prevent the malevolent use of radioactive and/or nuclear materials?</i></p>	<p><i>Please indicate source document</i></p>	<p><i>Comments</i></p>
1	Any specific changes in national legislation or policy relating to the security of radioactive material	
2	Application of relevant international standards, for example, compliance with IAEA regulations	
3	Measures to prevent the unlawful use, movement or storage of radioactive material	
4	Measures to regulate facilities involved in the production, storage and use of the materials referred to in the Convention	
5	National authority (or authorities) responsible for regulating the use, transfer and transport of radioactive material	
6	System of authorizations/licences for facilities/entities/use of radioactive or nuclear materials	
7	National registry for the control and traceability of equipment, technology and radioactive materials	
8	Border control for the detection, deterrence, prevention and combating of trafficking	
9	Police control for the detection, deterrence, prevention and combating of trafficking	

	<i>Are measures in place for the establishment of internal controls in order to prevent the malevolent use of radioactive and/or nuclear materials?</i>	<i>Please indicate source document</i>	<i>Comments</i>
10	Detection measures in connection with border control		
11	Legislation in force on export control		

Annex

List of international agreements and conventions

Please indicate whether your State is a party to the following international and regional instruments relevant to the prevention and combating of terrorism and related cooperation in criminal matters. If your State is not a party to a treaty but is considering becoming one, please indicate the status of such consideration (for example: at the stage of interministerial coordination; approved by the Government and submitted to Parliament; approved by Parliament and awaiting ratification by the President)

Name of treaty

Party by virtue of:
Ratification P(R), accession P(a),
succession P(s), acceptance P(A) or
approval P(AA), or not a party

Legislation and date of
ratification, accession,
succession, acceptance or
approval

International legal instruments

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)

2. Convention for the Suppression of Unlawful Seizure of Aircraft (1970)

3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)

4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)

5. International Convention against the Taking of Hostages (1979)

6. Convention on the Physical Protection of Nuclear Material (1979)

Name of treaty	Party by virtue of:	Legislation and date of
International legal instruments	Ratification P(R), accession P(a), succession P(s), acceptance P(A) or approval P(AA), or not a party	ratification, accession, succession, acceptance or approval
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 (1988)		
8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)		
9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988)		
10. Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)		
11. International Convention for the Suppression of Terrorist Bombings (1997)		
12. International Convention for the Suppression of the Financing of Terrorism (1999)		
13. International Convention for the Suppression of Acts of Nuclear Terrorism (2005)		
14. Amendment to the Convention on the Physical Protection of Nuclear Material (2005)		

Name of treaty	Party by virtue of:	Legislation and date of
International legal instruments	Ratification P(R), accession P(a), succession P(s), acceptance P(A) or approval P(AA), or not a party	ratification, accession, succession, acceptance or approval
15. Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005)		
16. Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005)		
17. Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (2010)		
18. Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (2010)		
19. United Nations Convention against Transnational Organized Crime (2000)		
Legal instruments of the Council of Europe		
20. European Convention on the Suppression of Terrorism (1977) (CETS No. 090)		
22. Council of Europe Convention on the Prevention of Terrorism (2005) (CETS No. 196)		

Name of treaty	Party by virtue of:	Legislation and date of
Legal instruments of the Council of Europe	Ratification P(R), accession P(a), succession P(s), acceptance P(A) or approval P(AA), or not a party	ratification, accession, succession, acceptance or approval
23. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005) (CETS No. 198)		
24. European Convention on Extradition (1957) (CETS No. 024)		
25. Additional Protocol to the European Convention on Extradition (1975) (CETS No. 086)		
26. Second Additional Protocol to the European Convention on Extradition (1978) (CETS No. 098)		
27. European Convention on Mutual Assistance in Criminal Matters (1959) (CETS No. 030)		
28. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (1978) (CETS No. 099)		
29. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (2001) (CETS No. 182)		
30. European Convention on the Transfer of Proceedings in Criminal Matters (1972) (CETS No. 073)		

Name of treaty	Party by virtue of:	Legislation and date of
Legal instruments of the Council of Europe	Ratification P(R), accession P(a), succession P(s), acceptance P(A) or approval P(AA), or not a party	ratification, accession, succession, acceptance or approval
31. Convention on Cybercrime (2001) (CETS No. 185)		

Please list below any other regional, subregional or bilateral agreement or convention relating to the prevention and combating of terrorism and related cooperation in criminal matters to which your country is a party.
