



**UNODC**

United Nations Office on Drugs and Crime

# International Law on Counter-terrorism and the Protection of Submarine Cables



- Overview of counter-terrorism (CT) treaties
- CT treaties and the protection of submarine cables
- How a CT treaty is adopted ?
- Roles of UNODC on counter-terrorism





- Overview of counter-terrorism (CT) treaties
  - *During 1963 – 2005, 16 treaties developed under the auspices of the United Nations and its specialized agencies and the IAEA*



United Nations Conventions



ICAO treaties: civil aviation



IMO treaties: maritime navigation safety



IAEA treaties: nuclear material and terrorism





- Overview of counter-terrorism (CT) treaties
  - Offences: *What are terrorist acts?*
    - *No generic definition of terrorism for purpose of criminalization*
    - *Specific treaty offences*
      - *Hijacking a plane*
      - *Attacking a diplomat*
      - *Taking hostage*
      - *Placing a bomb in a place of public use*
    - *Regardless of motive, for most CT treaties*
    - *On-going effort to develop a comprehensive CT convention*





- Overview of counter-terrorism (CT) treaties
  - Common Elements
    - Requirement to establish specific offences as **serious crime**
    - Jurisdiction basis proper for different kinds of the protected things
    - International cooperation in criminal matters
      - Broadest measures of assistance in criminal matters
        - Not to be perceived as political offences
      - Extradite or prosecute



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- 1963 Convention on offences and Certain other Acts committed on Board Aircraft
- 1970 Convention for the Suppression of the Unlawful **Seizure of Aircrafts**
- 1971 Convention for the Suppression of Unlawful Acts against the **Safety of Civil Aviation**
- 1973 Convention on Prevention and Punishment of Crimes against **Internationally Protected Persons**
- 1979 International Convention against the **Taking of Hostages**
- 1980 Convention on the Physical **Protection of Nuclear Material**
- 1988 Protocol for the Suppression of Unlawful Acts of Violence at **Airports** Serving International Civil Aviation
- 1988 Convention for the Suppression of Unlawful Acts against the Safety of **Maritime Navigation**
- 1988 Protocol for the Suppression of Unlawful Acts against **Fixed Platforms** Located on the Continental Shelf
- 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection
- 1997 International Convention for the Suppression of Terrorist Bombing**
- 1999 International Convention for the Suppression of the **Financing of Terrorism**
- 2005 International convention for the Suppression of Acts of **Nuclear Terrorism**
- 2005 Amendment to the Convention on the Physical Protection of Nuclear Material
- 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime navigation**
- 2005 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms





## CT treaties and the protection of submarine cables

### 1997 Terrorist Bombing Convention

#### Art. 1

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.

#### Art. 2

Placing an explosive device in, into or against an infrastructure facility

- a) ...
- 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.





## CT treaties and the protection of submarine cables

### 2005 Protocol on Maritime Navigation Safety

- **Article 3bis**
  - (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:
    - (iii) using a ship in a manner that causes **serious damage**



## CT treaties and the protection of submarine cables

### 2005 Protocol on Maritime Navigation Safety

#### Art. 1.1 (as amended)

(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

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



## CT treaties and the protection of submarine cables

- **1997 Terrorist Bombing Convention**
  - *Only dealing with violent acts using explosive device*
- **Maritime Navigation Safety Convention and its 2005 Protocol**
  - *Not covering criminal acts beyond using a ship to cause serious damage*
- **Other possible acts of intentional damage to submarine cable**
  - *Unlawful control over a submarine cable terminal station by force or threat thereof or any other form of intimidation*
  - *Obstruction of lawful repair of submarine cable*
  - *Other forms of intentional damage to submarine cable*



## UNCLOS: the protection of submarine cables

- *Intentional damage to submarine cable*
  - *UNCLOS Article 113 is applicable*
    - *Flag state*
    - *State of nationality of the offender*
- *UNCLOS was not designed to be an international criminal law to cope with terrorist acts*
  - *Broadest measures of assistance in criminal matters*
  - *Territory where the offender is found:*
    - *extradite or prosecute*



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- **How a CT treaty is adopted ?**
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## How a UN CT treaty is adopted ?

- United Nations General Assembly
  - Subsidiary committees
    - Third Committee (Social, Humanitarian and Cultural Committee)
      - crime prevention and criminal justice
        - » deals with terrorism from a criminal justice perspective
    - Sixth Committee
      - Legal issues, i.e. extradite or prosecute, implementation of CT treaties
    - Ad Hoc Committee
      - Convention for the Suppression of Terrorist Bombings
      - Convention for the Suppression of Terrorist Financing
      - Convention for the Suppression of Nuclear Terrorism



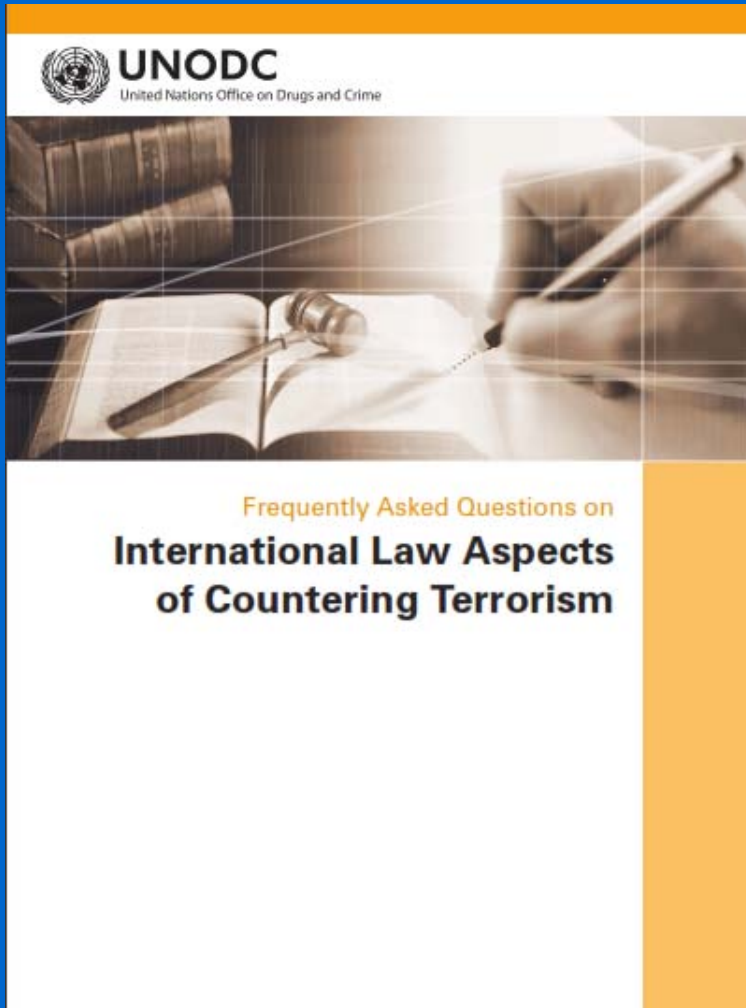
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## Roles of UNODC on counter-terrorism



In addition to some hard copies available here,

<http://www.unodc.org/unodc/en/terrorism/technical-assistance-tools.html>





**Overall objective / Impact**  
**Countries achieve**  
**preparedness against terrorism and implement**  
**rule-of-law-based CT measures**

**Outcomes**

**1 CT Legal Framework**  
*CT legislative and regulatory frameworks established and operational*

**2 CT Implementation Capacity**  
*National criminal justice systems implement rule-of-law-based CT measures*

**3 CT Transnational Cooperation**  
*Efficient and effective transnational cooperation on criminal justice and related aspects of CT*

**Outputs**

**1.1 Legislation:**  
*Legislation against terrorism is drafted and enacted in accordance with international instruments*

**1.2 Ratification:**  
*Countries ratify CT instruments*

**2.1 Criminal justice capacity:**  
*National criminal justice systems have acquired basic knowledge, skills and tools for implementing CT provisions*

**2.2 Specialized expertise:**  
*National officials have acquired specialized competence on thematic legal aspects of CT*

**2.3 Inter-disciplinary collaboration:**  
*Coordination and cooperation established/ strengthened between concerned national entities with respect to implementing CT measures*

**3.1 Networking:**  
*National central authorities on MLA and extradition enhance networking on CT*

**3.2 Application of cooperation provisions:**  
*Countries undertake MLA and extradition concerning terrorism in accordance with international law provisions*





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United Nations Office on Drugs and Crime

*Thank you*

HQs in Vienna



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