
CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AGAINST THE SAFETY OF MARITIME NAVIGATION (SUA CONVENTION)

Note: As of February 2007, this file will no longer be updated.

Adopted: 10 March 1988.

Entered into Force: 1 March 1992.

Duration: The Convention does not set any limits on its duration.

Number of Parties: 144 (n/i 2005 Protocols)

Depository: International Maritime Organization (IMO).

Background: Concern about unlawful acts that threaten the safety of ships and the security of their passengers and crews grew during the 1980s motivated states to negotiate and subsequently adopt this treaty. This concern stemmed from reports of crews being kidnapped, ships being hijacked, deliberately run aground, or blown up by explosives. Due to these developments, especially the 1985 hijacking of the *Achille Lauro*, the UN General Assembly adopted Resolution 40/61 in 1985, urging States to co-operate in contributing to the elimination of causes underlying terrorism and invited the IMO to study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures.

In response to the *Achille Lauro* hijacking, the Governments of Austria, Egypt, and Italy made a proposal in November 1986 that the IMO prepare a convention on the subject of unlawful acts against the safety of maritime navigation.

To supplement their efforts, the Maritime Safety Committee of the IMO issued a circular (MSC/Circ.443) on measures to prevent unlawful acts against passengers and crews on board ships. According to the circular, governments, port authorities, administrators, ship-owners, shipmasters, and crews should take appropriate measures to prevent unlawful acts that may threaten passengers and crews.

The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation was adopted in Rome in 1988

Provisions: The Convention defines “ship” as any type of vessel whatsoever that is not permanently attached to the sea-bed, including dynamically supported craft, submarines, or other floating craft. Warships, ships owned or operated by a State when being used as a naval auxiliary or for customs or police purposes, or ships that have been withdrawn from navigation or laid up are not included under the auspices of the Convention.

According to the provisions of the Convention, any person commits an offense if that person unlawfully and intentionally commits, attempts to commit, threatens to commit, or abets the seizure or exercise of control over a ship by force or threat of force or any form of intimidation; or commits any of the following acts if it endangers or is likely to endanger the safe navigation of that ship: an act of violence against a person on board; destroying a ship or damaging a ship or its cargo; placing or causing to be placed on a ship a device or substance likely to destroy the ship or cause damage to the ship or its cargo; destroying or seriously damaging maritime navigational facilities or seriously interfering with their operation; or communicating information he knows to be false. It is also an offense to injure or kill any person in connection with the commission or attempted commission of any of the previous offenses.

The 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. In all other cases, the Convention also applies when the offender or alleged offender is found in the territory of a State Party other than the State in whose waters the offence occurred.

States Parties are required to make the offenses punishable by appropriate penalties that take into account the grave nature of those offenses.

Measures to establish jurisdiction over the offenses shall be taken when the offense is committed against or on board a ship flying the flag of the State at the

time the offense is committed; in the territory of that State, including its territorial sea; by a national of that State; by a stateless person whose habitual residence is in that State; in an attempt to compel that State to do or abstain from doing any act; or when a national of that State is seized, threatened, injured, or killed during the commission of the offense.

Compliance and Enforcement: Once jurisdiction has been established, States shall take the offender into custody and immediately make a preliminary inquiry into the facts. States Parties are required to either extradite the offender in custody or submit the case for prosecution. States Parties are also required to assist each other in connection with criminal proceedings brought under the Convention. States Parties are also to cooperate in the prevention of offenses by taking all practicable measures to prevent preparations in their respective territories for the commission of those offenses within or outside their territories and by exchanging information in accordance with their national laws.

Reservations and Withdrawal: Under Article 16 paragraph 1, disputes between two or more States concerning the interpretation or application of the Convention will be submitted to arbitration at the request of one of the States if the matter cannot be settled through negotiation. However, at the time of signing, ratification, or accession, a State may make a reservation that it does not consider itself bound by this paragraph, in which case other States Parties shall not be bound to it with respect to any States Party that has made such a declaration.

Under Article 19, the Convention may be denounced by any State Party at any time after the expiry of one year from the date on which the Convention enters into force for that State. Denunciation shall be made by the deposit of an instrument of denunciation with the Secretary-General and will take effect one year, or such a longer period as may be specified in the instrument of denunciation, after the instrument is received by the Secretary-General.

Amendments: A conference for the purpose of revising or amending this Convention may be convened by the IMO. The Secretary-General shall convene such a conference of the States Parties to this Convention at the request of one-third of the States Parties, or 10 States Parties, whichever is the higher figure. Furthermore, any instrument of ratification, acceptance, approval, or accession deposited after the entry into force of an amendment will apply to the Convention as amended.

Developments:

2007: The 2005 Protocols to the SUA Convention were signed by 18 states. The Protocols were open for signature between 13 February 2006, and 13 February 2007. The signatures are subject to ratification.

2006: The 2005 Protocols opened for signature on February 13, 2006 and will enter into force 90 days after the twelfth country (three countries in the case of the Fixed Platforms Protocol) signs it or deposits an instrument to that effect. The US signed the protocols on 17th February 2006. The protocols are yet to enter into force.

2005: The Diplomatic Conference on the Revision of the SUA Treaties, held in London from 10 – 14 October 2005, adopted new Protocols to the convention following three years of intensive negotiations. They are the 2005 Protocol to the SUA Convention and the 2005 Protocol to the 1988 SUA Protocol (the 1988 Protocol was related to fixed platforms). The new Protocols will, upon entry into force, provide the first international treaty framework for combating and prosecuting anyone who uses a nonmilitary ship as a weapon or as a means to carry out a terrorist attack, or who transports terrorists or cargo destined to support (WMD) programs by ship.

Most significantly, the 2005 Protocol to the SUA Convention includes in Article 3(bis) a variety of new offences related to the intentional and unlawful carriage, use or operation of biological, chemical and nuclear weapons (BCN weapons) aboard vessels or in the territorial waters of signatory states, with the intention to intimidate or compel a government, population or international organization to carry out or abstain from any act or policy against its wishes. The new offences extend to the use or carriage of radioactive or fissile material knowingly intended to be used in nuclear explosive activity, and to any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon. The protocol also lists it as an offence to carry aboard persons known to have committed an offence by the SUA Convention, or any of the nine treaties listed in the Annex.

The new protocol further notes that the transportation of nuclear material is not considered an offence 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 (Subject to conditions).

The new protocol also includes articles addressing boarding procedures. Article 8bis in the 2005 Protocol to the SUA Convention covers co-operation and procedures to be followed if a State Party desires to board a ship flying the flag of a State Party when the requesting Party has reasonable grounds to suspect that the ship or a person on board the ship is, has been, or is about to be involved in, the commission of an offence under the Convention. Additional articles (Art. 11bis) cover the rights of extradition under the treaty.

The 2005 Protocol to the 1988 SUA Protocol applies the same changes as above but in application to fixed platforms as opposed to moving vessels.

2004: During its 88th session, held from 19 to 23 of April, the IMO Legal Committee continued revising the SUA Convention, taking into consideration other conventions and protocols related to terrorism. Most delegations expressed support for the revision and strengthening of the SUA Convention in order to provide a response to the increasing risks posed to maritime navigation by terrorism. Nevertheless, several delegations drew attention to the need to ensure that the prospective SUA Protocols did not jeopardize the principle of freedom of navigation and the right of innocent passage as prescribed in UNCLOS nor the basic principles of international law and the operation of international commercial shipping.

The 89th session will be held from 25 to 29 October. The revision of the SUA Convention remains a central issue in the agenda. The objective is to have a draft text ready for consideration by a diplomatic conference in 2005.

2003: During its 86th and 87th sessions, the IMO Legal Committee continued to work on proposed amendments to the SUA Convention and its Protocol. The amendments would significantly broaden the range of offences included in the convention and make it more relevant to modern conditions.

2002: During its 85th session the IMO Legal Committee held a preliminary exchange of views regarding the text of draft proposed amendments to the 1988 Convention. Four of these new offenses concerned activities taking place on the ship or directed toward the ship that involve a terrorist purpose. One of the new offenses concerned the presence of tools or substances not usually used on a ship but useful in a weapon of mass destruction. Two of the new offenses concerned use of the ship for transport of substances to be used for mass destruction. Delegations expressed the need to carefully consider the proposals and to consider whether there was overlap with exist-

ing terrorism conventions. It was recognized that even with an expanded focus, SUA would remain a maritime convention under the competency of IMO, and it was important to ensure that the shipping industry does not become a soft target for terrorist activities.

2001: In November, the IMO Assembly adopted resolution A.924(22) calling for a review of measures and procedures to prevent acts of terrorism that threaten the security of passengers and crews and the safety of ships. The IMO Legal Committee (which consists of all member states of IMO) is in charge of the revision of the SUA Convention and its Protocol.

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