



# Terrorism Suppression Amendment Act 2003

Public Act 2003 No 106  
Date of assent 30 October 2003  
Commencement see section 2

## Contents

1	Title	
2	Commencement	
3	Purpose of this Act	
4	Interpretation	
5	New headings and sections 13A to 13D inserted	
	<i>Harbouring or concealing terrorists</i>	
	13A Harbouring or concealing terrorists	
	<i>Offences relating to plastic explosives and nuclear materials</i>	
	13B Offences involving use and movement of unmarked plastic explosives	
	13C Offences involving physical protection of nuclear material	
	<i>Importation, acquisition, possession, or control of radioactive material</i>	
	13D Importation, acquisition, etc, of radioactive material	
6	Offences also apply in certain cases outside New Zealand	
7	New section 18 substituted	
	18 Offences also apply to acts outside New Zealand if alleged offender is in New Zealand and is not extradited	
8	New section 29A inserted	
	29A Changes of description of designated entities	
9	New heading and sections 47A to 47G inserted	
	<i>Customs' powers in relation to certain property</i>	
	47A Detention of goods suspected to be terrorist property	
	47B Return of cash necessary to satisfy essential human needs	
	47C Further provisions about detention under section 47A	
	47D Return of goods detained under section 47A	
	47E Extension of 7-day period in section 47D(1)(a)	
	47F Custody of certain goods detained under section 47A	
	47G Offences in relation to certain detained goods	
10	Certificates as to States Parties under Conventions	
11	Application of sections 64 and 65	
12	Attorney-General to indicate to relevant States Parties whether New Zealand to exercise jurisdiction	
13	Attorney-General to notify relevant States Parties if person taken into custody	
14	Attorney-General's consent to prosecutions required	
15	Offences deemed to be included in extradition treaties	
16	New Schedules 2A and 2B inserted	
17	Schedule 3 amended	

*Consequential amendment to Mutual  
Assistance in Criminal Matters Act 1992*

- 18 Schedule amended to refer to  
Nuclear Material Convention

**Schedule**  
**New Schedules 2A and 2B inserted**

**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Terrorism Suppression Amendment Act 2003.
- (2) In this Act, the Terrorism Suppression Act 2002 is called “the principal Act”.

**2 Commencement**

- (1) Sections 3 to 18 and the Schedule come into force on a date to be appointed by the Governor-General by Order in Council; and—
  - (a) one or more Orders in Council may appoint different dates for different provisions; and
  - (b) in the case of a provision inserting or substituting 2 or more provisions in an Act other than this Act, one or more Orders in Council may appoint different dates for different provisions inserted or substituted.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**3 Purpose of this Act**

Section 3(b) of the principal Act is amended by adding the following subparagraphs:

- “(iv) the Nuclear Material Convention; and  
“(v) the Plastic Explosives Convention.”

**4 Interpretation**

- (1) Section 4 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:  
“**duly authorised military device** means an explosive article, including, but not restricted to, a shell, bomb, projectile, mine, missile, rocket, shaped charge, grenade, and perforator, manufactured exclusively for lawful military or police purposes and

approved for those purposes by the Environmental Risk Management Authority

“**manufacture** means any process, including reprocessing, that produces plastic explosives

“**nuclear material** has the same meaning as in Article 1(a) of the Nuclear Material Convention

“**Nuclear Material Convention** means the Convention on the Physical Protection of Nuclear Material, done at New York and Vienna on 3 March 1980, a copy of the English text of which is set out in Schedule 2A

“**nuclear material offence** means an offence against section 13C

“**plastic explosives** means explosive products, including explosives in flexible or elastic sheet form, formulated with 1 or more high explosives that, in their pure form, have a vapour pressure less than 10<sup>-4</sup> Pa at a temperature of 25°C; and are formulated with a binder material and are, as a mixture, malleable or flexible at room temperature

“**Plastic Explosives Convention** means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991, a copy of the English text of which is set out in Schedule 2B

“**radioactive material** has the same meaning as in section 2(1) of the Radiation Protection Act 1965

“**unmarked**, in relation to a plastic explosive, means that has not had introduced into it at manufacture, in accordance with the technical annex to the Plastic Explosives Convention, a detection agent listed in Part 2 of that annex.”

(2) Section 4 of the principal Act is amended by adding the following subsection:

“(3) Terms and expressions used and not defined in this Act but defined in the Nuclear Material Convention, the Plastic Explosives Convention, or the Technical Annex to the Plastic Explosives Convention have the same meaning as in those Conventions and Annex, unless the context otherwise requires.”

**5 New headings and sections 13A to 13D inserted**

The principal Act is amended by inserting, after section 13, the following headings and sections:

*“Harbouring or concealing terrorists*

**“13A Harbouring or concealing terrorists**

- “(1) A person commits an offence who, with the intention of assisting another person to avoid arrest, escape lawful custody, or avoid conviction, harbours or conceals that person,—
- “(a) knowing, or being reckless as to whether, that person intends to carry out a terrorist act; or
- “(b) knowing, or being reckless as to whether, that person has carried out a terrorist act.
- “(2) A person who commits an offence against subsection (1) is liable on conviction on indictment to a term of imprisonment not exceeding 7 years.

*“Offences relating to plastic explosives and nuclear materials*

**“13B Offences involving use and movement of unmarked plastic explosives**

- “(1) A person commits an offence and is liable on conviction on indictment to a term of imprisonment not exceeding 10 years or a fine not exceeding \$500,000, or both, who—
- “(a) possesses, uses, or manufactures unmarked plastic explosives, knowing they are unmarked; or
- “(b) imports or exports unmarked plastic explosives to or from New Zealand, knowing they are unmarked.
- “(2) Subsection (1) does not apply in respect of unmarked plastic explosives (not being explosives to which subsection (3) applies) that were lawfully manufactured in, or imported into New Zealand before the commencement of this section and that may, subject to the Hazardous Substances and New Organisms Act 1996, be transported or possessed by—
- “(a) a person who performs military or police functions during the period that begins with the entry into force of this section and ends 15 years later; or
- “(b) any other person during the period that begins with the entry into force of this section and ends 3 years later.
- “(3) Nothing in this section applies to unmarked plastic explosives—

- “(a) that are manufactured or held in limited quantities for sole use in any of the following activities that are duly approved by the Environmental Risk Management Authority:
  - “(i) research, development, or testing of new or modified explosives; or
  - “(ii) training in explosives detection or testing of explosives detection equipment; or
  - “(iii) forensic science activities; or
- “(b) that are destined to be, and are incorporated as, an integral part of a duly authorised military device in New Zealand within 3 years after the date on which this section comes into force.

**“13C Offences involving physical protection of nuclear material**

- “(1) A person commits an offence who,—
  - “(a) without lawful authority, receives, possesses, uses, transfers, alters, disposes of, or disperses nuclear material, knowing it is nuclear material, and—
    - “(i) that causes death, injury, or disease to any person or substantial damage to property; or
    - “(ii) with intent to cause, or being reckless as to whether it causes death, injury, or disease to any person or substantial damage to property; or
  - “(b) commits theft, as defined in section 219 of the Crimes Act 1961, of nuclear material knowing that it was nuclear material; or
  - “(c) fraudulently obtains nuclear material, knowing that it was nuclear material; or
  - “(d) makes a demand for nuclear material by threat, or by use of force, or by any other form of intimidation with intent to steal it; or
  - “(e) with intent to intimidate, threatens to use nuclear material to cause—
    - “(i) death, injury, or disease to any person; or
    - “(ii) substantial damage to any property; or
  - “(f) with intent to compel any person, international organisation, or State to do, or refrain from doing, any act, threatens to steal nuclear material.

- “(2) A person who commits an offence against subsection (1) is liable on conviction on indictment to imprisonment for a term not exceeding 10 years, or a fine not exceeding \$500,000, or both.

*“Importation, acquisition, possession, or control of radioactive material*

**“13D Importation, acquisition, etc, of radioactive material**

A person commits an offence and is liable on conviction on indictment to a term of imprisonment not exceeding 10 years who imports, acquires, possesses, or has control over any radioactive material with intent to use it to commit an offence involving bodily injury, or the threat of violence, to any person.”

- 6 Offences also apply in certain cases outside New Zealand**  
Section 14(1) of the principal Act is amended by inserting, after the words “sections 7 to 13”, the words “and 13B to 13D”.

**7 New section 18 substituted**

The principal Act is amended by repealing section 18, and substituting the following section:

**“18 Offences also apply to acts outside New Zealand if alleged offender is in New Zealand and is not extradited**

Even if the acts alleged to constitute the offence occurred wholly outside New Zealand, proceedings may be brought for terrorist bombing, financing of terrorism, or a nuclear material offence if the person to be charged has been found in New Zealand and has not been extradited.”

**8 New section 29A inserted**

The principal Act is amended by inserting, after section 29, the following section:

**“29A Changes of description of designated entities**

- “(1) If satisfied that an entity designated under section 22 should have a description other than that under which the entity was designated (or than the description stated in the most recent notice under this subsection relating to the entity), the Prime

Minister may, by signing a written notice to that effect, state a new description for the entity.

- “(2) The notice must identify the entity by reference to—
  - “(a) its most recent description; and
  - “(b) the notice in the *Gazette* in which that description was stated.
- “(3) Sections 23(e) and 23(f) apply to the notice as if it were a designation under section 22; and section 28(2) applies accordingly.
- “(4) The stating of the new description does not affect the designation of the entity and (in particular) does not affect the application of section 35(1) to it.”

## 9 New heading and sections 47A to 47G inserted

- (1) The principal Act is amended by inserting, after section 47, the following heading and sections:

*“Customs’ powers in relation to certain property*

### “47A Detention of goods suspected to be terrorist property

- “(1) A Customs officer or authorised person may, without warrant, seize and detain goods if—
  - “(a) the goods came to his or her attention, or into his or her possession, during a search, inspection, audit, or examination under—
    - “(i) the Customs and Excise Act 1996; or
    - “(ii) Part V of the Financial Transactions Reporting Act 1996 (which relates to reporting of imports and exports of cash); and
  - “(b) the goods are in New Zealand and he or she is satisfied that they either—
    - “(i) are being, or are intended to be, exported from New Zealand; or
    - “(ii) are being, or have been, imported into New Zealand; and
  - “(c) he or she has good cause to suspect—
    - “(i) that the goods are property of any kind owned or controlled, directly or indirectly, by an entity; and
    - “(ii) that the entity is an entity designated under section 20 or section 22 of this Act as a terrorist or associated entity; or
  - “(d) he or she has good cause to suspect—

“(i) that the goods are cash or cash equivalents owned or controlled, directly or indirectly, by an entity; and

“(ii) that the entity is an entity eligible for designation under section 20 or section 22 of this Act as a terrorist or associated entity.

“(2) In this section and sections 47B to 47G,—

“**authorised person, Chief Executive, the Customs, Customs officer or officer, exportation, goods, and importation** have the meanings given to them in section 2(1) of the Customs and Excise Act 1996

“**cash equivalents** includes (without limitation) bearer bonds, gemstones, money orders, postal notes, precious metals, and travellers cheques.

“**47B Return of cash necessary to satisfy essential human needs**

“(1) The power to detain goods under section 47A does not extend to, and the Customs must if practicable return immediately, cash seized under section 47A if the Customs is satisfied that the cash is (or that things for which it might be exchanged are) necessary to satisfy the essential human needs—

“(a) of (or of a dependant of) an individual from whom the cash has been seized; and

“(b) arising on, or within 7 days after, the date on which the detention would otherwise be effected.

“(2) Nothing in subsection (1) requires the Customs to return any cash that the Customs is satisfied is not necessary for the purpose specified in that subsection.

“(3) If the 7-day period referred to in section 47D(1)(a) is extended under section 47E, subsection (1) applies to the extension, and the reference in subsection (1)(b) to 7 days must be read as a reference to the number of days (not exceeding 21) of that 7-day period as extended.

“**47C Further provisions about detention under section 47A**

“(1) Reasonable force may be used if it is necessary for any of the following purposes:

“(a) to seize goods under section 47A:

“(b) to detain goods under section 47A.



- “(2) If the person from whom goods have been seized and detained under section 47A is identified but is not present when the seizure and detention occurs (for example, because the goods concerned are in mail or cargo or in unaccompanied baggage), the Customs must make all reasonable efforts to notify that person of the detention and seizure as soon as practicable.
- “(3) Goods detained under section 47A must be taken to such place of security as a Customs officer or authorised person directs, and there detained, unless section 47F applies.
- “(4) Section 175 of the Customs and Excise Act 1996 (which protects persons acting under authority of that Act) applies, with all necessary modifications, in relation to the exercise of a power under any of sections 47A to 47F of this Act.
- “(5) Nothing in section 47A limits or affects powers under the following Acts:
- “(a) Customs and Excise Act 1996:
  - “(b) Financial Transactions Reporting Act 1996:
  - “(c) Mutual Assistance in Criminal Matters Act 1992:
  - “(d) Proceeds of Crime Act 1991.

**“47D Return of goods detained under section 47A**

- “(1) In this section, **investigation period**, in relation to goods seized and detained under section 47A,—
- “(a) means the period of 7 days after the date on which the goods were seized and detained; and
  - “(b) includes any extension of that period granted by the High Court under section 47E.
- “(2) Goods seized and detained under section 47A must be returned to the person from whom they were seized as soon as practicable after whichever of the following occurs first:
- “(a) the completion of all relevant investigations, if they show either—
    - “(i) that the goods are not property of the kind referred to in section 47A(1)(c)(i) or (d)(i); or
    - “(ii) that the entity is not an entity of the kind referred to in section 47A(1)(c)(ii) or (d)(ii):
  - “(b) the expiry of the investigation period.
- “(3) However, the Customs need not return the goods as provided in subsection (2), and may continue to detain them pending a direction by the Prime Minister under section 48 that the

Official Assignee take custody and control of them, if the Customs is advised by, or on behalf of, the Prime Minister—

- “(a) that the goods are property of any kind owned or controlled, directly or indirectly, by an entity; and
- “(b) that the entity is an entity designated under section 20 or section 22 as a terrorist or associated entity.

**“47E Extension of 7-day period in section 47D(1)(a)**

“(1) The 7-day period in section 47D(1)(a) may be extended (once only) by order of the High Court for a reasonable period up to a further 14 days if, on an application for the purpose made before the expiry of that 7-day period, that Court is satisfied—

- “(a) that the good cause to suspect required by section 47A(1)(c) or (d) exists; and
- “(b) that the extension to be granted is necessary to enable investigations in or outside New Zealand in relation to the goods or entity to be completed.

“(2) The application must be made in writing and served on the person from whom the goods were seized (if that person can be identified and located), and must include the following particulars:

- “(a) a description of the goods detained;
- “(b) the date on which the detention commenced;
- “(c) a statement of the facts supporting the good cause to suspect required by section 47A(1)(c) or (d); and
- “(d) a statement of reasons why the extension sought is necessary to enable investigations in or outside New Zealand in relation to the goods or entity to be completed.

“(3) The person from whom the goods were seized is entitled to appear and be heard on the application.

“(4) The Customs must make all reasonable efforts to notify the person from whom the goods were seized, at least 24 hours before the hearing of the application, of the time and place of that hearing.

**“47F Custody of certain goods detained under section 47A**

“(1) If goods detained under section 47A are a craft, vehicle, or animal, a Customs officer may leave those goods in the custody of either—

- “(a) the person from whom the goods have been seized; or
  - “(b) any other person authorised by the Customs officer and who consents to having such custody.
- “(2) Every person who has the custody of goods under subsection (1) must, until a final decision is made under section 47D as to whether or not they are to be returned, hold them in safekeeping, without charge to the Crown and in accordance with any reasonable conditions that may be imposed by the Customs.
- “(3) A person to whom subsection (2) applies must also—
- “(a) make the goods available to a Customs officer on request; and
  - “(b) not alter, or dispose of, or remove the goods from New Zealand, unless he or she is authorised to do so by a Customs officer; and
  - “(c) return the goods on demand to the custody of the Customs.

Compare: 1996 No 27 s 226(7), (8)

#### “47G Offences in relation to certain detained goods

- “(1) Every person commits an offence who, having custody of goods pursuant to section 47F(1), acts in breach of any requirement of, or imposed pursuant to, section 47F(2) or (3).
- “(2) Every person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$5,000.
- “(3) Every person commits an offence who, without the permission of the Chief Executive, takes or carries away or otherwise converts to his or her own use goods to which section 47F(2) and (3) applies.
- “(4) Every person who commits an offence against subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1996 No 27 s 215”.

- (2) Sections 15 and 19 of the principal Act are consequentially amended by inserting, after the expression “section 47”, the words “or section 47G”.

**10 Certificates as to States Parties under Conventions**

Section 62 of the principal Act is amended by omitting the words “Bombings Convention or, as the case requires, under the Financing Convention”, and substituting the words “Bombings Convention, the Financing Convention, the Nuclear Material Convention, or the Plastic Explosives Convention”.

**11 Application of sections 64 and 65**

- (1) Section 63(1) of the principal Act is amended by adding the words “or, as the case requires, article 7 of the Nuclear Material Convention”.
- (2) Section 63(2)(a) of the principal Act is amended by inserting, after the words “article 7(1) or (2) of the Financing Convention”, the words “or, as the case requires, article 8 of the Nuclear Material Convention”.

**12 Attorney-General to indicate to relevant States Parties whether New Zealand to exercise jurisdiction**

Section 64 of the principal Act is amended by inserting, after the words “article 9(1) of the Financing Convention”, the words “or, as the case requires, article 9 of the Nuclear Material Convention”.

**13 Attorney-General to notify relevant States Parties if person taken into custody**

Section 65 of the principal Act is amended by inserting, after the words “article 9 of the Financing Convention”, the words “or, as the case requires, article 9 of the Nuclear Material Convention”.

**14 Attorney-General’s consent to prosecutions required**

Section 67(3) of the principal Act is amended by adding the words “or section 47G”.

**15 Offences deemed to be included in extradition treaties**

- (1) Section 69 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:  
“(1) For the purposes of the Extradition Act 1999 and any Order in Council in force under section 15 or section 104 of that Act,

terrorist bombing, financing of terrorism, and any nuclear material offence are each, if not already described in the treaty, deemed to be an offence described in any extradition treaty concluded before the relevant date and for the time being in force between New Zealand and any country that is a party to any of the following conventions, or to which any of the following conventions extends:

- “(a) the Bombings Convention; or
- “(b) the Financing Convention; or
- “(c) the Nuclear Material Convention.”

- (2) Section 69 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:
  - “(3) Subsection (2) does not prevent the person from being surrendered for an offence (other than terrorist bombing, financing of terrorism, or a nuclear material offence) described in the extradition treaty and constituted by conduct that also constitutes or may constitute terrorist bombing, financing of terrorism, or a nuclear material offence.”
- (3) Section 69 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:
  - “(4) In this section, **relevant date**,—
    - “(a) in relation to terrorist bombing or financing of terrorism, means 5 December 2002; and
    - “(b) in relation to a nuclear material offence, the date on which this section enters into force in relation to that offence.”

## 16 New Schedules 2A and 2B inserted

The principal Act is amended by inserting, after Schedule 2, the Schedules 2A and 2B set out in the Schedule.

## 17 Schedule 3 amended

Schedule 3 of the principal Act is amended by adding the following paragraph:

- “(9) Convention on the Physical Protection of Nuclear Material, done at New York and Vienna, 3 March 1980.”

*Consequential amendment to Mutual Assistance in Criminal  
Matters Act 1992*

**18 Schedule amended to refer to Nuclear Material  
Convention**

The Schedule of the Mutual Assistance in Criminal Matters Act 1992 is amended by inserting, in its appropriate numerical order, the following row:

27 The Convention on the Physical Protection of Nuclear Materials done at Vienna on 26 October 1979.	An offence against the following section of the Terrorism Suppression Act 2002:
------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------

<i>section</i>	<i>subject matter</i>
13C	offences involving the physical protection of nuclear materials

---

s 16

**Schedule**  
**New Schedules 2A and 2B inserted**

**Schedule 2A**  
**Convention on the Physical Protection of**  
**Nuclear Material**

**Done at Vienna, 3 March 1980**

THE STATES PARTIES to this Convention,

RECOGNIZING the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

CONVINCED of the need for facilitating international co-operation in the peaceful application of nuclear energy,

DESIRING to avert the potential dangers posed by the unlawful taking and use of nuclear material.

CONVINCED that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,

AWARE OF THE NEED for international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

CONVINCED that this Convention should facilitate the safe transfer of nuclear material.

STRESSING also the importance of the physical protection of nuclear material in domestic use, storage and transport,

RECOGNIZING the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection.

HAVE AGREED as follows:

**Schedule 2A**—continued**ARTICLE 1**

For the purposes of this Convention:

- a. “nuclear material” means plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;
- b. “uranium enriched in the isotope 235 or 233” means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;
- c. “international nuclear transport” means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

**ARTICLE 2**

1. This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.
2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.
3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

**ARTICLE 3**

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear



**Schedule 2A**—continued

material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex 1.

**ARTICLE 4**

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex 1.
2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex 1.
3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex 1.
4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.
5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.
6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.

**Schedule 2A**—continued

7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

**ARTICLE 5**

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.
2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:
  - a. each State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations:
  - b. as appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:
    - i. co-ordinate their efforts through diplomatic and other agreed channels;
    - ii. render assistance, if requested;
    - iii. ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

**Schedule 2A**—continued

3. States Parties shall co-operate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

**ARTICLE 6**

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.
2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

**ARTICLE 7**

1. The intentional commission of:
  - a. an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
  - b. a theft or robbery of nuclear material;
  - c. an embezzlement or fraudulent obtaining of nuclear material;
  - d. an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
  - e. a threat:

**Schedule 2A**—continued

- i. to use nuclear material to cause death or serious injury to any person or substantial property damage, or
    - ii. to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
  - f. an attempt to commit any offence described in paragraphs (a), (b) or (c); and
  - g. an act which constitutes participation in any offence described in paragraphs (a) to (f)—
- shall be made a punishable offence by each State Party under its national law.
2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

**ARTICLE 8**

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 7 in the following cases:
  - a. when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;
  - b. when the alleged offender is a national of that State.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.
4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in article 7 when it is involved in international nuclear transport as the exporting or importing State.

**Schedule 2A**—continued**ARTICLE 9**

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction pursuant to article 8 and, where appropriate, all other States concerned.

**ARTICLE 10**

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

**ARTICLE 11**

1. The offences in article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offences in every future extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph I of article 8.

**Schedule 2A**—continued**ARTICLE 12**

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

**ARTICLE 13**

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.
2. The provisions of paragraph I shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

**ARTICLE 14**

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.
2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.
3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceeding arising out of such an offence.

**Schedule 2A**—continued**ARTICLE 15**

The Annexes constitute an integral part of this Convention

**ARTICLE 16**

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.
2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

**ARTICLE 17**

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.
2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

**Schedule 2A**—continued

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.
4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

**ARTICLE 18**

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. After its entry into force, this Convention will be open for accession by all States.
  - a. This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.
  - b. In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfill the responsibilities which this Convention attributes to States Parties.
  - c. When becoming party to this Convention such an organization shall communicate to the depositary a declaration indicating which States are members thereof and which articles of this Convention do not apply to it
  - d. Such an organization shall not hold any vote additional to those of its Member States.



**Schedule 2A**—continued

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

**ARTICLE 19**

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty first instrument of ratification, acceptance or approval with the depositary.
2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

**ARTICLE 20**

1. Without prejudice to article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.
2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

**Schedule 2A**—continued**ARTICLE 21**

1. Any State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

**ARTICLE 22**

The depositary shall promptly notify all States of:

- a. each signature of this Convention;
- b. each deposit of an instrument of ratification, acceptance, approval or accession;
- c. any reservation or withdrawal in accordance with article 17;
- d. any communication made by an organization in accordance with paragraph 4(c) of article 18;
- e. the entry into force of this Convention;
- f. the entry into force of any amendment to this Convention; and
- g. any denunciation made under article 21.

**ARTICLE 23**

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Convention,

opened for signature at Vienna and at New York on 3 March 1980.

**Schedule 2A**—continued**ANNEX 1****Levels of Physical Protection to be Applied in International Transport of Nuclear Material as Categorized in Annex II**

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:
  - a. For Category III materials, storage within an area to which access is controlled;
  - b. For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;
2. For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.
3. Levels of physical protection for nuclear material during international transport include:
  - a. For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;
  - b. For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;

**Schedule 2A**—continued

- c. For natural uranium other than in the form of ore or ore-residue transportation protection for quantities exceeding 500 kilograms U shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

**Schedule 2A**—continued**ANNEX 2**

- a. All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.
  - b. Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rems/hour at one metre unshielded.
  - c. Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice,
  - d. Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.
  - e. Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rems/hour at one metre unshielded.
-

**Schedule 2B**

s 16

**Convention on the Marking of Plastic Explosives for  
the Purpose of Detection****DONE AT MONTREAL, ON 1 MARCH 1991**

THE STATES PARTIES to this Convention,

CONSCIOUS of the implications of acts of terrorism for international security;

EXPRESSING deep concern regarding terrorist acts aimed at destruction of aircraft, other means of transportation and other targets;

CONCERNED that plastic explosives have been used for such terrorist acts;

CONSIDERING that the marking of such explosives for the purpose of detection would contribute significantly to the prevention of such unlawful acts;

RECOGNIZING that for the purpose of deterring such unlawful acts there is an urgent need for an international instrument obliging States to adopt appropriate measures to ensure that plastic explosives are duly marked;

CONSIDERING United Nations Security Council Resolution 635 of 14 June 1989, and United Nations General Assembly Resolution 44/29 of 4 December 1989 urging the International Civil Aviation Organization to intensify its work on devising an international regime for the marking of plastic or sheet explosives for the purpose of detection;

BEARING IN MIND Resolution A27-8 adopted unanimously by the 27th Session of the Assembly of the International Civil Aviation Organization which endorsed with the highest and overriding priority the preparation of a new international instrument regarding the marking of plastic or sheet explosives for detection;

NOTING with satisfaction the role played by the Council of the International Civil Aviation Organization in the preparation of the Convention as well as its willingness to assume functions related to its implementation;

HAVE AGREED as follows:

**Schedule 2B**—continued**Article 1**

For the purposes of this Convention:

1. “Explosives” mean explosive products, commonly known as plastic explosives, including explosives in flexible or elastic sheet form, as described in the Technical Annex to this Convention.
2. “Detection agent” means a substance as described in the Technical Annex to this Convention which is introduced into an explosive to render it detectable.
3. “Marking” means introducing into an explosive a detection agent in accordance with the Technical Annex to this Convention.
4. “Manufacture” means any process, including reprocessing, that produces explosives.
5. “Duly authorized military devices” include, but are not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades and perforators manufactured exclusively for military or police purposes according to the laws and regulations of the State Party concerned.
6. “Producer State” means any State in whose territory explosives are manufactured.

**Article 2**

Each State Party shall take the necessary and effective measures to prohibit and prevent the manufacture in its territory of unmarked explosives.

**Article 3**

1. Each State Party shall take the necessary and effective measures to prohibit and prevent the movement into or out of its territory of unmarked explosives.
2. The preceding paragraph shall not apply in respect of movements for purposes not inconsistent with the objectives of this Convention, by authorities of a State Party performing military or police functions, of unmarked explosives under the control of that State Party in accordance with paragraph 1 of Article IV.

**Schedule 2B**—continued**Article 4**

1. Each State Party shall take the necessary measures to exercise strict and effective control over the possession and transfer of possession of unmarked explosives which have been manufactured in or brought into its territory prior to the entry into force of this Convention in respect of that State, so as to prevent their diversion or use for purposes inconsistent with the objectives of this Convention.
2. Each State Party shall take the necessary measures to ensure that all stocks of those explosives referred to in paragraph 1 of this Article not held by its authorities performing military or police functions are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective, within a period of three years from the entry into force of this Convention in respect of that State.
3. Each State Party shall take the necessary measures to ensure that all stocks of those explosives referred to in paragraph 1 of this Article held by its authorities performing military or police functions and that are not incorporated as an integral part of duly authorized military devices are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective, within a period of fifteen years from the entry into force of this Convention in respect of that State.
4. Each State Party shall take the necessary measures to ensure the destruction, as soon as possible, in its territory of unmarked explosives which may be discovered therein and which are not referred to in the preceding paragraphs of this Article, other than stocks of unmarked explosives held by its authorities performing military or police functions and incorporated as an integral part of duly authorized military devices at the date of the entry into force of this Convention in respect of that State.



**Schedule 2B**—continued

5. Each State Party shall take the necessary measures to exercise strict and effective control over the possession and transfer of possession of the explosives referred to in paragraph II of Part 1 of the Technical Annex to this Convention so as to prevent their diversion or use for purposes inconsistent with the objectives of this Convention.
- [6.] Each State Party shall take the necessary measures to ensure the destruction, as soon as possible, in its territory of unmarked explosives manufactured since the coming into force of this Convention in respect of that State that are not incorporated as specified in paragraph II (d) of Part 1 of the Technical Annex to this Convention and of unmarked explosives which no longer fall within the scope of any other subparagraphs of the said paragraph II.

**Article 5**

1. There is established by this Convention an International Explosives Technical Commission (hereinafter referred to as “the Commission”) consisting of not less than fifteen nor more than nineteen members appointed by the Council of the International Civil Aviation Organization (hereinafter referred to as “the Council”) from among persons nominated by States Parties to this Convention.
2. The members of the Commission shall be experts having direct and substantial experience in matters relating to the manufacture or detection of, or research in, explosives.
3. Members of the Commission shall serve for a period of three years and shall be eligible for re-appointment.
4. Sessions of the Commission shall be convened, at least once a year at the Headquarters of the International Civil Aviation Organization, or at such places and times as may be directed or approved by the Council.
5. The Commission shall adopt its rules of procedure, subject to the approval of the Council.

**Article 6**

1. The Commission shall evaluate technical developments relating to the manufacture, marking and detection of explosives.

**Schedule 2B**—continued

2. The Commission, through the Council, shall report its findings to the States Parties and international organizations concerned.
3. Whenever necessary, the Commission shall make recommendations to the Council for amendments to the Technical Annex to this Convention. The Commission shall endeavour to take its decisions on such recommendations by consensus. In the absence of consensus the Commission shall take such decisions by a two-thirds majority vote of its members.
- [4.] The Council may, on the recommendation of the Commission, propose to States Parties amendments to the Technical Annex to this Convention.

**Article 7**

1. Any State Party may, within ninety days from the date of notification of a proposed amendment to the Technical Annex to this Convention, transmit to the Council its comments. The Council shall communicate these comments to the Commission as soon as possible for its consideration. The Council shall invite any State Party which comments on or objects to the proposed amendment to consult the Commission.
2. The Commission shall consider the views of States Parties made pursuant to the preceding paragraph and report to the Council. The Council, after consideration of the Commission's report, and taking into account the nature of the amendment and the comments of States Parties, including producer States, may propose the amendment to all States Parties for adoption.
3. If a proposed amendment has not been objected to by five or more States Parties by means of written notification to the Council within ninety days from the date of notification of the amendment by the Council, it shall be deemed to have been adopted, and shall enter into force one hundred and eighty days thereafter or after such other period as specified in the proposed amendment for States Parties not having expressly objected thereto.

**Schedule 2B**—continued

4. States Parties having expressly objected to the proposed amendment may, subsequently, by means of the deposit of an instrument of acceptance or approval, express their consent to be bound by the provisions of the amendment.
5. If five or more States Parties have objected to the proposed amendment, the Council shall refer it to the Commission for further consideration.
6. If the proposed amendment has not been adopted in accordance with paragraph 3 of this Article, the Council may also convene a conference of all States Parties.

**Article 8**

1. States Parties shall, if possible, transmit to the Council information that would assist the Commission in the discharge of its functions under paragraph 1 of Article VI.
2. States Parties shall keep the Council informed of measures they have taken to implement the provisions of this Convention. The Council shall communicate such information to all States Parties and international organizations concerned.

**Article 9**

The Council shall, in co-operation with States Parties and international organizations concerned, take appropriate measures to facilitate the implementation of this Convention, including the provision of technical assistance and measures for the exchange of information relating to technical developments in the marking and detection of explosives.

**Article 10**

The Technical Annex to this Convention shall form an integral part of this Convention.

**Schedule 2B**—continued**Article 11**

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other States Parties shall not be bound by the preceding paragraph with respect to any State Party having made such a reservation.
3. Any State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary.

**Article 12**

Except as provided in Article XI no reservation may be made to this Convention.

**Article 13**

1. This Convention shall be open for signature in Montreal on 1 March 1991 by States participating in the International Conference on Air Law held at Montreal from 12 February to 1 March 1991. After 1 March 1991 the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 3 of this Article. Any State which does not sign this Convention may accede to it at any time.

**Schedule 2B**—continued

2. This Convention shall be subject to ratification, acceptance, approval or accession by States. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depository. When depositing its instrument of ratification, acceptance, approval or accession, each State shall declare whether or not it is a producer State.
3. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession with the Depository, provided that no fewer than five such States have declared pursuant to paragraph 2 of this Article that they are producer States. Should thirty-five such instruments be deposited prior to the deposit of their instruments by five producer States, this Convention shall enter into force on the sixtieth day following the date of deposit of the instrument of ratification, acceptance, approval or accession of the fifth producer State.
4. For other States, this Convention shall enter into force sixty days following the date of deposit of their instruments of ratification, acceptance, approval or accession.
5. As soon as this Convention comes into force, it shall be registered by the Depository pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

**Article 14**

The Depository shall promptly notify all signatories and States Parties of:

1. each signature of this Convention and date thereof;
2. each deposit of an instrument of ratification, acceptance, approval or accession and date thereof, giving special reference to whether the State has identified itself as a producer State;
3. the date of entry into force of this Convention;
4. the date of entry into force of any amendment to this Convention or its Technical Annex;

**Schedule 2B**—continued

5. any denunciation made under Article XV; and
6. any declaration made under paragraph 2 of Article XI.

**Article 15**

1. Any State Party may denounce this Convention by written notification to the Depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.

DONE at Montreal, this first day of March, one thousand nine hundred and ninety-one, in one original, drawn up in five authentic texts in the English, French, Russian, Spanish and Arabic languages.

**Schedule 2B**—continued**TECHNICAL ANNEX****PART 1: DESCRIPTION OF EXPLOSIVES**

1. The explosives referred to in paragraph 1 of Article 1 of this Convention are those that:
  - . are formulated with one or more high explosives which in their pure form have a vapour pressure less than 10-4 Pa at a temperature of 25-C;
  - a. are formulated with a binder material; and
  - b. are, as a mixture, malleable or flexible at normal room temperature.
2. The following explosives, even though meeting the description of explosive in paragraph 1 of this Part, shall not be considered to be explosives as long as they continue to be held or used for the purposes specified below or remain incorporated as there specified, namely those explosive that:
  - a. are manufactured, or held, in limited quantities solely for use in duly authorized research, development or testing of new or modified explosives;
  - b. are manufactured, or held, in limited quantities solely for use in duly authorized training in explosives detection and/or development or testing of explosives detection equipment;
  - c. are manufactured, or held, in limited quantities solely for duly authorized forensic science purposes; or
  - d. are destined to be and are incorporated as an integral part of duly authorized military devices in the territory of the producer State within three years after the coming into force of this Convention in respect of that State. Such devices produced in this period of three years shall be deemed to be duly authorized military devices within paragraph 4 of Article 4 of this Convention.
3. In this Part:

“duly authorized” in paragraph 2 (a), (b) and (c) means permitted according to the laws and regulations of the State Party concerned; and “high explosives” include but are not restricted to cyclotetramethylenetetranitramine (HMX), pentaerythritol tetranitrate (PETN) and cyclotrimethylene-trinitramine (RDX)

**Schedule 2B**—continued**PART 2: DETECTION AGENTS**

The present version of the Conventions and Protocols might differ slightly from the consolidated official English versions which were - by end of November 2000 - not available to TPB in electronic form. Please contact the Codification Division of the UN Office of Legal Affairs (United Nations, Room S-3450 A, New York, N.Y. 10017, USA) for the official versions in English and other official UN languages.

**Table:**

<i>Name of detection agent</i>	<i>Molecular formula</i>	<i>Molecular weight</i>	<i>Minimum concentration</i>
Ethylene glycol dinitrate (EGDN)	C <sub>2</sub> H <sub>4</sub> (NO <sub>3</sub> ) <sub>2</sub>	152	0.2% by mass
2,3-Dimethyl-2,3-dinitro butane (DMNB)	C <sub>6</sub> H <sub>12</sub> (NO <sub>2</sub> ) <sub>2</sub>	176	0.1% by mass
para-Mononitrotoluene (p-MNT)	C <sub>7</sub> H <sub>7</sub> NO <sub>2</sub>	137	0.5% by mass
ortho-Mononitrotoluene (o-MNT)	C <sub>7</sub> H <sub>7</sub> NO <sub>2</sub>	137	0.5% by mass

Any explosive which, as a result of its normal formulation contains any of the designated detection agents at or above the required minimum concentration level shall be deemed to be marked.

---

**Legislative history**

21 October 2003	Divided from Counter-Terrorism Bill (Bill 27-2), third reading
30 October 2003	Royal assent

---

This Act is administered in the Ministry of Foreign Affairs and Trade and the Ministry of Justice.

---