



IMO
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**Decree of approval and authorization to accede to the
“Protocol of 2005 to the Convention for the Suppression of
Unlawful Acts against the Safety of Maritime Navigation” and
the “Protocol of 2005 to the Protocol for the Suppression of
Unlawful Acts against the Safety of Fixed Platforms Located
on the Continental Shelf”, adopted in the International
Conference on the Revision of the SUA Treaties, celebrated in
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Introduction

Nowadays, globally, traditional threats to the international community of States have shifted or merged into non-traditional threats, asymmetrical menaces and other types of dangers that, individually or collectively, States are trying to control and suppress.

One of those asymmetrical threats to States is terrorism. Although undefined in the International Law forum, the aftermath of a terrorist attack is very easily recognized as such: the effects are painful not only to a country or group, but to all mankind.

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Many efforts have been made, especially in the post Second World War period, to put an end to all expressions of terrorism. Those efforts went from hunting down individuals known to be engaged in terrorist activities, to suppressing the source of recruits enlarging the polarization and deepening the conflict, to social approaches to eliminate the causes behind hatred.

Today those efforts stand all behind a worldwide commitment to eradicate movements and acts that target to endanger global peace and security. That commitment has been expressed in different ways. Those which are most relevant to international law are found in resolutions, declarations and international instruments, regional and universal, condemning and aiming to eliminate all expressions of terrorism.

Regional conferences and organizations have done a big part of the work¹. However, the global approach has been undertaken by the United Nations, especially by the General Assembly and the Security Council that, through different resolutions came up with an almost comprehensive framework to prevent, fight against and punish terrorism in its different forms. Some of those resolutions ended up in the adoption of new conventions or amendments to already existing instruments, to craft a precise legal basis that provides the tools necessary to face the challenges of terrorism. Other resolutions, especially those emanating from the Security Council, aim to compel States to adhere to such instruments in order to make them worldwide accepted².

¹ *Inter alia* Arab Convention on the Suppression of Terrorism 1998, Convention of the Organization of the Islamic Conference on Combating International Terrorism 1999, European Convention on the Suppression of Terrorism 1977 and its Protocol of 2003, Organization of American States Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes and against Persons and Related Extortion that are of International Significance 1971, Inter-American Convention against Terrorism 2002, Council of Europe Convention on the Prevention of Terrorism 2005, *et cetera*.

² Especially UN Security Council's Resolutions 579 (1985), 1269 (1999), 1368 (2001), 1373 (2001), 1377 (2001), 1450 (2002) 1456 (2003), 1535 (2004), 1566 (2004), *inter alia*.

The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms Located on the Continental Shelf

Background

It is in such a scenario, as two of the 12 universal anti-terrorist conventions³, that both the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms Located on the Continental Shelf, adopted in 1988, stand at. Just as the reader is likely to know, they were prompted by the *Achille Lauro* incident of 1985 when the world realized that the framework that protected ships and navigation was not sufficient or not comprehensive enough to cover the new types of acts that were being witnessed: it was not piracy in its very narrow international legal concept, but terrorism.

It was precisely in IMO's 14th assembly, on November 1985, that this issue of coming up with measures to prevent and suppress this new kind of unlawful acts was considered through a proposal forwarded by the United States of America delegation and included in the agenda as item 10 (b).

Resolution A.584 (14) was adopted as a consequence of the motion mentioned above, under the title of "*Measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crew*"⁴, which called upon Governments, port authorities and administrations, ship owners, operators, masters and crews to review and strengthen port and onboard security. The issue was directed to the Maritime Safety Committee which was mandated to develop detailed and practical technical measures to be employed to ensure the security of all onboard ships, taking into account the work of the International Civil Aviation Organization. Finally, the same resolution established the release of a circular that should contain "*information on the measures developed by the Committee to Governments, organizations concerned and interested parties for their consideration and adoption*"⁵.

By December 1985 the United Nations General Assembly, on its 108th plenary meeting, provided additional support and requested "*the International Maritime Organization to study*

³ The other ten instruments are the following: a) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, New York, 14 December 1973; b) International Convention against the Taking of Hostages, New York, 17 December 1979; c) International Convention for the Suppression of Terrorist Bombings, New York, 15 December 1997; d) International Convention for the Suppression of the Financing of Terrorism, New York, 9 December 1999; e) Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, 14 September 1963; f) Convention for the Suppression of Unlawful Seizure of Aircraft, The Hague, 16 December 1970; g) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 23 September 1971; h) Convention on the Physical Protection of Nuclear Material, Vienna, 3 March 1980; i) Protocol on 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, Montreal, 24 February 1988; j) Convention on the Marking of Plastic Explosives for the Purpose of Detection, Montreal, 1 March 1991.

⁴ Resolution A.584 (14) November 20 1985. International Maritime Organization, Assembly Resolutions and Other Decisions; Fourteenth Session 11-22 November 1985. P. 152

⁵ Ibid.

the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures”⁶.

On such basis the Maritime Safety Committee of the IMO issued Circular MSC/Circ.443 providing guidelines on measures that could be taken regarding passenger ships engaged in international voyages of at least 24 hours or more, as well as port facilities related to the aforesaid.

However, the definite thrust given for the matter to crystallize into a concrete instrument was furnished by the Government of Italy, joined by Austria and Egypt, which forwarded a motion that the IMO should come up with a Convention that dealt with the issue of unlawful acts committed against the safety of navigation that endangered innocent lives, jeopardized the safety of persons and property, affecting the whole maritime industry and as such, interested the whole international community.

The issue was addressed by IMO’s Committee on November 1986 and agreed unanimously that it required urgent attention by IMO, and for the purpose of acceleration, it referred the latter to an *Ad Hoc* Preparatory Committee open to all States, instead of sending it to the Legal Committee, with the “...*mandate to prepare, on a priority basis, a Draft Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*” using as basis the draft presented by Italy, Austria and Egypt.

The aforesaid Preparatory Committee met twice, first in London, in March 1987, and later in Rome in May of the same year. After the latter reunion, the Committee agreed on a final draft, leaving some issues of importance for a diplomatic conference to agree upon them. The referred diplomatic conference was decided by IMO’s Council at its 58th session in June 1987 and endorsed by the Assembly at its 15th regular session by Resolution A.633 (15) of 20 November 1987⁷.

The Government of Italy forwarded an invitation to host the said conference and once approved by the Council and endorsed by the Assembly, the Conference was held at the Headquarters of the Food and Agriculture Organization of the UN (FAO), in Rome, from 1 March to 10 March 1988.

The Conference adopted the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation⁸ and the Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms Located on the Continental Shelf⁹ on the date of 10 March 1988. Both international instruments entered into force by 1 March 1992.

⁶ United Nations General Assembly Resolution 40/61 (A/40/1003) 9 December 1985

⁷ International Maritime Organization. SUA Convention 2006 Edition: **Final Act of the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation**. P.1-5

⁸ United Nations Treaty Series, vol. 1678, P.222

⁹ Ibid. P. 304

Main Features of SUA 1988

Offences:

The SUA Convention of 1988 addresses a very specific range of acts as contrast to the regulations of piracy (as contemplated in the United Nations Convention on the Law of the Sea 1982, especially Articles 101 and 102), and as a corollary, provides legal grounds to prosecute offenders executing the latter which, before itself, was a loophole of International law. Such unlawful acts were regulated in Article 3 of the Convention, as follows:

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1. *Any person commits an offence if that person unlawfully and intentionally:*
 - (a) *seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or*
 - (b) *performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or*
 - (c) *destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or*
 - (d) *places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or*
 - (e) *destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or*
 - (f) *communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or*
 - (g) *injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).*
2. *Any person also commits an offence if that person:*
 - (a) *attempts to commit any of the offences set forth in paragraph 1; or*
 - (b) *abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or*
 - (c) *threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.*

The nature of the acts described in Article 3, paragraph 1, of the SUA Convention 1988 is mainly acts typified as “terrorists”. This will be further explained when addressing the nature of the new offences incorporated by the SUA Convention 2005. Paragraph 2 of the same Article is concerned with the ancillary or inchoate offences.

The Convention itself purports that such acts regulated as offences should be incorporated and duly penalized by domestic law in all state parties to the Convention.

Scope of application and jurisdictional bases:

The Convention provides for an international scope of application, as set forth in Article 4, where it establishes that the aforesaid applies to ships that navigate or are scheduled to navigate into, through or from the territorial sea of a State. However, it also may apply when the alleged offender is found in the territory of another State party that the one where the offense was committed.

This provision actually gives new grounds on assertion of jurisdiction over unlawful acts at sea in contrast to the very limited scope of piracy law which restricts itself, at an international level, only to those incidents at the high seas. Conversely, the SUA 1988 Convention provides grounds for combating terrorism over all areas of the ocean, excluding only internal waters, either maritime or inland, as long as the relevant vessel is engaged or scheduled for an international voyage.

One of the shortcomings that the SUA convention of 1988 has been blamed of is that of not accepting police jurisdiction over foreign ships in case of acts of terrorism or suspected possibilities of that¹⁰.

Jurisdiction to prosecute may be established by connecting factors such as the flag of the ship (flag-State principle), the territory where the offense was committed (territorial principle), or by reason of the nationality of the offender (personality or nationality principle). These connecting factors are supplemented by the possibility given to the State parties to extend their jurisdiction in cases where a stateless person with habitual residence in such a State is the offender, when one of its nationals is a victim in the incident or when the offense was committed with the aim to compel that State to do or abstain to do any action. Therefore, underlining the aforesaid, the following jurisdictional bases can be found on the SUA framework:

- a) territoriality-based jurisdiction;
- b) nationality-based jurisdiction;
- c) passive nationality jurisdiction;
- d) universal jurisdiction;
- e) habitual residence jurisdiction; and
- f) target state jurisdiction, being the former and the later the 'extended' jurisdiction or exceptional circumstances.¹¹

Another salient feature is the fact that the Convention rests in the principle of *aut dedere aut iudicare*, and for that purpose the text of the former, once adopted, affects all prior accepted

¹⁰ Jesus, José Luis. **Protection of Foreign Ships against Piracy and Terrorism at Sea: Legal Aspects**. The International Journal of Marine and Coastal Law, Vol. 18, No 3, September 2003; P. 393

¹¹ Ibid.

treaties of extradition making the list of offences all extraditable, and even working as an extradition treaty among State parties when there is none. This feature of course was not unknown to the international community with regards to terrorism acts, being sometimes even qualified as “a general principle of international criminal law”¹², and actually taken by the drafters from the regime put up by the International Civil Aviation Organization ICAO as an inspirational basis.

The Protocol of 1988 extended the coverage of the Convention to fixed platforms on the continental shelf, which are defined as “an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes”¹³.

Even when both instruments entered into force, and therefore were regarded as successful, the world could never imagined, neither was ready for the events of the so-called 9/11, and since then it has never been the same.

Rounding up the short comings of the 1988 SUA Convention, it was clear that the convention only addressed those acts that endangered the safety of navigation, but not unlawful acts committed by using the ship itself as a weapon or as a conveyance for devices that could cause serious damage. Another problem was that although the convention looks to suppress unlawful acts, its provisions are merely addressing the prosecuting of the authors of an already committed offense, providing very little tools to prevent or stop an unlawful act before being committed or completed. Part of such a problem was the lack of provisions regarding procedures of inspection or boarding.

New scenario, new rules: the 2005 SUA Protocols

Avoiding the task of explaining the effects of the terrorist attack against the United States of America, and the immediate response by the United Nations General Assembly¹⁴ and the Security Council¹⁵, in a preventive, rather than reactive, manner, the need to review security procedures and to strengthen the legal framework of navigation was evident if mankind wanted to avoid witnessing the next 9/11 happening at sea.

It was throughout the means of the adopted Resolution A.924 (22) that called for a review of methods and procedures to prevent acts of terrorism that threaten the security of passengers and crews and the safety of ships, that the process of perfecting SUA instruments took off.

The review of the SUA 1988 instruments was assumed with the help of a much more comprehensive general framework on the fight against terrorism and it was in the light of the new conventions and treaties related to the matter¹⁶ that the amendments would take place,

¹² Ibid. P. 392

¹³ Article 1.3 of the SUA 1988 Protocol; *supra* fn. 8

¹⁴ Resolution 56/1 and on

¹⁵ Resolution 1368 (2001) and on

¹⁶ It must be noted the previous adoption of both the *International Convention for the Suppression of Terrorist Bombings*, adopted by the General Assembly of the United Nations on 15 December 1997

together with the longstanding framework related to non-proliferation of nuclear weapons and other weapons of mass destruction (WMD).

Both Protocols: the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation¹⁷ and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf¹⁸, were adopted by the International Conference on the Revision of the SUA Treaties which was held in the IMO headquarters in London on October 14th 2005

The main features of the Protocol of 2005 to the Convention is the broadening of the offences considered by it, adding articles 3 *bis*, 3 *ter* and 3 *quater*, criminal liability of corporate entities (Article 5*bis*), the addition of an annex listing other international treaties dealing with terrorism, a boarding procedure (Article 8 of the 2005 Protocol and Article 8 *bis* of the consolidated text of the SUA Convention 2005) and the preventive cooperation obligations to the State Parties.

The list of offences, as broaden by the 2005 Protocol, includes the bulk of Article 3 of the 1988 Convention, modifying it by redrafting literal f) and deleting literal g) of paragraph 1. Paragraph two is largely deleted, keeping only the literal c), redrafted. These kept the same nature as in the Convention of 1988: “terrorist offences”:

1. *Any person commits an offence **within the meaning of this convention** if that person unlawfully and intentionally:*
 - (a) *seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or*
 - (b) *performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or*
 - (c) *destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or*
 - (d) *places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or*
 - (e) *destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or*
 - (f) *communicates information which **that person** knows to be false, thereby endangering the safe navigation of a ship; or*
2. *Any person also commits an offence if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.*

(United Nations Treaty Series; Vol. 2149 P. 284) and the *International Convention for the Suppression of the Financing of Terrorism*, adopted by the General Assembly of the United Nations on 9 December 1999 (United Nations Treaty Series; Vol. 2178 P. 229)

¹⁷ International Maritime Organization, LEG/CONF. 15/21

¹⁸ International Maritime Organization, LEG/CONF. 15/22

The modifications made (highlighted above) add nothing new to Article 3, therefore the offences remain the same basically. Even literal g) and what was deleted from paragraph 2, as shown downwards, was only moved from one article to another for purposes of order and clarity.

However, the Protocol does add new offences through the amendment of the Convention text by inserting Articles *3bis*, *3ter*, and *3quater*, which are the core novelties of the 2005 Protocol together with the boarding rights and procedures. For the purposes of correct understanding of those new articles it is imperative to previously read the definitions provided by Article 1 as amended by the 2005 Protocol¹⁹.

Article *3bis* in its paragraph 1 a) extends the list of acts qualified as being with a terrorist intent or motive and crosses into the field of non-proliferation issues, as well as the utilization of hazardous materials.

Article *3bis* in its paragraph 1 b) sets out the core of the offences named by commentators as the “transport” offences, due to the fact that most of them are acts related to the transport, illegally, of explosives, radioactive material, biological, chemical or nuclear weapons.

Paragraph 2 establishes the safeguards regarding the non-proliferation regime:

Article 3bis

1. *Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:*
 - (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:*
 - (i) uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or*
 - (ii) discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a)(i), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or*
 - (iii) uses a ship in a manner that causes death or serious injury or damage; or*
 - (iv) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a)(i),(ii) or (iii); or*
 - (b) transports on board a ship:*
 - (i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under national law, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; or*

¹⁹ For reasons of brevity and continuity of this explanatory note, such definitions are not inserted here.

- (ii) *any BCN weapon, knowing it to be a BCN weapon as defined in article 1; or*
 - (iii) *any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; or*
 - (iv) *any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.*
2. *It shall not be an offence within the meaning of this Convention to transport an item or material covered by paragraph 1(b)(iii) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, paragraph 1(b) (iv), 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 where:*
- (a) *the resulting transfer or receipt, including internal to a State, of the item or material is not contrary to such State Party's obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and,*
 - (b) *if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, the holding of such weapon or device is not contrary to that State Party's obligations under that Treaty.*

The so-called “transport” offences list is complemented by Article 3ter, which furnishes as an offense the transport of certain people as banned and therefore punishable:

Article 3ter

*Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally transports another person on board a ship knowing that the person has committed an act that constitutes an offence set forth in article 3, 3bis or 3quater or an offence set forth in any treaty listed in the **Annex**, and **intending to assist that person to evade criminal prosecution.***

The rest of the offences rendered by the Convention are related to degrees of participation, whether in conspiracy terms, accomplice, organizer or contributor. These were already present in SUA 1988 Convention as paragraph 2 of Article 3, and now are stated in Article 3quater, and called as ancillary or inchoate offences, dealing with the attempts, conspiracies and accomplice-type crimes:

Article 3quater

Any person also commits an offence within the meaning of this Convention if that person:

- (a) *unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in article 3, paragraph 1, article 3bis, or article 3ter; or*
- (b) **attempts to commit** an offence set forth in article 3, paragraph 1, article 3bis, paragraph 1(a)(i), (ii) or (iii), or subparagraph (a) of this article; or
- (c) **participates as an accomplice** in an offence set forth in article 3, article 3bis, article 3ter, or subparagraph (a) or (b) of this article; or
- (d) **organizes or directs others** to commit an offence set forth in article 3, article 3bis, article 3ter, or subparagraph (a) or (b) of this article; or
- (e) **contributes to the commission** of one or more offences set forth in article 3, article 3bis, article 3ter or subparagraph (a) or (b) of this article, by a group of persons acting with a common purpose, intentionally and either:
 - (i) *with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in article 3, 3bis or 3ter; or*
 - (ii) *in the knowledge of the intention of the group to commit an offence set forth in article 3, 3bis or 3ter.*

After going through the listed offences, the interrelation that the 2005 SUA convention holds with the other conventions regarding terrorism and the non-proliferation regime is self evident. Nevertheless, that interrelation goes beyond the established by the contents of the provisions as such and it's further developed by the Annex, which lists the other conventions that the state parties are encouraged to participate as signatories for the purposes of extending the offences over which the Convention gives jurisdiction to States, to those included in the conventions listed in the Annex. This Annex was inserted by virtue of Article 7 of the 2005 Protocol to the SUA Convention and lists the following conventions:

1. *Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.*
2. *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.*
3. *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.*
4. *International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.*
5. *Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979.*
6. *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, done at Montreal on 24 February 1988.*

7. *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.*
8. *International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.*
9. *International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.*

Guatemala: terrorism and SUA

Guatemala is a country that has been committed with the rule of international law. Now more than ever that notion is true and it is reflected in the update and fulfillment of international obligations derived from international instruments that the country has undertaken.

As corollary of the statement made *at supra*, in the fight against terrorism, Guatemala is engaged in its full capacity: today it is a party to 17 anti-terrorist instruments²⁰, all the major ones included and all of those that appear in the annex of the SUA Protocol 2005, including the SUA Convention and Protocol of 1988.

Given its strategic position and the nearness to North America, its territory, including jurisdictional waters, is constantly being threatened by menaces mainly in transit, and therefore it is necessary to cover all the loopholes and gaps that may exist in order to effectively prevent and, eventually, repress and prosecute any offence or attempt to commit one, happening within the scope of the SUA 2005 Protocols.

An additional element to take into consideration is that Guatemala, as an active and responsible member of the United Nations, is involved in several of the Security Council's missions related to peace and security, which vary from mere audits or military observers, security troops performing police functions, to brigades of Special Forces imposing peace in conflict areas carrying death tolls²¹. As it has been witnessed in the latest terrorist attacks and explicit threats of attacks, this role might attract antagonism from the groups engaged in terrorism, making Guatemala a possible target for retaliatory attacks.

²⁰ Besides those in the Annex of SUA 2005 Convention, Guatemala is part of, *inter alia*, the following instruments: the Convention of Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963; Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991; OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance, concluded at Washington, D.C. on 2 February 1971; Inter-American Convention against Terrorism, adopted at Bridgetown on 3 June 2002

²¹ Guatemala's highly trained special forces "Kaibiles" were called by the Security Council to impose peace in the Democratic Republic of Congo (RDC). In 23 January 2006 in a patrolling mission, they encountered the core of the Rebels army (Lord's Resistance Army LRA), which outrageously outnumbered the patrol, and engaged in heavy combat fire without any backup fire power, neither air or artillery, for about four hours; eight Kaibiles lost their lives in the battle while killing more than 50 rebels.

Adhesion procedure considerations

In order to adhere itself to the Protocol of 2005 that amends SUA Convention, according to Article 19.4, the State needs to be party to the Convention of 1988. *Mutatis mutandis*, Article 5.4 of the Protocol that amends the 1988 SUA Protocol has the same requirement.

Such requisite was satisfied by Guatemala through the deposit of its instrument of Ratification authorized by Decree number 45-2007 of the Congress of the Republic²².

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Since Guatemala didn't sign the 2005 Protocols, the way to adhere to them is by accession. This procedure is accepted by the aforesaid protocols in the articles quoted *at supra* and should be exercised as regulated by the Vienna Convention on the Law of Treaties²³.

A note has to be made in this point of the procedure, since Guatemala, from the moment of signing until 2007 held a reservation on Articles 11 and 12 of the Vienna Convention on the Law of Treaties (along with reservations on other articles), which regulate the modes of accepting an international instrument. Although part of international customary law, but Guatemala being a very positivist country, this fact gave Guatemala a lot of problems regarding instruments that were accepted by accession, due to the additional fact that the Political Constitution does not regulate the modality of accession, nor assigns it to any authority. This problem reached a critical point with regards to the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption²⁴, and had to be solved by means of obtaining, first, an Advisory Opinion of Guatemala's Constitutional Court²⁵ which supported the initiative of the Ministry of Foreign Affairs to withdraw such reservations and giving free way to acceding to international instruments. The withdrawal was communicated to the depositary of that treaty in March 15th 2007.

The internal general procedure to adhere to an international instrument is very simple and straight forward:

According to Article 171 of the Political Constitution of the Republic of Guatemala, only 5 types of international agreements are required to be accepted by the Congress of the Republic before the Government can adhere to them. In all other cases this step is unnecessary, being the sole discretion of the executive branch to do so. The five types of treaties to be authorized by the Congress are the following:

1. When the instrument will affect laws in force for which the Constitution requires qualified majority to modify its provisions;
2. When the instrument affect the dominion of the State or establishes any kind of union, economic or political, within Central America;
3. When the instrument comprise a financial obligation to the State in an amount that exceeds 1% of the General Budget or the amount is undetermined;

²² Decreto 45-2007 del Congreso de la República. Diario de Centro América 5 November 2007

²³ United Nations Treaty Series, vol. 1155, p. 331

²⁴ http://www.hcch.net/index_en.php?act=conventions.text&cid=69

²⁵ Corte de Constitucionalidad. Expediente 2489-2006 [<http://www.cc.gob.gt>]

4. When the instrument constitutes an agreement to submit any issue to international judicial or arbitral decision; and
5. When the instrument contains a general arbitral clause or submission to international jurisdiction.

Regardless of the *numerus clausus* list given by the Constitution, since many years ago, the Government has adopted the custom of sending all international instruments to the Congress the Republic for acceptance without the necessity that their provisions fall under the five items listed at supra.

Taking the above into consideration, the two Protocols, therefore, should be submitted to the Congress for their approval and authorization of accession.

A relevant opinion of the Ministry of Foreign Affairs (Ministerio de Relaciones Exteriores) should be attached to the official Spanish text of the Protocols and sent to the Congress, which will assign it as duty of the internal Commission of Foreign Affairs. This commission after studying the file will give its report to the plenary of the Congress and a vote will take place to approve or disapprove the issue of a Decree of the Congress that will give authorization to the Executive Branch to declare the accession of the country to the instrument and deposit an instrument of accession with the depositary of the aforesaid.

There is no specific formula for the Decree of approval. Therefore to come up with a realistic and comprehensive proposal of Decree of approval, the student surveyed a number of Decrees that comply with this objective.

Once the above mentioned Decree is issued, it should be submitted to the Executive Branch (Brancho Ejecutivo) to obtain its sanction, promulgation and publication in the Official Gazette (Diario de Centroamérica). When the sanction and promulgation has been obtained, the Decree will be published and the *vacatio legis* will start. After that has been exhausted, the Government is entitled to deposit the instrument of accession in the Depositary's control. Neither the Instrument of accession nor the text of the international instrument needs to be published.

After all of the steps described before have been taken, the related instrument is considered a domestic positive law and it is fully enforceable at municipal courts of all levels.

Implementation considerations

The following sections aim to explain the legal conditions, both substantive and procedural, in Guatemala's legal system, that are relevant to the implementation of the SUA convention and protocol 2005, including the derived obligation of enacting the criminal types and jurisdictional assertion provisions into domestic law.

Guatemala's legal system and relevant legislation

As virtually all other Spanish ex colonies and Latin American countries, Guatemala is part of the civil law tradition. Therefore its legal system is written and codified. Additionally, for various reasons of historical and sociological grounds, courts and other justice and law operators have an extremely positivist approach to all legal provisions, procedures and interpretations of the former.

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Being a Republic, democratic and representative, its political system divides public power into three different branches, namely the Executive, Legislative and Judicial. Another salient feature, like most of Latin American countries as well, Presidential government model is followed.

The Legislative branch comprises the Congress of the Republic, a unicameral law-making body, popularly and directly elected every four years. It is the only branch that holds the faculty of issuing laws of general application. Powers to develop legislation within the competencies given by law are vested to the Executive branch, through the figure of the President in Council of Ministers, and is executed by issuing the relevant by-laws either ordered by law explicitly or by virtue of a more general competency that empowers a Ministry, Bureau, Division or other, to regulate further, always following the general principles laid down by the Political Constitution and all the connected and relevant legislation.

The legal framework hierarchically is, as stated, based on a constitutional model, constitutional law being supreme and consists in the Political Constitution of the Republic as the single normative body to be considered. The only authorized body to interpret it in matters of general application is the Constitutional Court, which is an independent body with no links of hierarchy with any other branch or office of the State.

The second level of legislation to be considered in hierarchical order (descendant) are the laws produced, not by the Congress of the Republic, but those produced by the Constituent Assembly, an extraordinary body that drafted and approved the Constitution and may be called to and elected for the single purpose of modifying certain protected provisions of the latter. Such laws are only four (Electoral and political parties law, 'Amparo' habeas corpus and Constitutionality law, Public Order Law [Suspension of constitutional rights], and Thoughts emission law [Freedom of speech]); they enjoy a relatively higher standing than ordinary laws due to a qualified majority requirement to modify their provisions.

The bulk of Guatemala's legislation is found on the 'ordinary' legislation. This kind of legislation is constructed by the whole body of decrees issued by the Congress of the Republic as well as some Presidential Decrees called "Decree-law" that date back to times where the President of the Republic or the Head of State (interim governments) had legislative powers. Any modification, reform or derogation from those laws has to be done by a law of the same hierarchy, either by simple majority or qualified majority depending on the nature of the subject regulated by the law itself.

The final section of normative provisions of general application is found on the rules, regulations, by-laws, etc. so-called "reglamentos", which emanate from the Executive branch,

usually from the President concurring with the Council of Ministers; some others emanating only from the President and the relevant Minister when its scope interests only to the area of activity covered by it.

Some other administrative bodies also hold regulatory powers within their area of competence, such as certain autonomous institutions (e.g. Tax Administration Superintendence, Municipalities, Judiciary Branch in its administrative branch, Legislative Branch in its administrative branch, etc.) which have a more restricted scope of application.

Public prosecution is vested to a national entity called ‘Ministerio Público’ (headed by the General Attorney) being the only agency authorized to investigate (coordinating the other bodies entitled and obliged to, like police and intelligence bodies) and prosecute in cases of crimes, felonies and misdemeanors classified as public offences.

Criminal jurisdiction in Guatemala

Regarding Guatemala’s criminal jurisdictional rules as established by law, the sources of the relevant provisions are, in hierarchical order:

- 1) The Political Constitution of the Republic,
- 2) the Law of the Judiciary Branch (Ley del Brancho Judicial, Decree 2-89 of the Congress of the Republic),
- 3) the Criminal Code (Código Penal, Decree 17-73 of the Congress of the Republic), and
- 4) the Criminal Procedural Code (Código Procesal Penal, Decree 51-92 of the Congress of the Republic)

The applicability of Guatemalan law (*ius imperium*) is established by Article 153 of Guatemala’s Political Constitution, stating that: “[t]he dominion of the law extends to all the persons found in the Republic’s territory”.

This principle is further developed by the Law of the Judiciary branch (which is the most important statute regarding general rules of application and interpretation of the law and judicial procedures and practices) in its Article 5, which states that: “ The dominion of the law extends to any person, national or foreigner, resident or in transit, without prejudice to international law provisions accepted by Guatemala, as well as to all the Republic’s territory, which comprises the soil, subsoil, the *maritime territorial zone*²⁶, the continental shelf, *economic influence zone*²⁷ and airspace, as defined by domestic and international law”.

The Criminal Code establishes the same principle when referring to the territoriality principle of Guatemalan criminal law in Article 4, as follows: “[e]xcept what is established in international treaties, the present code will be applied to any person that commits a crime or misdemeanor in the Republic’s territory or in places or vehicles subjected to its jurisdiction”. The reader will be able to note the express reference to ‘places’ and ‘vehicles’ obviously

²⁶ This provision refers to the Territorial Sea.

²⁷ This term refers to the Exclusive Economic Zone

outside the territory, which fits perfectly to the cases of offences against or in a ship flying Guatemala's flag.

Finally, the Criminal Procedural Code, in Article 38, includes the following provision: “[c]riminal jurisdiction shall extend to the criminal acts committed in the national territory in whole or in part, and to those which effects are produced in it, except what is prescribed by other laws and for international treaties”. The reference to the effects of an unlawful action that could be felt or produced in the Republic serves as a link with the so-called “target State jurisdiction criterion”.

Taking into account that only the Law of the Judiciary Branch states what is, in legal terms, territory, there is the need to clarify that issue, and in that sense, the supreme and only guide for purposes of certainty is the Political Constitution of the Republic, which in its Article 142 and states that “[t]he State exercises **full sovereignty over:** a) **The national territory, integrated by** its soil, subsoil, internal waters, territorial sea in the extension that the law provides and the airspace that extends over those; b) the contiguous zone of the sea adjacent to the territorial sea²⁸, for the exercise of determined activities recognized by international law; and c) The natural resources and living of the marine soil and subsoil and the existing in the waters adjacent to the coasts outside the territorial sea that constitute the exclusive economic zone, in the extension that the law establishes, according to international practice”.

Although a strong emphasis on territoriality is made throughout Guatemalan's law, the latter also recognizes the possibility of jurisdictional extra-territoriality, being precisely that what Article 5 of the Criminal Code establishes by providing that “[t]his code will also be applied:

“1º to a crime committed abroad by officer serving the Republic, when not tried in the country where the crime was perpetrated;

“2º to a crime committed on a vessel, aircraft or any other Guatemalan mode of transport, when not tried in the country where the crime was perpetrated;

“3º to a crime committed abroad by a Guatemalan citizen, when his extradition has been denied;

“4º to a crime committed abroad against a Guatemalan citizen, when not tried in the country where the crime was perpetrated, as long as a claimant or the Public Ministry files an accusation and the alleged offender is to be found in Guatemala;

“5º to a crime that, either treaty or convention, ought to be sanctioned in Guatemala, even when it was not perpetrated in its territory; and

“6º to a crime committed abroad against the security of the State, the constitutional order, its territorial integrity, as well as forgery of the President's signature, counterfeiting of coins or bank notes of legal currency, bonds and other titles or documents of credit”.

²⁸ Contiguous Zone

The reader will be able to distinguish that Guatemalan law allows prosecution of crimes by asserting its criminal jurisdiction using the different possibilities of extraterritoriality, including crimes aboard or against its vessels or by its nationals when not tried abroad or when their extradition has been denied (securing through this provision the application of the *aut dedere aut iudicare* principle), crimes that should be tried in its territory by virtue of an international obligation and those that affect its sovereignty domain such as the state's security, constitutional order, territorial integrity and other felonies.

The fifth possibility given by the precedent Article opens the door to assert universal jurisdiction for crimes against humanity and others that, without being qualified as such, may be characterized as prosecuted and punishable by any country. That seems to be the case of terrorism under the contemporary anti-terrorist international framework, including SUA 2005.

SUA offences regulated in Guatemala's criminal laws

Related to SUA offences and the obligation to assure their inclusion and proper punishment within municipal law, the aforesaid Criminal Code includes, besides the generic and also applicable types such as murder, kidnapping, coercion and threats, the following criminal types, all of them relevant and directly connected to the mentioned offences:

Article 290.- **Attack against the security of the maritime, fluvial or aerial transports.** Whoever endangers a vessel or aircraft, being its own or someone else, or practice any act leading to obstruct or hamper maritime, fluvial or aerial navigation, shall be punished with prison of two to five years.

Article 291.- **Maritime, fluvial or aerial disaster.** If from the acts referred to in the previous article happened as its result shipwreck or stranding of a vessel, the fall or destruction of an aircraft, the responsible one shall be punished with prison of four to twelve years.

The two provisions are connected by a relationship of cause and effect, and taking that into account, the second type has a higher legal consequence. Both are also subject to general rules of criminal responsibility, taking as criminally liable persons both authors and accomplices. The degree of commission or 'success' on committing the offence is considered by Guatemalan criminal law, recognizing as crimes not only the fully carried out, but also the attempted ones (whether using the appropriate means or impossible means), whether the criminal desists on his own will or is stopped by external factors, conspiracy and proposition

are also encompassed, commission by an omission is taken into account and finally, even a mistake in person or objective²⁹.

Another relevant criminal type that encompasses some of the offences established by the SUA 2005 Convention and Protocol is terrorism, which, as a consequence of the adhesion of Guatemala to the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999³⁰ was modified by the domestic law for the prevention and suppression of financing of terrorism: Law to Prevent and Suppress Financing of Terrorism, Decree 58-2005³¹, and therefore captures the contemporary concept of terrorism in its various ways.

Article 391.- **Terrorism.** Commits the crime of terrorism who, with the objective of altering the constitutional order, public order or to coerce a juridical person of public law, national or international, executes act of violence, attacks against human life or integrity, property or infrastructure, or who with the same objective executes acts leading to provoke fire, or to cause serious damage or railway, maritime, fluvial or aerial disaster.

The responsible person of such crime shall be sanctioned with incommutable prison from ten to thirty years, plus a fine of twenty thousand to eight hundred thousand dollars of the United States of America or its equivalent in national currency. If explosive materials of high destructing power were used for the perpetration of that crime, the responsible person or persons shall be sanctioned with the double³² of penalties.

With regards of the offences related to the possession, carriage or transport of BCN weapons, Guatemala has a general legal regime to regulate the possession and carriage of weapons, which is contained in the Decree 39-89 of the Congress of the Republic, Weapons and Ammunitions Law³³, as modified by the Decree 74-90 of the Congress of the Republic³⁴.

The provisions that encompass crimes that reflect the offenses put forward by SUA 2005 are listed below:

²⁹ The described degrees of participation and penalization of such a participation in criminal actions are set forth in articles 11 to 18 and 21 with regards of the degree of 'success' or perpetration of the criminal action and, 35 to 40 with regards to the degree of participation of the responsible persons.

³⁰ United Nations Treaty Series, vol. 2178, P.229

³¹ Ley para prevenir y reprimir el financiamiento del terrorismo, Decreto 58-2005 del Congreso de la República. Diario de Centro América, 5 October 2005.

³² It must be noted that Guatemalan law provides an overriding principle regarding the maximum prison penalties, established in Articles 44 and 69 of the Criminal Code, which states that no prison penalty shall be longer than fifty years.

³³ Ley de armas y municiones, Decreto 39-89 del Congreso de la República. Diario de Centro América, 4 August 1989

³⁴ Reformas a la Ley de armas y municiones, Decreto 74-90 del Congreso de la República. Diario de Centroamérica, 10 January 1991

Article 83. **Illegal Importation of firearms.** Commits the crime of illegal importation of weapons who without declaring in the respective customs office, enters to the national territory weapons... if the weapons were of those qualified by this law as offensive firearms, offensive blade weapons, **explosives, chemical weapons, biological, atomic**, war traps and **experimental weapons**, the penalty to impose will be of four to six years of prison and the forfeiture of the weapons.

Article 85. **Illegal manufacturing of firearms.** Commits the crime of illegal manufacturing of fire arms, who without having the corresponding license from DECAM³⁵, manufactures firearms... If the weapons were of those classified in this law as offensive firearms, blade weapons, **explosives, chemical weapons, biological, atomic**, war traps or **experimental weapons**, the penalty to impose will be from four to six years of prison and the forfeiture of the weapons.

Article 89. **Illegal exportation of firearms.** Commits the crime of illegal exportation of firearms who, without previously notified DECAM, exports weapons from the national territory... The penalty will be from four to six years of prison and the forfeiture of the weapons if the latter were of those classified in this law as offensive firearms or blade weapons, **explosives, chemical weapons, biological, atomic**, war traps and **experimental weapons**.

Article 91. **Illegal transport or carriage of firearms.** Commits the crime of illegal transport or carriage of firearms who without possessing a license from DECAM, transports or conveys firearms in the national territory... The penalty to impose will be from four to six years of prison and the forfeiture of the weapons if those are classified in this law as offensive firearms or blade weapons, **explosives, chemical weapons, biological, atomic**, war traps and **experimental weapons**.

Article 93. **Illegal possession of offensive firearms, explosives, chemical weapons, biological, atomic, traps and experimental weapons.** Commits the crime of illegal possession of offensive firearms, explosives, chemical weapons, biological, atomic, traps and experimental weapons who holds one or more weapons of this class without being authorized.

The responsible one of this crime shall be punished with prison of six to eight years and the forfeiture of the weapons.

Article 95. **Illegal possession and deposit of offensive firearms, explosives, chemical weapons, biological, atomic, traps and experimental weapons.** Commits the crime of illegal possession and deposit of offensive firearms, explosives, chemical weapons, biological, atomic, traps and experimental weapons, who had those in its power without being authorized by DECAM.

The responsible person will be sanctioned with prison of eight to twelve years and the forfeiture of the weapons.

³⁵ "Departamento de control de armas y municiones" Department of control of weapons and ammunitions.

Article 97 C. **Illegal portage of explosives, chemical weapons, biological, atomic, war traps and experimental weapons.** Commits the crime of illegal portage of explosives, chemical weapons, biological, atomic, war traps and experimental weapons who without the authorization, ports weapons of this class. The person responsible of this crime shall be penalized with eight to ten years of prison and the forfeiture of the weapons.

As shown at supra, the legislative piece covers the illegal import, export, transport, carriage, portage and manufacturing of weapons classified as explosives, biological, chemical and atomic weapons, establishing penalties that go from four up to twelve years of prison and, in all cases, the forfeiture of the weapons.

It could be argued that the described framework is obsolete and lax or wide. It is the case, since it is a general law that regulates the legality or illegality of, mainly, sport, defensive and offensive weapons, especially guns and firearms, and therefore its provisions regarding nuclear devices or chemical weapons are not specialized or properly penalized. However, a new legislative package of security-related laws is about to be passed in the Congress, which includes a new law of weapons and ammunitions that, at least in the drafts, seems to cover properly the cases that involve a BCN weapon or weapons.

Finally, with regards of the Annex, Guatemala is already part to all of the conventions listed in the former, making it clear why taking the step of adhering itself to the SUA 2005 Protocols is not only convenient but also natural and necessary. Below, a table is included to show the international instruments listed in the annex with the date of ratification or accession by Guatemala.

International Instrument listed in SUA 2005 Annex	Date of ratification by Guatemala
Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.	18 April 1979
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.	23 August 1978
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.	29 November 1982
International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.	30 December 1982
Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979.	22 March 1985

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, done at Montreal on 24 February 1988.	28 July 1994 (Accession)
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.	24 October 2007
International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.	30 January 2002 (Accession)
International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.	30 January 2002

Greatly due to the adhesion of Guatemala to the list of international instruments listed above, as well as others to which it is also part³⁶, the domestic legislation, especially the criminal one is already adapted to encompass criminal acts that could fall into the classification of terrorist acts.

Taking into consideration what has been stated in this section, it is possible to conclude that Guatemala needs not to make any reform or modification to its legal framework in order to comply with the obligation contained in the SUA Convention 2005 and its Protocol of 2005 of regulating all of the offences included in the two instruments and make them duly punishable in municipal law. Guatemala, therefore, can become a signatory of both instruments and contribute to bring those to force.

³⁶ Cfr. P. 10 footnote 19 *at supra*

DECREE NUMBER XX-200X

THE CONGRESS OF THE REPUBLIC OF GUATEMALA

CONSIDERING

That the Government of Guatemala signed the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms Located on the Continental Shelf, adopted on 10 March 1988, and ratified them by depositing the instrument of ratification derived of the Decree Number 45-2007 issued by this Congress on 9 October 2007;

CONSIDERING

That important amendments to such Convention and Protocol are available through Protocols adopted in the International Conference on the Revision of the SUA Treaties, in London on 14 October 2005, to encompass the new reality regarding threats to the safety of navigation and of fixed Platforms located on the Continental Shelf, and the menace that terrorism poses to all mankind, and for those reasons it is necessary to undertake the new provisions. Such Protocols are open to accession since 14 February 2007 to all States Parties to the Convention and the Protocol.

CONSIDERING

That in order to establish the convenience that the country accedes to the Protocols referred above all the competent authorities and technical organs related to the matter gave their opinion, all of them positive, for not being contrary to any constitutional provisions or other instruments in force, reason why it is consequent to approve it in order to allow Guatemala to adhere to that international instrument;

Therefore

Exercising the attributions given by letters a) and l) of Article 171 of the Political Constitution of the Republic of Guatemala,

DECREES

Article 1. Approves the “Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation” and the “Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf”, adopted in the International Conference on the Revision of the SUA Treaties, celebrated in London, on 14 October 2005 and authorizes the Government to accede to both instruments on behalf of the State of Guatemala.

Article 2. This Decree shall enter into force eight days after its publication in the Official Gazette.

Send to the Executive Branch for its Sanction, Promulgation and Publication

Issued in the Legislative Palace, in Guatemala City, the XXth of XX of two thousand and XX

(Full Name of the President of the Republic)
PRESIDENT OF THE REPUBLIC OF GUATEMALA

WHEREAS the Government of Guatemala has decided to accede to the “Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation” and the “Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf”, adopted in the International Conference on the Revision of the SUA Treaties, celebrated in London, on 14 October 2005

THEREFORE I, in exercise of the powers vested on me by Article 183 letter o) of the Political Constitution of the Republic, declare that the Government of Guatemala, having considered the above mentioned Protocols accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of accession authorized with the Major Stamp of the Republic and countersigned by the Minister of Foreign Affairs at the City of Guatemala on the XXth day of XX of 200X.

[[Both Surnames of the President]]

[[Full title and name of the Minister of Foreign Affairs]]