THE NATIONAL ASSEMBLY OF SEYCHELLES

REPORT OF THE INTERNATIONAL AFFAIRS COMMITTEE

ON THE

International Convention for the Suppression of Acts of Nuclear Terrorism
(Submitted for Ratification as per Article 64 (4) of the Constitution)

The Committee has considered this Convention and presents its report thereon to the 7th Assembly. This is the International Affairs Committee's fifth special report on treaties for the year 2024, laid before Parliament in accordance with Article 64 (4) of the Constitution of the Third Republic of Seychelles.

The International Affairs Committee (IAC) has the parliamentary responsibility for scrutinizing all international agreements submitted to the National Assembly by Recommendation of the President of the Republic of Seychelles.

The report addresses this Convention that has been reviewed and considered at the meeting of the IAC on *Tuesday 22nd October 2024* with a delegation from the Legal Affairs Unit of the Foreign Affairs Department being:
Ms. Sandra Michel, *Legal Advisor and,*
Ms. Serah Bonte, *Second Secretary*

THE INTERNATIONAL AFFAIRS COMMITTEE is mandated to work closely with the Ministry of Foreign Affairs, other governmental and non-governmental organizations on international affairs, peace, security, and defence and contribute thereon as and when necessary; maintain existing and establish new ties with foreign parliamentary organizations of interest; and perform any other tasks as may be assigned by the National Assembly

Powers
The Committee is a Standing Sessional Committee, the powers of which are set out in the National Assembly Standing Orders, 2020, principally, SO 88-92.

Committee Staff
The Committee is assisted by the following Parliamentary Staff of the Secretariat:
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The following Members of the International Affairs Committee undersigned, submit this Report dated Monday 28th October 2024:

Hon. Waven William
Chairperson

Hon. Wavel Woodcock
Vice-Chairperson

Hon. Egbert Aglae
Member

Hon. Kelly Samynadin
Member

Hon. Rachel Spiro
Member

Hon. Philip Monthy
Member

Hon. Philip Arissol
Member

1 BACKGROUND AND SYNOPSIS OF THE CONVENTION

1.1 The Convention was adopted by the UN General Assembly in April 2005 and entered into force in July 2007. Seychelles has been a signatory to the Convention since the adoption of the Convention.

1.2 The purpose of the Convention is to prevent the use of nuclear materials and radioactive substances to terrorist purposes. The possession, use, or threat to use nuclear materials with the intent to cause death, serious injury, or substantial damage to the environment and infrastructure is criminalised by the Convention. A wide range of nuclear materials and facilities are covered, including reactors and nuclear power plants.

1.3 The Convention heavily promotes International Cooperation, encouraging states to share information and assist each other in criminal investigations and extradition proceedings. Member states are required, under the Convention, to implement national laws criminalising acts of nuclear terrorism and to impose penalties that reflect the gravity of such offences.

1.4 Excluded from the Convention are the activities of armed forces during an armed conflict or military exercises, which are customarily governed by other international laws.

The below is a summary of the Articles of the Agreement:

Article 1 – provides definitions for the purpose of the Convention (Radioactive material, Nuclear material, Nuclear Facility, Device, State or government facility, Military forces of a State).

Article 2 – lays down what are constituted as offences within the meaning of the Convention.

Article 3 – lays down instances where the Convention shall not apply when offences are committees.

Article 4 – provides for the limitations of the Convention over State and individual responsibilities and obligations under international law which includes activities of armed forces.

Article 5 – provides the measures State Parties shall adopt as may be necessary.

Article 6 – provides for the adoption of measures as may be necessary to ensure that criminal acts in scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with the grave nature of the crime.

Article 7 – lays out the methods by which State Parties should cooperate with each other under the Convention, which includes assistance in implementation via capacity building, support for affected individuals, protection of the environment and international cooperation to achieve the goals of the Convention.

Article 8 – emphasises on the efforts State Parties shall make to adopt necessary measures to ensure the protection of radioactive materials by accounting for the recommendations and functions of the International Atomic Energy Agency (IAEA).

Article 9 – provides for measures related to the matters of jurisdiction of State Parties including its establishment, notification of establishment and jurisdiction over offences.

Article 10 – addresses the investigation and custody of alleged offenders including the obligation of States to investigate, the rights of the offender and the notification of other relevant states and the UN Secretary General on the custody and investigation findings.
Article 11 – makes provisions on the obligation and conditions for Party States to prosecute or extradite.
Article 12 - addresses the fair treatment of alleged offenders, covering their legal and protection rights and their rights to non-discrimination treatment.
Article 13 – makes provisions on matters of extradition including the inclusion of offences as being extraditable in existing and future treaties, the legal basis for extradition, the recognition of offences as extraditable and the territorial scope of offences based on State jurisdictions.
Article 14 – addresses the aspects of mutual legal assistance which includes, assistance in investigations, evidence sharing and assistance provided in conformity with treaties.
Article 15 – provides for the clauses addressing the non-political nature of offences outlined in Article 2.
Article 16 – addresses the conditions under which a State Party may refuse a request for extradition or mutual legal assistance.
Article 17 – addresses the transfer of detained persons for purposes of testimony or assistance in investigations through sub provisions on conditions for transfer, custody and return, legal protections and credit for time serve.
Article 18 – provides for the handling of radioactive materials, devices, or nuclear facilities after an offence while includes steps to render seized radioactive material harmless, return and storage of items, international cooperation through the request of assistance, and the use of the retained materials for peaceful purposes.
Article 19 – addresses the communication of prosecution outcomes. Specifically, it requires the State Party where the alleged offender is prosecuted to communicate the outcome of the proceedings to the Secretary-General of the United Nations.
Article 20 – addresses consultations among States Parties stating that States Parties should conduct consultations directly or through the Secretary-General of the United Nations, with the assistance of international organizations if necessary.
Article 21 – the provisions address the complementary relationship of the Convention with other international agreements clarifying that the Convention does not affect the rights and obligations of States Parties under other international agreements, particularly those related to nuclear materials and facilities.
Article 22 – addresses the exercise of jurisdiction by State Parties who are only supposed to perform their jurisdictional functions in their territory and no other State Parties'.
Article 23 – makes provisions for dispute resolution clauses specifically addressing arbitration and the International Court of Justice, reservations on being bound and the withdrawal of reservations.
Article 24 – lays down the provisions for signature, ratification, acceptance, approval and accession of the Convention.
Article 25 – addresses the entry into force of the Convention.
Article 26 – addresses the amendment process for the Convention including the procedures for the proposal of amendments, Conference of amendments, their adoptions and entry into force.
Article 27 – provisions on the denunciation of the Convention including notification and when it is in effect.
Article 28 – addresses the authenticity and deposit of the Convention including its language.

2 MAIN DISCUSSION POINTS

2.1. The Importance and Scope of the Agreement

Ms. Bonte took the floor explaining the importance of the ratification for Seychelles, in a nutshell. Although being a Signatory, since its adoption, Seychelles is yet to be a Party to the Convention. The aim of the Convention, Ms. Bonte explained is to protect all states, from acts of nuclear terrorism, as all states are susceptible and vulnerable to such acts of terror, without exception, including Seychelles. She highlighted that preventing nuclear and radioactive materials from falling into the wrong hands is a major international challenge. To ratify the convention would be beneficial to the international community with 125 State Parties having acceded and ratified the Convention.

She noted that the Convention equips State Parties with a robust legal framework to aid in the prevention of these such act, which would benefit Seychelles. The Convention essentially aids in combatting these acts by criminalising the acts pertaining to nuclear terrorism and establishes a framework for international cooperation on the matter. In addition, being Party to the Convention would facilitate access to assistance and capacity building via international cooperation because assistance from some organisations and states is conditional on being State Party to the Convention.

2.2. Concerns and Implications for Seychelles

Conflicts

Considering the current World Conflicts specifically to Russia's disregard on International Law addressing conflict and nuclear weapons, and Seychelles size, the Committee expressed concerns on the implication for Seychelles' sovereignty, security and protection with this ratification enquiring on the measures and guarantees Seychelles will receive. Ms. Michel noted that from a legal perspective, Russia has committed a crime of aggression under the Statutes of the International Criminal Court (ICC) of Justice. This and the readiness to inform the world of its willingness to utilize nuclear weapons is wrong, going against the UN Charter.

This Convention will therefore attempt first to deal with the stockpiling of nuclear weapons, and deal with the possibilities of nuclear weapons falling into the hands of terrorists. Additionally, it covers the necessity of States to establish all the administrative and legal measures necessary to stop persons from stealing nuclear materials intended to create weapons to conduct acts of terrorism.

Implications of reservations on the Convention

Ms. Michel informed the Committee that, once this Convention is ratified, Seychelles will be party to 18 of 19 instruments addressing international counterterrorism the list of which will be shared to the committee.

The Committee enquired on whether the Convention allows for the presentation of reservations by State Parties. Ms. Michel advised that this information could be provided to the Committee at the soonest. She further elaborated that while the Convention does not seem to have clear

provision for extradition, the country, should still be able to present reservations to be accepted by the UN according to practices in international law. The dilemma on this Convention would be the subject matter of the reservation which may be impractical for Seychelles. Stating any reservations about nuclear war not constituting a danger to anyone would be a mistake because Seychelles' main issue relative to this Convention is its expansive EEZ. Importation, exportation and transit relative to our EEZ is the issue as it is a vulnerable point, and why Seychelles should be ratifying without the need of reservations as the impacts of nuclear war does not exempt anyone.

Capacity Building

The question of capacity building, assistance and support was raised by the Committee. This aids to dampen the concerns expressed above. Ms. Bonte and Ms. Michel confirmed and reassured the Committee that this is available under the Convention under Article 7 effected through the IAEA which covers capacity building, awareness and outreach through international cooperation amongst the State Parties. The Committee was concerned about whether capacity building only applied to training and support, however, Ms. Michel clarified that it also extends to equipment which Seychelles has previously benefited from and provided by the IAEA.

National legislation and domestication of the Convention

Hon. Naidu, participating out of interest on the topic enquired on the status, timeframe and capacity of the national legal framework to domesticate and implement the Convention, a question fully supported by the Committee.

Ms. Michel confirmed that the national legislation responsible for the implementation of the Convention is the 2004 Prevention of Terrorism Act which she noted that the Act might require a small amendment to include and cover nuclear weapons, decided by the relevant sponsors and legislators. She shared that the Act was drafted in such a way as terrorism not to qualify as just any offence.

Regulatory Authority managing radioactive materials

The Committee enquired on whether Seychelles currently capable to be aware and detect such transactions in its waters and airspace, considering the size of the EEZ. Ms. Michel explained that Seychelles has a regulatory authority, under the Ministry of Employment mandated to manage radioactive materials. One of their responsibilities is to keep a record of all the radioactive sources in Seychelles and monitor them. She also noted that the Seychelles Bureau of Standards (SBS) has machines capable of measuring radioactivity used to ensure that the level of radioactivity in equipment utilised for work purposes is safe. The consolation is that Seychelles does not have the capacity to enrich radioactive materials, so it is not possible to create nuclear weapons. Nonetheless, keeping track of these radioactive materials is essential as there is still the risk of it being illegally appropriated for illegal purposes.

Identified as the Radiation and Safety Unit, the Hon. Naidu and Committee questioned its capacity to achieve its listed functions and mandate. The Committee supported the suggestion of the chair to summon the unit SBS and all respective authorities responsible for radiation management in the country, prior to the ratification. This would be key as it would better inform the report and enrich the debate on the motion for ratification, allowing for public sensitisation. It would further allow the Committee to chart a way forward by identifying the domestic

implications of radiation management and advocate to improve of the existing infrastructure and capacity.

The financing of international crimes

The Committee sought answers on whether the ratification would have any repercussions on Seychelles especially in relation to the financing of transnational crime. Ms. Michel remarked that Seychelles has done a lot of work in that regard including with the Anti-Money Laundering Act and the Proceeds of Crime Act and the committee on this matter which functions permanently. Technical assistance is also readily provided by the IMF, Interpol and others to counteracting the financing of crime. The fight of piracy really propelled this forward.

2.3. Denuclearisation agenda

The committee enquired on the activeness and status of the of the denuclearisation and disarmament movement, questioning if UN is still pushing forward this agenda especially relative to the modern threats of nuclear war. Ms. Michel clarified that denuclearisation occupies a wider scope than this Convention and confirmed that the UN is still supporting this agenda.
She noted that the situation between Ukraine and Russia indeed increased the polarisation between Russia and the western bloc and increased the threats of nuclear war, with certain parties showing a disregard for and undermining of international law in that respect.

3 RECOMMENDATIONS

The IAC recognises the importance of the ratification of this International Convention and its role in combatting Terrorism and use of nuclear weapons. The Committee thanks the delegation from FAD for presenting the Convention.

The Committee makes the following recommendations to the Executive:

Recommendation One: Inquiry on Radiation Management with relevant stakeholders

To better understand the national management of radiation, the Committee strongly endorsed the recommendation to summon the relevant stakeholders for a parliamentary inquiry to report and provide information on the matter.

Recommendation Two: Public Sensitisation and Awareness

The committee requested that the FAD, as sponsor to such conventions, make a press release or press conference with the aim of informing and sensiting the public on the Convenion and the importance of its ratification for the country.

Addendum

INQUIRY ON NATIONAL RADIATION MANAGEMENT

International Affairs Committee

October 2024

The power of a Standing Select Committee to conduct an inquiry is in accordance with Article 104 of the Constitution of the Republic of Seychelles.

The report on the Inquiry addresses matters raised in the review meeting on the ***International Convention for the Suppression of Acts of Nuclear Terrorism*** that has been reviewed and considered at the Inquiry of the IAC on *Friday 25th October 2024* with a delegation from the Radiation Advisory Committee being:

Mr. Patrick Marie, Senior Instrument Officer, Seychelles Bureau or Standards
Mr. Daniel Cetoupe, Chief Risk Management Officer - Disaster Risk Management Division,
Mrs. Stephanie Boniface, Director, Labour Monitoring and Compliance Section – Department of Employment
Mr. Arold Kilindo, Radiation and Safety Section, Department of Employment

1. Introduction

1.1. **Welcoming remarks and administering of oaths** – the Chairperson Hon. William welcomed the representatives of the Radiation Advisory Committee to the National Assembly and thanked them for responding to the summons. He explained that an inquiry performed via summons requires the administering of oaths and direct Ms. Didon to perform the task. The inquiry kicked off once the administering of oaths was completed.

1.2. **Background and reasoning**

Hon. Chair provided context to the inquiry providing a brief account of the meeting held with the Foreign Afaris Department (FAD) on Tuesday 22nd October, where the need to hold an inquiry prior to ratification arose. The reasons to conduct the inquiry included:

- To be **apprised of the national situation on Radiation Management** raised during the meeting where the Committee was informed on the existence of the regulatory body of the Ministry of Employment.
- For the Committee to efficiently **sensitise the public** on the matter during the debate for ratification.

2. Conduct of Inquiry

2.1 As Chairperson of the **Radiation Safe and Security Advisory Committee,** Mr. Marie provided the IAC with an **overview of the role of the Committee** and its composition as noted below:

- Advises competent authorities on the implementation of the Radiation Safety and Security Act, 2014 and its regulations.
- Advice is provided and guided on matters that include, safety and security in the workplace, the handling of radioactive sources and materials, protection and transportation of radiation sources, best practices of radiation management and provides input on any matter the Minister might require input on.
- The Committee is composed of representative from the following MDAs: Ministry of Employment (MoE), Disaster Risk Management Division (DRMD), Seychelles Bureau of Standards (SBS), Public Health Authority (PHA), Department of Environment, Seychelles Fire and Rescue Services Agency (SFRSA) and Seychelles Defense Forces (SDF).

2.2 Mrs. Boniface, as representative of the MOE informed the IAC that the Committee **conducts oversight on the Employment, regulatory body** being the Radiation and safety Unit.

2.3. On DRMD's involvement in the committee, Mr. Cetoupe explained the following:

- As per its Act, DRMD is multi hazard focused, dealing with any emergency. The Radiation Safety and Security Act provides that emergency management be the responsibility of the competent authority on disaster risk management being the DRMD.
- On the matter of emergency management by DMRD, a **draft national emergency plan** has been produced but there has been a lack of political will to finalise it as parties were not present during the second phase of the drafting.

2.4. Mr. Cetoupe noted that the focus of the Radiation safety legislation is on safety and to bolter the security aspect, regulations on **radiation security aspect should be introduced** which is in the works.

- To bolster the aspect of radiation security, Mr. Cetoupe informed that the DRMD made a recommendation to the Committee to inform the competent authority being the Minster of Employment and Social Affairs, of the **signing and ratification of two Conventions** being:

i) **Convention on Early Notification of a Nuclear Accident, 1986, and the**
ii) **Convention on Assistance in the Case of a Nuclear Accident or Radiology Emergency, 1986**

- This is important for the country as it would raise the Standards allowing for early notification and assure coordinated assistance to Seychelles in the case of a nuclear accident. This would allow for Seychelles to be notified on nuclear accidents from neighboring states and other State Parties obligating them to disclose the situation. It basically ensures effective emergency management especially with the guarantee of assistance, in the form of expertise for instance in the aftermath of such accidents and emergencies.

- Mr. Cetoupe noted that unfortunately, the signing of these Conventions has not been a national priority, noting that he has pushed the agenda on numerous occasions. The sponsor of the Conventions is the FAD and IAC committed to following up on this matter.

2.5. **Issues and Challenges of radiation management**

Several challenges and issues of national radiation management were raised during the inquiry, further to the above. Mr. Marie, Mr. Cetoupe and Mrs. Boniface intervened on the matter, especially in relation to operational, legal and implementation constraints. The compiled challenges and issues on radiation management raised during the inquiry is as follows:

i) **National Legal Framework implementation**

- The national commitment to implement the Act is lacking and little progress has been made over the past ten years. Observed examples include the difficulties in assenting the Act back in 2014 and the current absence of the necessary regulations.
- It was noted that the regulations have been at the Attorney General's (AG's) Office for the past two years due to certain issues. A draft of the regulations was produced with the assistance of the IAEA. However, the AG's Office identified some discrepancies between the regulations and the Act meaning the two instruments are not aligned as regulations are meant to reflect the provisions of the Act. The issue was that the Act was drafted without forethought on changing developments in the field and international law standards.
- This necessitates amendments be made to the Act which the AG has provided as well as revision of the regulations which may take 6 months to start discussions despite having received the first draft to the AG's office which is under resourced and under capacitated.
- On the matter of the Radiation safety policy, it was informed that one has been drafted for a while now and requires some revamping. The Policy Planning section has advised that there are some gaps in the document at it is lacking the strategy aspect. IAEA has been pushing the Unit to produce and finalise the policy with their assistance.

ii) **Human Resources and budgetary constraints**

- Currently, only Mrs. Boniface and Mr. Kilindo are responsible for overseeing the implementation of the Radiation safety and security Act, highlighting lack of human resources as a constraint.
- To illustrate, the unit itself employs two officers, one of which is studying abroad, meaning that the unit has only one staff member. Mrs. Boniface contributes to the implementation as she oversees the unit as the Director of Labour Monitoring and Compliance Section and in her role as member of the Advisory Committee.

- Implementation of the legal framework in relation to radiation safety has been a real challenge. Creating and implementing the radiation security aspect will worsen the situation with the already limited human resources. Additionally, there are budgetary constraints from the Ministry of finance to create necessary posts as the Unit is meant to have its own Director. With the Employment division already constrained with a general lack of human resources, this has been hard.

iii) **Education and Awareness on the importance of radiation safety and security** – There is an observed lack of knowledge amongst the higher national authorities and the public on the importance of radiation safety and security. IAC enquired on who would be responsible for conducting the necessary sensitisation and awareness program on this matter which would be the Safety radiation unit.

iv) **Unwillingness of some stakeholders participate in Capacity Building opportunities**

- Raised was the matter of receiving assistance from the IAEA as it was noted by the IAC that accession to the Convention of the Physical Protection of Nuclear Material (CCPMN) and other relevant IAEA instruments, allows for assistance. The delegation confirmed that the IAEA is heavily involved and engaged in assisting as seen in the legislation process. However, there are many capacity building opportunities that are not grasped and are wasted by certain MDAs. Training for the follwoing tagetted stakeholders has been previously held. The are Customs, Airport Security and the Seychelles Port Authority.

v) **Radioactive waste**

As radioactive waste is not considered to be hazardous way, it presents a dilemma on the appropriate management of the waste which would come as regulations. Training on waste management was shared to Land Waste Management Agency (LWMA) but radiation is not a priority for the agency.

2.6. Implementation priorities

The Commitee was requested by the IAC, to list their implementation priorities so that the IAC is better informed on the national direction and vision on the topic and to enrich the debates, ensuring the most salient points and recommendations come out. The Advisory Committee listed the priorities as follow:

- Implementation of the current law should be prioritised beginning with the **appointment of the director** – this would facilitate strategic direction regarding radiation safety.

- Undertake **formal training** in radiation management through the IAEA should continue. Seychelles is heavily dependent on the agency.

- Radiation Safety and Security should have its own Authority. Ideally, it would be responsible for sensitisation, awareness, inspection and monitoring research and data - Mr. Marie – should have its own authority that is not the MOE.

- The regulations on Safety, Security and Transportation are the current priority regulations they intend to implement first.

3. Recommendations

3.1. Recommends extending training opportunities from the IAEA to the private sector, considering the lack of interest and human resource issue within MDAs.

3.2. That a formal and clear approach be established between the Foreign Affairs and the Committee/Unit to ensure that the relevant information on capacity building opportunities and other matters including assistance tailored for SIDS, is transmitted to the regulatory authorities. The national liaison officer for IAEA at the FAD should be responsible for ensuring that all such information is shared and transmitted.

3.3. To gauge the awareness of the National Security Council on the radiation safety and security situation in the country, including all the identified challenges.

3.4. The Committee recommends that schools and institutions are tapped into for the new, future workforce by raising interest and awareness in the field of radiation as a career path. This would require reaching out to educational facilities and the Ministry of Educations' Scholarships sections.