



INTERNATIONAL TERRORISM

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INTERNATIONAL TERRORISM

I. INTRODUCTION

A. Background

1. Terrorism continues to pose a major threat to international peace and security and undermines the core values of the United Nations. In addition to the devastating human cost of terrorism, in terms of lives lost or permanently altered, terrorist acts aim to destabilize governments and undermine economic and social development. Addressing this threat is that much more difficult given the complex and constantly evolving nature of terrorist activity. Its motivations, financing, methods of attack and choice of target are constantly changing. Terrorist acts often defy national borders: one act of terrorism can involve activities and actors from numerous countries. The challenges posed by terrorism are further complicated by terrorists using the internet, information technology and other modern communication devices that have rendered national boundaries meaningless. Given this complexity, strong coordination and cooperation within national governments and between states and organizations and authorities in multiple jurisdictions at the regional and international level is essential to effectively combat terrorism, to share best practices and lessons learned and to assist with the investigation and prosecution of terrorism cases.¹

2. The Charter of the United Nations sets out in Article I the purposes of that Organization, which *inter alia* includes the maintenance of international peace and security, taking of collective measures to prevent threats to peace and suppression of aggression and promotion of human rights and economic development. Terrorism unequivocally runs contrary to the purposes of the UN Charter and constitutes an assault on the principles of law, order, human rights and the peaceful settlement of disputes. The United Nations has consistently been taking concrete steps to address the threat of terrorism, helping Member States to counter this grave menace.

3. The present international framework to counter terrorism comprises principally of several instruments that deal with certain specific acts of terrorism and together these are referred to as “Sectoral Conventions”.² However, this has not replaced the need for a

¹ UNODC website “Terrorism Prevention”, available at : <<http://www.unodc.org/unodc/en/terrorism/index.html> > , last visited on 9 June 2014

² These conventions are: 1. Convention on Offences and Certain Other Acts Committed on Board Aircraft; signed at Tokyo on 14 September 1963 (entered into force on 4 December 1969). 2. Convention for the Suppression of Unlawful Seizure of Aircraft; signed at The Hague on 16 December 1970 (entered into force on 14 October 1971). This was supplemented by the 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft. 3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; signed at Montreal on 23 September 1971 (entered into force on 26 January 1973). 4. 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; entered into force on 20 February 1977). 5. International Convention against the Taking of Hostages; adopted by the General Assembly of the United Nations on 17 December 1979 (entered into force on 3 June 1983). 6. Convention on the Physical Protection of Nuclear Material; signed at Vienna on 3 March 1980 (entered into force on 8 February 1987). 7. Protocol for the Suppression

comprehensive convention that deals with the issue and currently States are negotiating an additional international treaty, a draft comprehensive convention on international terrorism. This convention would complement the existing framework of international anti-terrorism instruments and would build on key guiding principles already present in recent anti-terrorist conventions: the importance of criminalization of terrorist offences, making them punishable by law and calling for prosecution or extradition of the perpetrators; the need to eliminate legislation which establishes exceptions to such criminalization on political, philosophical, ideological, racial, ethnic, religious or similar grounds; a strong call for Member States to take action to prevent terrorist acts; and emphasis on the need for Member States to cooperate, exchange information and provide each other with the greatest measure of assistance in connection with the prevention, investigation and prosecution of terrorist acts.³

4. Apart from the above stated 14 Sectoral Conventions there are other Regional Conventions formulated at the initiative of various regional organizations to counter the menace of terrorism at the regional levels. This process was started almost at the same time as it was started by the United Nations. The OAS was in the forefront in this regard and its anti terrorism Convention was adopted in 1971. This was followed by the Council of Europe, South Asian Association for Regional Cooperation (SAARC), League of Arab States, Organization of Islamic Conference, Organization of African Unity (OAU)⁴, and the Commonwealth of Independent States.⁵

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; signed at Montreal on 24 February 1988 (entered into force on 6 August 1989). 8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation; signed at Rome on 10 March 1988 (entered into force on 1 March 1992). This was supplemented by the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. 9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf; signed at Rome on 10 March 1988 (entered into force on 1 March 1992). 10. Convention on the Marking of Plastic Explosives for the Purpose of Detection; signed at Montreal on 1 March 1991 (entered into force on 21 June 1998). 11. International Convention for the Suppression of Terrorist Bombings; adopted by the General Assembly of the United Nations on 15 December 1997 (entered into force on 23 May 2001). 12. International Convention for the Suppression of the Financing of Terrorism; adopted by the General Assembly of the United Nations on 9 December 1999 (entered into force on 10 April 2002). 13. International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the UN General Assembly on 13 April 2005. 14. 2010 Convention on the Suppression of Unlawful Acts relating to International Civil Aviation.

³ UNODC “International Legal Instruments” UNODC website, available at: <http://www.unodc.org/unodc/en/terrorism/index.html> >, last visited on 9 June 2014

⁴ Now African Union (AU)

⁵ These Conventions are: 1. 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; 2. European Convention on the Suppression of terrorism concluded at Strasbourg on 27 January 1977; 3. SAARC Regional Convention on Suppression of Terrorism, signed at Kathmandu on 4 November 1987; 4. Arab Convention on the Suppression of Terrorism, signed at a meeting held at the General Secretariat of the League of Arab States in Cairo on 22 April 1998; 5. Treaty on Cooperation among States Members of the Commonwealth of Independent States in Combating Terrorism, done at Minsk on 4 June 1999; 6. Convention of the Organization of the Islamic Conference on Combating International Terrorism, adopted at Ouagadougou on 1 July 1999; 7. OAU Convention on the Prevention and Combating of terrorism, adopted at Algiers on 14 July 1999.

5. The adoption of the Declaration on “Measures to Eliminate International Terrorism” by the General Assembly at its 49th Session on 9th December 1994⁶ along with a declaration supplementing the same at the 51st Session in 1996⁷ establishing an Ad Hoc Committee gave impetus to the active consideration of the issues involved to arrive at a comprehensive framework convention. Initially, the committee was mandated to elaborate conventions on suppression of terrorist bombings and nuclear terrorism and pursuant to its work a convention relating to terrorist Bombings was adopted by the General Assembly in the year 1997.⁸ Upon the initiation of the General Assembly at its 53rd Session, the committee began working on legal responses to combat funding of terrorism, which then resulted in the adoption of the Convention for the Suppression of Financing of Terrorism on 9th December 1999.⁹ The matters concerning elaboration of an International Convention for the Suppression of Acts of Nuclear Terrorism was extensively discussed at the subsequent meetings of the Ad Hoc Committee and its Working Group and the UN General Assembly adopted the Convention on 13 April 2005.¹⁰ The mandate of the committee to ‘address means of further developing a comprehensive legal framework of convention dealing with international terrorism’ continues to be renewed and revised on an annual basis by the General Assembly in its resolutions on the subject “measures to eliminate international terrorism”.

6. At its 53rd Session, the General Assembly decided that the negotiations on the “Draft Comprehensive Convention on International Terrorism” based on the draft circulated by India earlier at the 51st Session in 1996, would commence in the Ad Hoc Committee at its meeting in September 2000. In addition, it was also to take up the question of convening a high level conference under the auspices of the United Nations to address these issues. Pursuant to that mandate, a Working Group of the Sixth Committee, in its meeting held from 25th September to 6th October 2000, considered the “Draft Comprehensive Convention on International Terrorism”, as proposed by India. Since then the matter has been under active consideration of the Ad Hoc Committee and the Sixth Committee of the UN General Assembly.

7. In addition to the General Assembly, the Security Council has also been engaged in framing legal responses to combat and curb acts of terrorism. On 28 September 2001 through resolution 1373 (2001), the Security Council established the Counter Terrorism Committee (the “CTC”), which consists of all the 15 Members of the Security Council with the mandate to monitor the implementation of the Council’s anti terrorism efforts. The Committee monitors the implementation of resolution 1373 (2001) by all States and tries to increase the capacity of States to fight terrorism. The CTC is charged with ensuring every State’s compliance with Council requirements to prevent terrorist activities, and with identifying the weaknesses in the capacity of the States to do so. For States with deficiencies in legislation, funds, or personnel, the CTC is expected to help them remedy their difficulties and upgrade their capacity. However, where the Committee concludes that the deficiencies

⁶ A/RES/49/60

⁷ A/RES/51/210.

⁸ International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly at its 52nd Session on 15 December 1997 (A/RES/52/164.)

⁹ A/RES/54/109.

¹⁰ adopted by the General Assembly in resolution 59/290

are in political will, it will leave it to the Security Council to decide what measures to take to bring such determinedly non-compliant States in compliance with the resolution 1373 mandates.

8. Seeking to revitalize the Committee's work, in 2004 the Security Council adopted resolution 1535, creating the Counter-Terrorism Committee Executive Directorate (CTED). The CTED is to provide the CTC with expert advice on all areas covered by resolution 1373.¹¹ In addition to this, the CTED would also facilitate technical assistance to countries, and promote closer cooperation and coordination both within the UN system of organizations and among Regional and Intergovernmental bodies. During the September 2005 World Summit at the United Nations, the Security Council – meeting at the level of Heads of States or Governments for just the third time in its history – adopted resolution 1624 concerning incitement to commit acts of terrorism. The resolution also stressed the obligations of countries to comply with international human rights laws.

9. The item entitled “International Terrorism” was placed on the agenda of the Fortieth Session of AALCO, held at New Delhi between 20-24 June 2001, upon a reference made by the Government of India. It was felt that consideration of this item at AALCO would be useful and relevant in the context of the on-going negotiations in the Ad Hoc Committee of the United Nations on elaboration of the comprehensive convention on international terrorism. The successive sessions directed the Secretariat to monitor and report on the progress in the Ad Hoc Committee of negotiations relating to the drafting of a comprehensive international convention to combat terrorism; and requested the Secretariat to carry out, an in-depth study on this topic. The Centre for Research and Training (CRT) has brought out *A Preliminary Study on the Concept of International Terrorism* in the Year 2006. During the Fifty-Second Annual Session of AALCO held in New Delhi in September 2013, this topic was non-deliberated¹².

10. The brief prepared for the Fifty-Third Annual Session has reported on the following: (i) Developments in the Ad-Hoc Committee on International Terrorism (A/68/37) (ii) Developments in the Counter Terrorism Committee (CTC); (iii) Deliberations on the Comprehensive Convention on International Terrorism at the Sixth Committee of the United Nations General Assembly at its Sixty Eighth Session; (iv) Consideration at the Sixty Eighth Session of the United Nations General Assembly; (v) Comments and Observations of the AALCO Secretariat and (vi) Draft Resolution on the subject.

B. Issues for focused deliberation during the Fifty-Third Annual Session of AALCO:

- (i) *There remain considerable gaps in the international legal framework against terrorism, especially in relation to a comprehensive definition of “terrorism” agreeable to all Member States;*

¹¹ The Security Council extended the mandate of the CTED through its Resolution 1963 (2010) (20 December 2010)

¹² Report on the Non-deliberated Agenda items for the Fifty-Second Annual Session of AALCO, AALCO/52/HEADQUARTERS (NEW DELHI)/2013/SND), International Terrorism pages 22-38.

- (ii) *Terrorism should not be associated with any particular religion, culture, nationality, race, civilization or ethnic group; and*
- (iii) *Terrorism must not be equated with the legitimate struggles of people who under colonial domination or alien occupation pursue liberation or self determination.*
- (iv) *The proposed definition of Terrorism in the Draft Convention could consider the proposals submitted by AALCO Member States and the Organization of Islamic States.*

II. Developments in the Ad Hoc Committee on International Terrorism

11. The sixteenth session of the Ad Hoc Committee, established by the General Assembly in its resolution 51/210 of 17 December 1996, was convened at the United Nations Headquarters from 8 to 12 April 2013. The members of the Bureau¹³ of the committee adopted an agenda which included – Opening of the session, election of officers, adoption of the agenda, organization of work, consideration of the questions contained in the mandate of the Ad Hoc Committee and adoption of the report.

12. The Ad Hoc Committee had before it the report on its fifteenth session¹⁴ and the report of the Working Group of the Sixth Committee of the sixty-fifth session of the General Assembly¹⁵ the latter containing texts of the preamble and articles 1, 2 and 4 to 27 of the draft comprehensive convention, prepared by the Friends of the Chair incorporating the various texts contained in annexes I, II and III to the report of the Ad Hoc Committee at its sixth session, for discussion, taking into account developments in recent years, and written proposals in relation to the outstanding issues surrounding the draft comprehensive convention¹⁶ and the oral reports of the Chair of the Working Group of the Sixth Committee of the sixty-sixth and sixty seventh sessions of the General Assembly.¹⁷ It also had before it, as reference, two letters from the Permanent Representative of Egypt to the United Nations concerning the convening of a high-level special session of the General Assembly on cooperation against terrorism.¹⁸

13. The Ad Hoc Committee held two plenary meetings: the 49th on 8 April and the 50th on 12 April 2013. At its 49th meeting, the Ad Hoc Committee adopted its programme of work and general statements were made regarding the draft comprehensive convention on international terrorism and on the question of convening a high-level conference under the auspices of the

¹³ *Chair*:-Rohan Perera (Sri Lanka),*Vice-Chairs*: Maria Telalian (Greece) Ana Cristina Rodríguez-Pineda (Guatemala),Dire David Tladi (South Africa),*Rapporteur*: Petr Válek (Czech Republic)

¹⁴ A/66/37.

¹⁵ A/C.6.65/L.10.

¹⁶ *Ibid.*

¹⁷ A/C.6/66/SR.28 and A/C.6/67/SR.23. See also the reports of the Ad Hoc Committee on its sixth to fourteenth sessions (A/57/37 and Corr.1, A/58/37, A/59/37, A/60/37, A/61/37, A/62/37, A/63/37, A/64/37 and A/65/37). See also the reports of the Working Group established at the fifty-fifth to sixtieth sessions of the General Assembly (A/C.6/55/L.2, A/C.6/56/L.9, A/C.6/57/L.9, A/C.6/58/L.10, A/C.6/59/L.10 and A/C.6/60/L.6). The summaries of the oral reports of the Chair of the Working Group established at the sixty-first, sixty-second, sixty-third and sixty-fourth sessions are contained in documents A/C.6/61/SR.21, A/C.6/62/SR.16, A/C.6/63/SR.14 and A/C.6/64/SR.14.

¹⁸ Letters dated 1 and 30 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General and to the Chair of the Sixth Committee, respectively (A/60/329 and A/C.6/60/2).

United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, and at its 50th meeting on 12th April the committee adopted the report on its sixteenth session.¹⁹

14. Annex I to the present report contains the preamble and articles 1, 2 and 4 to 27 of the draft comprehensive convention, prepared by the Bureau, incorporating the various provisions contained in A/C.6/65/L.10, Annex II contains written proposals relating to the outstanding issues surrounding the draft comprehensive convention. Annex III contains an informal summary prepared by the Chair on the exchange of views during the plenary debate and the informal consultations.

15. At its 50th meeting, on 12 April, the Ad Hoc Committee, decided to recommend that the Sixth Committee, at the sixty-ninth session of the General Assembly should establish a working group with a view to finalize the draft comprehensive convention on international terrorism as well as discuss the question of convening a high-level conference under the auspices of the United Nations.

Annex I

Text of the preamble and articles 1 to 2 and 4 to 27 of the draft comprehensive convention on international terrorism prepared by the Bureau

16. Included in Annex I of the Report of the Ad Hoc Committee was the Text of the preamble and articles 1 to 2 and 4 to 27 of the draft comprehensive convention on international terrorism prepared by the Bureau. This was composed of the text contained in Annex I of the Report of the Working Group on Measures to Eliminate International Terrorist of the Sixty-Fifth Session of the Sixth Committee in 2010.²⁰ The text of the preamble and draft articles was included with the understanding that further consideration to the text would be given in future discussions, including on outstanding issues. As draft Articles 1 to 4 form the core of the draft comprehensive convention and need to be discussed thoroughly the texts of the same are given herein below.

Article 1

For the purposes of the present Convention:

1. “State or government facility” includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of a Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. “Military forces of a State” means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security and

¹⁹ A/68/37

²⁰ A/C.6.65/L.10.

persons acting in support of those armed forces who are under their formal command, control and responsibility.

3. “Infrastructure facility” means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel, banking, communications, telecommunications and information networks.

4. “Place of public use” means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

5. “Public transportation system” means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of the present Convention if that person, by any means, unlawfully and intentionally, causes:

(a) Death or serious bodily injury to any person; or

(b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or to the environment; or

(c) Damage to property, places, facilities or systems referred to in paragraph 1 (b) of the present article resulting or likely to result in major economic loss, when the purpose of the conduct, 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.

2. Any person also commits an offence if that person makes a credible and serious threat to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

4. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(c) Contributes to the commission of one or more offences as set forth in paragraph 1, 2 or 3 of the present article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made 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 as set forth in paragraph 1 of the present article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of the present article.

Article 4 [2 bis]

Where the present Convention and a treaty dealing with a specific category of terrorist offence would be applicable in relation to the same act as between States that are parties to both the present Convention and the said treaty, the provisions of the latter shall prevail.

Annex II

Written proposals in relation to the outstanding issues surrounding the draft comprehensive convention

17. The following parties made proposals regarding the articles they had concerns with:

1. Bureau – Text relating to the preamble and article 3 [18] of the draft convention
2. Nicaragua – Text relating to article 2
3. Friends of the Chair – Text relating to article 3 [18]
4. Friends of the Chair – Text relating to preamble
5. Argentina – Text relating to preamble amending document
6. Cuba – Text relating to article 2
7. Coordinator – Text relating to article 3 [18]
8. The Member States of the Organization of the Islamic Conference – Text relating to article 3 [18]

Annex III

Informal summary prepared by the Chair on the exchange of views during the plenary debate and the informal consultations

A. General Discussions

18. It was noted that terrorism posed an ongoing threat to international peace and security, general wellbeing of people, territorial integrity and the loss of economic and physical infrastructure of states. Delegations emphasized that all measures taken to counter terrorism must respect the rule of law and should be in conformity with international law, in particular the

Charter of the United Nations, human rights law, international humanitarian law and refugee law. The due process and transparency concerns were also addressed. Several delegations emphasized the need to distinguish terrorism from the legitimate struggle of peoples under any domination and noted that terrorism must not be tolerated. It was emphasized that terrorism should not be justifiable under any nature. Stopping terrorism would be effective by tackling the culture of extremism and other root causes which lead to terrorism and they also stressed the need to address political and economic injustice matters to combat terrorism.

19. It was also noted that terrorism being a multifaceted phenomenon, requires multidimensional approaches and needed a transparent implementation. The need for cooperation at the regional and bilateral levels and importance of becoming a party to various counter terrorism legal instruments at national level was also emphasized. Financing of terrorism as a matter of grave concern was identified.

B. Summary of the statement of the Coordinator made on 8 April 2013

20. The Coordinator on 8th April stated that delegations seemed reluctant to take decisive steps forward based on informal bilateral contacts that had taken place on the basis of the elements of the 2007 discussion. The Coordinator stated the importance of article 3²¹ (formerly draft article 18) and also noted that the elements of an overall package presented in 2007, consisted of a preamble, an addition to paragraph 4 of draft article 3 and a new paragraph 5 to draft article 3 and also indicated the close relationship between draft article 2 which talks about inclusionary elements and draft article 3 which talks about exclusionary element.

21. The need to have a clear definition of acts of terrorism was stressed upon. The paragraph 1 of draft Article 3 contained the addition of the word “peoples” to acknowledge the right to self-determination. It was noted that the activities of military forces of a State would not be governed by the Convention inasmuch as those activities are governed by other rules of international law. The draft convention did not intend to exclude prosecution under other laws. The additional preambular paragraph signaled that the exclusion of certain activities from the coverage of the draft convention did not make lawful otherwise unlawful acts, or preclude prosecution under other laws. Paragraph 5 of draft article 3 stressed the importance of preserving the integrity of international humanitarian law.

²¹ The original draft Article 18 (now draft Article 3) as presented by the coordinator read:

"1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

4. Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws."

However, the draft article has proven to be contentious and has been under negotiation ever since.

C. Summary of the discussions held during the 49th meeting and the informal consultations held on 8 and 9 April 2013

22. During the 49th meeting the need to conduct the negotiations in a transparent and inclusive multilateral manner was stressed upon. Regarding the issues surrounding the draft convention, few delegations expressed their willingness to work while others rejected and opted for further negotiations. Some delegations were of the view that the draft convention should include the notion of State terrorism, including acts committed by the military forces of a State while some said there was no modification needed to the 2007 proposal. It was proposed that it is the duty of every State to refrain from organizing, instigating, assisting or participating in any terrorist acts which involved the threat of the use of force or the use of force.

23. It was noted that the term “armed forces” might give rise to certain constitutional issues in some countries and also pointed out that the term “armed conflict” in article 3 minimized the differences between the two proposals. It was noted that, with regard to the 2007 proposal it was not clear why certain delegations were unwilling to include in the scope of activities of military forces during peacetime and to limit the instrument. In response, the Coordinator observed that it was important to read draft article 3 together with draft article 2 which distinguished the activities governed by international humanitarian law from the draft convention. Discussions on the outstanding issues also gave rise to consideration of issues:

- (a) To proceed with a recommendation on the basis of the 2007 proposal;
- (b) To negotiate by putting together a consolidated text in order to preserve the acquis, with an indication that there was currently no consensus on the text; and
- (c) To acknowledge that there was no reasonable prospect for consensus at the present stage.

24. As a possible compromise, it was suggested that the Committee would note the lack of substantive progress and recommend that work continue in the context of a working group of the Sixth Committee during the sixty-ninth session of the General Assembly. At the 50th meeting, there was an exchange of views on the placement of the text of the accompanying draft resolution that was proposed by the Coordinator in 2011 (A/C.6/66/SR.28, paragraph 89). The accompanying draft resolution reads as follows:

Accompanying Draft Resolution

The General Assembly,

Recalling the relevant international instruments, and resolutions of the United Nations General Assembly relating to measures to eliminate international terrorism and the efforts to prevent, combat and eliminate terrorism;

Reaffirming the duty of every State to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State importance of maintaining the integrity of international humanitarian law,

Having considered the text of the draft United Nations Convention for the Prevention and Suppression of International Terrorism prepared by the Ad Hoc Committee

established by General Assembly resolution 51/210 of 17 December 1996 and the Working Group of the Sixth Committee,

1. *Adopts* the United Nations Convention for the Prevention and Suppression of International Terrorism annexed to the present resolution, and requests the Secretary-General to open it for signature at United Nations Headquarters in New York from ... to ...;
2. *Urges* all States to sign and ratify, accept, approve or accede to the Convention;
3. *Decides* that the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism.

Question of Convening a High-Level Conference

25. It was recalled that despite of all the efforts made at the national, regional and international levels, there was still a need to set up an action plan within the United Nations, containing both legal and procedural aspects, which would guarantee active international cooperation to achieve the common aspiration of eliminating terrorism. It was recalled that the proposal had been supported by the Non-Aligned Movement, the Organization of Islamic Cooperation, the African Union and the League of Arab States. It was stressed that the issue should be discussed on its own merits and should not be linked to the discussions on the draft comprehensive convention. It was noted that the current working methods had not yielded the desired results, and that the high-level political discourse of such a conference could address the challenges while few of the delegations noted that conference at this level would be premature.

III. Developments in the Counter Terrorism Committee (CTC)²²

26. The Security Council, in its resolution 1963 (2010), decided that the Executive Directorate of the Security Council Committee pursuant to resolution 1373 (2001) would continue to operate till 31 December 2013 and that the Counter-Terrorism Committee will submit the report on the basis of information provided by the Executive Directorate to the Security Council before 31st December 2013²³. The Committee submitted its interim report in 2012²⁴ and the present report was meant to assist the Council in its work of the Executive Directorate.

27. It was noted that terrorism still poses a serious threat to international peace and security. Terrorists still continue to devise methods to increase their funds, for example, trafficking in weapons, kidnapping for ransom or use of false identification. With the increase of misusing the communication technologies by terrorists, it acts as a challenge to the international community to stop such activities and to also protect human rights. Lack of financial and infrastructural resources and cooperation between the agencies also acts as a challenge for states in effectively implementing 1373 resolution. Therefore there is a need to strengthen the legislative, institutional and operational dimensions along with strong criminal justice system. It is also noted that the States are strengthening their financial investigations by having partnerships with

²² S/2013/722 dated 11 December 2013

²³ (S/2013/161, annex, para. 11).

²⁴ (S/2012/465).

civil society and the private sector to prevent terrorism. The holistic approach used by the states acts as a challenge to devise new approaches and at the same time to respect human rights under the international obligations. There is a need to comply with the principles of necessity and proportionality for the states to counter terrorism. There is also a need to strengthen the coordination between the United Nations agencies and other international groups which also work to prevent terrorism, and to develop measuring tools to record the progress made.

28. It was noted that the Committee approved 50 preliminary implementation assessments of Member States during the review cycle (1 January 2011-30 November 2013). Since 2006, the Committee has been measuring the progress made by all 193 Member States and on 2nd May 2013 the Committee introduced assessment tools to ensure consistency and transparency and to promote the implementation of resolutions 1373 (2011) and 1624 (2005) and in that regard the Committee has adopted two files, and the Executive Directorate expects to have completed at least 10 files before the end of 2013.

a. Visits to Member States

29. It was noted that the country visits played an important role and such visits had been useful as they provided an opportunity to discuss terrorism and its challenges. It was also noted that the Executive Directorate has conducted 88 such visits till 2005. On 11 December 2012, the Committee adopted guidelines for post-visit follow-up activities and it expects to cover up further visits for the forthcoming reporting cycle addressing the experiences and lessons learnt in countering terrorism.

b. Updated global survey of the implementation of Security Council resolution 1373 (2001)

30. It was noted that in the updated survey²⁵ of 1373 resolution pursuant to resolution 1963 (2010) States had made progress in ratifying the international counter-terrorism instruments, adopting national counter-terrorism legislation. It is noted that, since the adoption of resolution 1373 (2001), most States have made considerable progress in ratifying the international counter-terrorism instruments, adopting national counter-terrorism legislation, developing their capacity to bring terrorists to justice, creating financial intelligence units and other specialized mechanisms, strengthening border and transportation security and improving information exchange and cooperation with other States. However, in the survey it is also noted that many States continue to face serious challenges in the conduct of prosecutions in terrorist cases, the development of effective regional platforms for international cooperation in criminal matters, compliance with the obligation to freeze terrorists' assets, preventing the financing of terrorism through new payment methods, cash couriers and the misuse of non-profit organizations and ensuring that counter-terrorism measures comply with the obligations set forth in international law, including human rights law. The 2011 survey also identifies thematic and regional approaches that enable to coordinate more effectively with States and donor organizations in facilitating capacity-building assistance. It is noted that regular updates on the global implementation survey, from the information gathered from the responses submitted by member States will enhance the global counter-terrorism trends.

²⁵ Adopted by the Committee in August 2011

c. Facilitation of technical assistance delivery

31. It is emphasized that one of the core tasks assigned by the Security Council to the Committee is the facilitation of technical assistance delivery. The Executive Directorate had taken a number of steps to strengthen their facilitation effort which includes: State visits and follow up activities participating actively in projects for preventing terrorism and establishing work with Global Counter-Terrorism forum. During the period under review, the Executive Directorate made 153 technical assistance referrals. Donors agreed to follow-up on 131 referrals, out of which in 97 cases the recipient State agreed to the assistance delivery proposed by the donors and the Executive Directorate, also facilitated regional and thematic workshops and on a variety of topics, including the freezing of terrorists', regulation and investigation to prevent terrorism, protect the victims of terrorism and countering violent extremism.

32. It was also noted that the Executive Directorate continues to keep connected with senior judges, prosecutors and officers in South Asia, which aims to face challenges associated with criminal justice and it is also noted that Executive Directorate is encouraged to act as a facilitator of technical assistance delivery and to identify priority needs through ad hoc arrangements and to also to provide past and forecast future reports to facilitate implementation.

d. Special meetings and events

33. It is noted that at the conclusion of the meeting held on 28th September 2011, the Committee urged all Member States to ensure zero tolerance against terrorism and to combat terrorism in all its forms by adopting a document regarding the same. The Committee held a special meeting with international, regional and sub regional organizations in Strasbourg, France, in April 2011 which focused on the prevention of terrorism. After this, two other special meetings were organized at Headquarters on 20 November 2012 on preventing and suppressing the financing of terrorism the second one was held on 20th September 2013 at Headquarters on enhancing cooperation and technical assistance to States. The Committee held an open meeting on 21 November 2013 at which Mr. Tony Blair gave a presentation on countering violent extremism through education. It is emphasized that the Committee expressed its intention to continue the practice of organizing special meetings and events on themes and issues of common concern and interest to Member States with a view to combat terrorism and such special meetings are open to all the Member states.

34. The Executive Directorate briefed the Committee on regional and thematic issues to the implement the resolutions²⁶. These arrangements and discussions helped the Committee to raise awareness of its strategic and transparent approaches and to maintain its link to and dialogue with the wider membership. Analysis on key topics such as the use and abuse of new information and communications technologies, protecting the rights of victims of terrorism, challenges in the prosecution of terrorism, partnerships with non-governmental actors, protection of the tourism infrastructure, kidnapping for ransom, countering violent extremism and the crimes that fund terrorism was encouraged. The Executive Directorate established an internal task force to identify existing national and regional strategies on the basis of the country assessments

²⁶ Pursuant to paragraphs 14 and 15 of resolution 1963 (2010)

conducted by the committee since 2001²⁷. The Committee on several occasions recommended in its visit report regarding adoption of a national comprehensive and integrated strategy to the States based on the State's potential and with the consent of that state. It was emphasized that the human rights aspect has remained an integral part of the agenda for country visits according to the Committee's policy guidelines on human rights and the Executive Directorate has strengthened the integration of international human rights law into its technical assistance facilitation efforts by communicating between various Offices of the United Nations connected with human rights. It is also emphasized that the committee encourages its Executive Directorate to continue to ensure that all human rights issues to the implementation of resolutions 1373 (2001), 1624 (2005) and 1963 (2010) are addressed consistently.

35. It was noted that, in its resolution 1963 (2010), the Security Council encouraged the Executive Directorate to increase focus on the implementation of Security Council resolution 1624 (2005), including by developing strategies that include countering incitement of terrorist acts motivated by extremism and intolerance. Towards this end a series of regional workshops²⁸ were organized on the implementation of resolution 1624 (2005) which enabled participants to reflect upon the issues involved to promote greater dialogue among civilizations and the Executive Directorate continued to engage with States on their efforts to implement resolution 1624 (2005), to collect good practices in areas relating to the prohibition and prevention of incitement. An action plan was implemented in May 2013 to assist the Committee in respect of work on the resolution and focuses on implementation of the resolution by paying attention to the relevant issues to prevent terrorism.

36. It was also noted that the global survey for the implementation of resolution 1624 (2005) would assess the evolution of risks and threats, and which would identify the gaps in implementation was adopted by the Committee on 28 December 2011²⁹. A number of challenges to implementation were identified, including the difficulty of reconciling action against incitement with human rights principles, the increased need to tackle modern communications technologies and the need to prevent the subversion of educational, cultural and religious institutions. New, practical approaches to implementation were also identified, including safeguards to protect freedom of expression, enhancing dialogue at the community and national levels, listening more attentively to victims and rehabilitation programmes for prisoners and detainees.

37. The Report also emphasized upon the engagement within the framework of the counter-terrorism implementation task force and with other subsidiary bodies of the Security Council and United Nations entities. It is also noted that a compendium of international and regional instruments, norms and good practices to countering terrorism was produced and also led to awareness about issues related to the risk of financing through non-profit organizations and this initiative resulted in the introduction of public-private consultative mechanisms and the regular exchange of information, sharing of mission reports was also encouraged. It is also noted that the experts of the 1267/1989 Committee and, the 1540 Committee joined the Executive Directorate

²⁷ Based on 1963 (2010) Resolution

²⁸ Held in East Africa, in November 2011; in the Maghreb and Sahel regions, in July 2012; and in North Africa, in June 2013

²⁹ Based on direction given by the Security Council in its resolution 1963 (2010)

on country visits and that the Executive Directorate continued to link closely on issues of with the Department of Political Affairs, the resident coordinators of the United Nations, other Security Council sanctions regimes, the special envoys of the Secretary-General working on Africa, including the Sahel region, and on the prevention of genocide and the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime. It is emphasized that the Committee expresses its intention to consider pursuing the question of the possible co-location of the three experts groups for the completion of the capital master plan and the relocation of staff to Headquarters and the surrounding area.³⁰ And also encourages continue to explore, with other United Nations entities, for coordinating United Nations activities to counter terrorism.

38. It was also emphasized that International, regional and sub regional organizations continue to be key partners of the Committee to implement resolutions 1373 (2001), 1624 (2005) and 1963 (2010). Implementation includes promotion of international best practices, assessing States' implementation of the resolutions, identifying the challenges etc. The Executive Directorate continued to be an active participant in the meetings of the Global Counterterrorism Forum and its regional and thematic groups on the Sahel, the Horn of Africa, South-East Asia, criminal justice/rule of law and countering violent extremism. The Committee also encourages to interact with other entities, including the Global Counter Terrorism Forum, to promote the implementation of resolutions.

39. In order to ensure that the Executive Directorate responds effectively to counter-terrorism situation and to support the work of the Committee, the Committee encouraged its Executive Directorate to incorporate the following strategic and practical objectives into its work:

(a) To strengthen the role of the Executive Directorate in supporting the Committee to assess progress and shortfalls in Member States' implementation of resolutions 1373 (2001) and 1624 (2005);

(b) To reinforce the role of the Executive Directorate to develop appropriate responses to address Member States' technical assistance needs on a national or regional level, as required, including through dialogue with States, follow-up visits and regional and thematic workshops;

(c) To develop further the Executive Directorate's interaction with its partners, with a view to ensuring the effective delivery of the required assistance through regular briefings and communication with member states;

(d) To underline the importance of the Executive Directorate's work, in partnership with other stakeholders, to identify, develop and promote international counter-terrorism good practices;

(e) To intensify the Executive Directorate's efforts to prevent the spread of terrorism, including by:

(i) Strengthening its dialogue with Member States for the implementation of resolution 1624 (2005), including through the sharing of good practices by States;

³⁰ In regard to paragraph 16 of resolution 1963 (2010)

(ii) Developing strategic partnerships with international and regional organizations, civil society, academia and others in conducting research and sharing information in the area of countering violent extremism;

(f) To reinforce the role of the Executive Directorate to advise Member States and regional and sub regional organizations in the development of national and regional, comprehensive and integrated counter-terrorism strategies;

(g) To capitalize on the Executive Directorate's expertise in the provision of technical advice on the implementation of resolutions 1373 (2001), 1624 (2005) and 1963 (2010) by:

(i) Facilitating research in those areas of the three resolutions that require examination, including the analysis of terrorism-related trends and methodologies in global and regional settings;

(ii) Identifying new and evolving challenges to States' implementation of the three resolutions;

(iii) Designing global, regional and thematic capacity-building programmes and projects;

(h) To develop the Executive Directorate's global role in strategic communications on counter-terrorism, including by briefing the wider membership, engaging with global leaders and opinion-makers and reaching out to the media and other relevant stakeholders.

IV. Deliberations on the Comprehensive Convention on International Terrorism at the Sixth Committee of the United Nations General Assembly at its Sixty-Eighth Session

40. Pursuant to Assembly resolution 67/99 of 14 December 2012, the item entitled "Measures to eliminate international terrorism" was included in the provisional agenda of the sixty-eighth session of the General Assembly. At its 2nd plenary meeting, on 20 September 2013, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee. The Sixth Committee considered the item at its 2nd, 3rd, 4th, 5th, 19th and 28th meetings, on 7, 8, 9 and 30 October and on 8 November 2013. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/68/SR.2 -5, 19 and 28)

41. The Vice-Chairperson of the Ad Hoc Committee established by resolution 51/210 of 17 December 1996 introduced the report of the Ad Hoc Committee (A/68/37).

42. All the delegations reiterated their firm condemnation of terrorism in all its forms and manifestations, as well as their commitment to contribute to the international fight against terrorism. In that regard, it was underlined that no cause could justify terrorism and it was stressed that terrorism should not be associated with any religion, culture, ethnicity, race, nationality or civilization. Terrorism was described by delegations as a flagrant violation of international law and a grave threat to international peace and security. Further, it was noted that terrorist attacks affected all States, and that no population was immune. The negative effects of terrorist acts, including the erosion of law and order, the destabilization of structures of

governance and the negative impact on economic growth were also highlighted. It was also stated that any actions taken to counter-terrorism must accord with the Charter of the United Nations and international law, including human rights, humanitarian and refugee law, as well as the respect for the rule of law and due process.

43. States that had not yet done so were called upon to ratify or accede to the universal and regional instruments to counter terrorism. It was also expressed that the international legal regime to counter terrorism must continue to evolve in order to take account of the sophistication of the terrorist threat. Delegations supported the continued development of the overall normative framework to counter terrorism. The importance of implementing international obligations and building capacity at the national level was identified as a key aspect of strengthening the international legal framework to counter terrorism. Some delegations pointed to the need for a clear definition of terrorism and echoed the importance of distinguishing it from the exercise of the right to self-determination of peoples under foreign occupation, colonial or alien domination. In this connection, several delegations made reference to General Assembly resolution 46/51 of 9 December 1991.

44. While delegations noted that the international community had made significant achievements in the fight against international terrorism, it was also recognized, that more work was required given the persistence and complexity of the problem. In this regard, recent attacks, such as those in Nairobi, Kenya and in Peshawar, Pakistan, were deplored and it was suggested that such acts should motivate the Committee to make substantive progress in its consideration of the item.

45. The proliferation of small arms and light weapons, the persistence of conflicts, the effects of piracy and the lack of good governance were described as challenges that must be overcome to successfully counter terrorism. It was also asserted that safe havens for terrorists must be eradicated. At the same time, it was pointed out that the effort to counter terrorism should not be used as an excuse to intervene in the internal affairs of States in contravention of the Charter of the United Nations. Concern was also expressed over the unilateral imposition of sanctions as a means to counter terrorism.

46. The central role of the United Nations in counter-terrorism efforts was underscored and delegates reiterated their support for the United Nations Global Counter-Terrorism Strategy, calling for its full implementation in a transparent and comprehensive manner. It was also suggested that the fourth biennial review of the Strategy in 2014 could serve as an important opportunity to reinvigorate international efforts to counter terrorism.

47. Delegations also welcomed the efforts of the United Nations Counter-Terrorism Implementation Task Force (CTITF) and called for it to strengthen its role in capacity-building and coordination. The CTITF was encouraged to enhance its activities aimed at the balanced implementation of the four pillars of the Strategy, affording each pillar equal attention, and to do so in full cooperation with and with the participation of States. Some delegations also welcomed the work of the Counter Terrorism Committee (CTC) and the Counter-Terrorism Executive Directorate (CTED). Security Council resolution 1373 (2001) was recognized by delegations as a central instrument in the fight against international terrorism. Delegations called for continued

and coordinated efforts to combat international terrorism through these bodies. The role of the CTITF and CTED in identifying gaps in the counter-terrorism strategies of States was also welcomed. The I-ACT initiative was also referenced as an example of what could be achieved through coordinated multilateral action.

48. Some delegations also welcomed the continued work of the United Nations Centre for Counter-Terrorism to foster international cooperation and to strengthen the Organization's capacity-building efforts within the framework of the Strategy. The continuing focused work of the Security Council in countering terrorism, as well as the improvements made by the Council in the implementation of its sanctions regimes, was again generally welcomed. In this regard, references were made to the sanctions imposed against Al-Qaida, the Taliban and associated individuals and entities. Some delegations also highlighted the importance of the 1540 (2004) Committee in countering the threat of terrorists and other non-State actors from gaining access to nuclear, radiological and biological weapons, as well as their means of delivery.

49. The Council was also encouraged to continue to improve its working methods with regard to sanctions to ensure that its sanctions regimes were independent, fair and impartial; and that its decisions were transparent and taken in accordance with due process standards. The case law of international courts on the issue was also recognized. The strengthened role of the Ombudsperson, whose mandate was renewed in December 2012, was also supported.

Support was also expressed for the proposed creation of a United Nations Coordinator for Counter-Terrorism, which would enhance the coherence and coordination of United Nations counter-terrorism efforts.

50. Some speakers highlighted the role played by the United Nations Office on Drugs and Crime (UNODC), and in particular the Terrorism Prevention Branch, in capacity building, promoting the universal ratification of international counter-terrorism instruments and identifying best practices. Delegations also welcomed recent joint efforts on the part of CTED and UNODC to assist States in developing techniques to investigate and prosecute terrorist acts.

51. Delegations described the on-going efforts of the Global Counterterrorism Forum (GCTF) and emphasized the benefits of its flexible and informal format. Reference was also made to regional and sub-regional initiatives, such as the ASEAN Comprehensive Plan of Action on Counter Terrorism, the ASEAN Regional Forum on Counter-Terrorism, the SCO Regional Anti-Terrorism Structure, the OAS Inter-American Terrorism Task Force, as well as counter-terrorism initiatives of the CSTO and SAARC.

52. Several delegations stressed that the fight against terrorism should include proper support and protection for victims of terrorist attacks. Reference was made to the important role victims could play in countering violent extremism. In the same vein, the important work of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism was recalled.

53. Several delegations noted that long-term prevention was critical in the fight against terrorism, and should be pursued in parallel with short-term efforts to investigate, prosecute and

punish terrorism. Support was expressed for addressing the root causes of terrorism as part of a comprehensive counterterrorism strategy. In this regard, a number of conditions conducive to the emergence and spread of terrorism were highlighted, including poverty, unemployment, civil unrest and lack of education.

54. The need to address incitement of terrorism was also underlined by some delegations, as was the importance of countering the use of information and communication technologies to spread extremist ideology. The international community also identified the resulting threat of homegrown terrorism and self-radicalization among young persons as vital issues for consideration. Several delegations underscored the importance of inter-faith and inter-cultural dialogue and interaction. The view was expressed that such approaches would broaden mutual understanding, foster a culture of tolerance and reintegrate extremists into society.

55. Cyber-terrorism was also highlighted as a matter of international concern requiring concerted action and dialogue. Suicide attacks were identified as a persistent problem requiring continued attention and study. It was asserted that approaches taken thus far to eradicate such attacks had not been successful. Rape and other forms of sexual abuse were also referenced as instruments of terrorizing civilian populations in conflict zones that must be addressed.

56. A number of delegations also underlined the pernicious role that money laundering played in supporting terrorist activity. Several delegations reiterated that the payment of ransoms to terrorist groups constituted one of the main sources of the financing of terrorism and was a matter of grave concern for the international community. All Member States were urged to cooperate in banning the payment of ransoms to terrorist groups. Some delegations highlighted the importance of cooperating with international partners, including the Financial Action Task Force (FATF), in order to leverage expertise and technical assistance to prevent money laundering and the transmission of funds to terrorist actors; the new methodology of the FATF for assessing compliance, as well as the stronger emphasis on effective implementation rather than technical compliance, were also welcomed.

57. The collective need to interdict and prevent the proliferation of weapons of mass destruction was emphasized. Conversely, the regional spread of weapons from conflict zones was identified as a development that could increase terrorist activity.

58. Several delegations reiterated the importance of the conclusion of the draft comprehensive convention on international terrorism, noting the recent negotiations in the Ad Hoc Committee established by General Assembly Resolution 51/210 of 17 December 1996. A number of delegations stressed that the transnational aspects of terrorism called for a collective, international response, and that the adoption of a comprehensive international terrorism convention would contribute substantially to the strengthening of the international legal framework on terrorism. A number of delegations welcomed the efforts of the Ad Hoc Committee to resolve the outstanding issues relating to the draft comprehensive convention, noting that since 2000 the negotiations had focused on the question of a definition of terrorism.

59. While noting that the Ad Hoc Committee had agreed to suspend formal negotiations until 2014, several delegations encouraged Member States to use the pause to garner the requisite

political will to overcome the existing differences. Some delegations expressed frustration, however, that the negotiations remained at an impasse and that more progress had not been achieved in the Ad Hoc Committee. A number of delegations reiterated their support for the proposal made by the Coordinator at the 2007 session of the Ad Hoc Committee and considered that it constituted a viable compromise solution.

60. On the question of convening a high-level conference under the auspices of the United Nations, some delegations reiterated their support for the proposal, indicating that such a conference would serve as an important way forward. According to another view, discussions on the proper forum for work on outstanding issues should be secondary to efforts to garner the political will to resolve the substantive disagreements which remain. It was also stressed that the convening of a conference should not be linked to the conclusion of the draft convention.

61. In order to adapt the working methods of the Sixth Committee to new realities and priorities, it was suggested once more that the Committee should consider the agenda item of “Measures to eliminate international terrorism” on a biennial basis, alternating with the biennial review by the General Assembly of the United Nations Global Counter Terrorism Strategy.

Fourth Biennial Review of the United Nations Global Counter-Terrorism Strategy 12 -13 June 2014 New York, NY

62. UN member states gathered on 12-13 June 2014 for the fourth biennial review of the UN Global Counter - Terrorism Strategy³¹.

63. In the opening of the review, General Assembly Vice President Michel Monthe, speaking on behalf of John Ashe, President of the General Assembly, underscored the consensus it has represented since its adoption in 2006, noting that it “signifies universal condemnation of terrorist violence and provides guidance to member states through its four pillars” – addressing conditions conducive to terrorism’s spread; preventing and combating terrorism; building states’ capacities; and ensuring respect for human rights and the rule of law.

64. The review presented an opportunity for UN entities and member states to share information on their efforts to implement the measures outlined in the Strategy’s four pillars. The UN Counter - Terrorism Implementation Task Force (CTITF), for example, launched the UN Victims of Terrorism Support Portal and has created a matrix of all projects and activities being carried out by its 31 entities, a step that was welcomed by member states as it would enhance coordination and “allow resources to be allocated where most needed.” Member states echoed the calls for “balanced implementation of the Strategy” and emphasized the need for greater focus on prevention across all four pillars, with one member state emphasizing that “terrorism would be defeated only when the United Nations replaced a ‘culture of reaction’ with one of prevention, which considered the structural causes of exclusion and marginalization.” A number of states also raised concerns about increasing numbers of foreign fighters traveling abroad to join conflicts and then returning home, which could further destabilize “already fragile situations.” They called upon states and communities to create awareness about the negative

³¹ globalcenter.org/wp-content/uploads/2014/06/14June25_Strategy-Review-Highlights1.pdf

consequences of joining foreign conflicts, and “encouraging people to pursue alternative non-violent avenues to assist affected populations in those countries.”

65. The two - day review, which featured more than 60 speakers, ended with the adoption of General Assembly Resolution A/RES/68/276.

66. On the margins of the review, the Global Center organized and participated in a number of side events and meetings. On 10 June 2014, Alistair Millar, the Global Center’s Executive Director, participated as a panelist in a side event on Criminal Justice Systems –Counter - Terrorism Capacity Building,” hosted by the Government of Pakistan, the UN Counter - Terrorism Executive Directorate (CTED), and CTITF. Speakers discussed the roles and capacities of judges, prosecutors, and police in handling terrorism related cases as they grow more complex and involve multiple jurisdictions. Drawing on the Global Center’s work on criminal justice responses to terrorism in South Asia, Mr. Millar emphasized capacity shortfalls due to insufficient human capital and inadequate financial resources, as well as the inherent link between human rights and good governance in realizing stronger criminal justice institution, and called for multidimensional responses to counterterrorism that strengthen local and national capacities and support the rule of law.

67. On 11 June 2014 at the Permanent Mission of Norway, the Global Center launched the report “Blue Sky II: Progress and Opportunities in Implementing the UN Global Counter-Terrorism Strategy,” developed with generous support from the governments of Norway and Switzerland. Participants, including representatives from UN member states , welcomed the timely report and agreed that while a number of positive steps have been taken in the past two years to improve implementation of the Strategy, further steps could still be taken to strengthen the multilateral response, including by strengthening relationships with field offices and missions; further engaging civil society and key experts, including the private sector; and developing capacity - development initiatives in response to gaps identified by states and the UN, in particular through CTED’s mandated analytical function.

Action taken by the Sixth Committee

68. At the 19th meeting, on 30 October, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled “Measures to eliminate international terrorism” (A/C.6/68/L.13), which was adopted on 8 November by the Committee without a vote.

69. Under the terms of the draft resolution, the General Assembly would, *inter alia*, decide, taking into account the recommendation of the Ad Hoc Committee that more time was required to achieve substantive progress on the outstanding issues, to recommend that the Sixth Committee, at the sixty-ninth session of the General Assembly, establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussions on the item included in its agenda by Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations. It would also encourage all Member States to redouble their efforts during the inter-sessional period towards resolving any outstanding issues.

V. Consideration at the Sixty-Eighth Session of the United Nations General Assembly

70. At the 68th Session of the UNGA, the General Assembly Considered the Report of the Secretary General to the Assembly on “Measures to Eliminate International Terrorism”³². In his report, the Secretary General discussed the information he received from States and from international organizations on the measures adopted to combat terrorism. Further, the current status of international instruments relating to suppression of terrorism was also discussed. The Assembly also took into consideration regional and subregional efforts to prevent combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of and adherence to regional conventions.

71. The Assembly also recalled its earlier Resolutions³³ that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, the Assembly also recalled the Final Document of the Sixteenth Conference of Heads of State or Government of Non-Aligned Countries, adopted in Tehran on 31 August 2012³⁴, the Heads of State or Government reiterated the collective position of the Movement of Non-Aligned Countries on terrorism and reaffirmed its previous initiative calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations³⁵, as well as other relevant initiatives. The Assembly also considered the report of the Secretary General on “Technical assistance for implementing the international conventions and protocols related to terrorism” and on “Measures to prevent terrorists from acquiring weapons of mass destruction.”³⁶

72. On 18 December 2013, the General Assembly adopted resolution 68/119 entitled “measures to eliminate international terrorism”³⁷. The Assembly reaffirmed its commitment to Global Counter Terrorism Strategy (adopted in 2006) and its previous declarations on the subject. Affirming the need to develop combating measures in conformity with international law, particularly humanitarian and refugee laws, the need for international cooperation, both among States and international organizations was stressed. The resolution called upon States to implement the Strategy and also enhance the implementation of the relevant legal instruments and to intensify the exchange of facts relating to terrorism.

73. It was further decided by the Assembly that the Ad Hoc Committee established by General Assembly resolution 51/210 shall, taking into account the recommendation of the Ad

³² A/68/180 (23 July 2013)

³³ 54/110 of 9 December 1999, 55/158 of 12 December 2000, 56/88 of 12 December 2001, 57/27 of 19 November 2002, 58/81 of 9 December 2003, 59/46 of 2 December 2004, 60/43 of 8 December 2005, 61/40 of 4 December 2006, 62/71 of 6 December 2007, 63/129 of 11 December 2008, 64/118 of 16 December 2009, 65/34 of 6 December 2010, 66/105 of 9 December 2011 and 67/99 of 14 December 2012

³⁴ A/67/506-S/2012/752, annex I, paras. 225 and 226

³⁵ A/53/667-S/1998/1071, annex I, para. 161

³⁶ A/68/41 (5 December 2013)

³⁷ A/68/119 (18 December 2013)

Hoc Committee that more time was required to achieve substantive progress on the outstanding issues,³⁸ to recommend that the Sixth Committee, at the sixty-ninth session of the General Assembly, establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussions on the item included in its agenda by Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations. The Assembly also decided to include in the provisional agenda of its sixty-ninth session the item entitled “Measures to eliminate international terrorism”

VI. Comments and Observations of the AALCO Secretariat

74. The incidents of international terrorism in the past one year have unfortunately increased manifold, encompassing many different countries across continents. The breadth and depth of terrorism has increased. Prior to September 11, there were only 38 countries that had deaths from terrorism, today that has increased to 58³⁹. Terrorist tactics continue to evolve as they seek sophisticated means of attack, including chemical, biological, radiological and explosive weapons, and cyber attacks. Threats may come from abroad or may be homegrown.

75. Terrorist activities, irrespective of whether they are committed by individuals, groups, non-State entities or in any other entity, pose a threat to both international peace and security and to human life and the dignity of human beings. Terrorism needs to be checked by all possible means. Any attempts to link or justify terrorism to any particular religion, race, culture or ethnic origin must be discouraged and rejected.

76. While evolving measures to counter international terrorism, it is essential that they are in conformity with international law, the UN Charter, human rights law, humanitarian law and refugee law. In this context, it is also important to note that counter terrorism initiatives cannot be permitted to be used as a pretext for interfering in the domestic affairs and such measures must respect the sovereignty and territorial integrity of States.

77. The United Nations has an indispensable role to play in any action against terrorism as the cooperation of the international community is vital to win the fight against terrorism. Being a vital issue of global relevance since no State is immune from the effects of terrorism, greater cooperation and coordination amongst all the UN Member States is essential to combat the threat. In this direction, Member States of AALCO may consider ratifying/acceding to the existing international counter terrorism conventions, including the 1997 International Convention for the Suppression of Terrorist Bombings; 1999 International Convention for the Suppression of the Financing of Terrorism; and 2005 International Convention for the Suppression of Acts of Nuclear Terrorism. The report of the CTED on the implementation of resolution 1624 (2005) of the Security Council highlights the areas on which attention needs to be bestowed and Member States may adopt measures towards that end. Apart from this, national implementation and enforcement mechanisms, including legislations are crucial in the fight against terrorism. Further, mutual legal assistance in counter-terrorism and criminal matters are of much

³⁸ Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 37 (A/68/37), para. 12

³⁹ As reported in the Institute for Economics and Peace, “Global Peace Index for 2014”, Aljazeera, Report updated 18 June 2014, at 10.49 PM

significance. The new tool, prepared by the CTED, for assessing implementation of Security Council Resolutions 1373 (2001) and 1624 (2005) can also be made use of by AALCO Member States to make an assessment of the status of these resolutions.

78. Few words are weighed down by so much uncertainty, subjectivity and disagreement as ‘terrorism’. The ordinary meaning of ‘terrorism’ is instantly suggestive and sensitive, referring to extreme fear, or intense fright or dread. By itself, a literal meaning is not particularly helpful in defining terrorism as a legal term, since many forms of violence, from mugging to warfare, can cause terror. Despite the shifting and contested meanings of ‘terrorism’ over time, its peculiar semantic power is its capacity to denigrate and dehumanise those at whom it is directed. In light of the kaleidoscopic uses of the term, it is fallacious to pragmatically assert that terrorism is recognizable without difficulty, or to intuitively claim that ‘what looks, smells and kills like terrorism is terrorism’. Disagreement about terrorism runs much deeper than technical disputes about drafting; it reflects doctrinal, ideological and jurisprudential arguments about who is entitled to exercise violence, against whom, and for what purposes.⁴⁰

79. A combination of pragmatic and principled arguments supports the case for defining terrorism in international law. The resilience of the term terrorism testifies not only to its political utility, but also to its popular symbolic character. If criminal law is designed to protect social values, express popular repugnance at unjustifiable violence, and stigmatize immoral conduct, the term terrorism serves as a symbolic draw-card embodying many such judgments. The practice of States, evidenced through UN organs and other international organizations, provides a number of grounds for defining and criminalizing terrorism. While there are conceptual problems with each of these arguments, on the whole they provide coherent and principled reasons for defining terrorism, in order to protect vital international community values and interests.⁴¹

80. As a result of negotiations spanning over more than a decade under the auspices of the United Nations, the international community has managed to increasingly come closer to adopting a comprehensive convention on terrorism. Arriving at a consensus on the definition of terrorism is in itself a major task. Though a number of versions and multiple concerns are being voiced, there appears to be growing consensus on a universally acceptable definition. The definition needs to take in to account the factors that lead to terrorism and must confirm to international law that protects basic human rights and fundamental freedoms. Framing of such a definition can be possible with the help of both the experts in the field and Member States. The proposal made by the coordinator of the Ad Hoc Committee on International Terrorism in 2007 as refined in 2010 has so far not met with any open objection from the delegations. However, despite praise for the 2007 Proposal as a finely balanced compromise, there has continued to be some rumbles of discontent about the nature of the compromise leading to a stalling of negotiation. This problem needs to be overcome at the earliest in order for progress to be made in the work on the comprehensive terrorism convention.

81. Another important unresolved issue is the proposal made by some States to include acts of armed forces of the state within the definition of terrorism and the opposition of many States

⁴⁰ Greenstock, J (2001), “Statement to the UNSC” as cited in Saul, Ben (2008), “Defining Terrorism to Protect Human Rights” Legal Studies research Paper No. 08/125, Sydney law School.

⁴¹ *Ibid.*

to such inclusion. The draft Convention in more than one way reaffirm the application of IHL to military activities and there exists certain rules of IHL that prohibit acts that are similar to that mentioned in the Draft Convention. The extent to which the rules of IHL and the acts covered by the Draft Convention are in synergy is a matter that needs examination. If it is found that there is in fact such a synergy, then further reasons would be required for the inclusion of the acts of armed forces within the ambit of the Draft Convention – such as ineffectiveness of the rules of IHL or that the Draft Convention presents better prospects of implementation. A study on how far does IHL prohibit (or deal with) those acts that fall within the ambit of the draft convention and the extent of synergy between these rules would assist the Member States in formulating their position with respect to this issue.

82. Member States are encouraged to clarify their position and concerns regarding the proposal so as to enable its consideration and to propose any alternate language. AALCO Member States can contribute more usefully by working together in the on-going negotiations on the “Draft Comprehensive Convention on International Terrorism”, particularly as regards finding an acceptable definition of “terrorism”. It needs to be noted that the Ad Hoc Committee would not meet in 2014.

83. The AALCO Secretariat could explore the possibility of jointly convening a seminar or joint programme with other international organizations, especially the United Nations Office on Drugs and Crimes (UNODC), or Member States of AALCO on dealing with the legal aspects of combating terrorism.

VII. ANNEX

SECRETARIAT'S DRAFT
AALCO/RES/DFT/53/S 7
18 SEPTEMBER 2014

INTERNATIONAL TERRORISM (Deliberated)

The Asian-African Legal Consultative Organization at its Fifty-Third Session,

Having Considered the Secretariat Document No. AALCO/53/TEHRAN/2014/S 7;

Recalling the relevant international instruments, where applicable, and resolutions of the United Nations General Assembly and the Security Council relating to measures to eliminate international terrorism and the efforts to prevent, combat and eliminate terrorism;

Taking note of the ongoing negotiations in the Ad Hoc Committee established by the General Assembly of the United Nations by its resolution 51/210 of 17 December 1996 to elaborate a Comprehensive Convention on International Terrorism based on the proposal made by the Republic of India;

Expressing grave concern about the worldwide increase in acts of terrorism, which threaten the life and security of innocent people and impede the economic development of the concerned States;

Recognizing the need for the international community to collectively combat terrorism in all its forms and manifestations;

Reaffirming that international effort to eliminate terrorism must be strengthened in accordance with the Charter of the United Nations and taking into account international human rights law, international humanitarian law, and refugee law;

Calling for an early conclusion and the adoption of a comprehensive convention on international terrorism by expediting the elaboration of a universally acceptable definition of terrorism:

1. **Encourages** Member States to consider ratifying/acceding to the relevant conventions on terrorism.
2. **Also encourages** Member States to participate in the work of the above mentioned Ad Hoc Committee on International Terrorism.
3. **Directs** the Secretariat to follow and report on the progress of work in the Ad Hoc Committee on International Terrorism.

4. **Also directs** the Secretariat to obtain national legislation or information on national legislation, as the case may be, on combating terrorism to facilitate exchange of information among Member States.
6. **Requests** the Secretary-General to hold seminars and joint programmes in cooperation with other international organizations, especially United Nations Office on Drugs and Crime, on dealing with the legal aspects of combating terrorism, and
7. **Decides** to place the item on the provisional agenda of its Fifty-Fourth Annual Session.