

For Official use only

ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



INTERNATIONAL TERRORISM

Prepared by:

**The AALCO Secretariat
E-66, Vasant Marg, Vasant Vihar
New Delhi– 110057
(INDIA)**

CONTENTS

	Page No.
I. Introduction	1
II. Salient Features of the Draft Convention Circulated by India	2
III. Discussion on the Draft Comprehensive Convention on International Terrorism at the Ninth Session of the Ad Hoc Committee	3
IV. Report of the Coordinator on the Results of the Informal Consultations on a Draft Comprehensive Convention on International Terrorism, Held From 25 to 29 July 2005	5
V. Deliberations on the Comprehensive Convention Against Terrorism at the Sixth Committee of UN General Assembly at its 60th Session (2005)	7
VI. Counter Terrorism Committee	12
VII. United Nations General Assembly adopts the International Convention for the Suppression of Acts of Nuclear Terrorism	14
VIII. Deliberations at the Forty-Fourth Session of AALCO held at Nairobi, Kenya (27 June-1 July 2005)	14
IX. General Comments	15

INTERNATIONAL TERRORISM

I. Introduction

1. Issues concerning international terrorism have been on the agenda of the General Assembly of the United Nations and various other international organizations for over three decades. During this period several instruments were adopted addressing certain specific acts of terrorism, which are also known as sectoral conventions.¹ However, the adoption of the historic Declaration on “Measures to Eliminate International Terrorism” by the General Assembly at its 49th Session on 9th December 1994² gave impetus to the active consideration of the issues involved.

2. At its 51st Session, the General Assembly adopted a Supplement to its 1994 Declaration and established an Ad Hoc Committee³ with a mandate to elaborate an international convention for the suppression of terrorist bombings and another one on suppression of acts of nuclear terrorism.

3. Following that mandate, the Ad Hoc Committee met twice during the year 1997 and completed its work on the International Convention for the Suppression of Terrorist

¹. 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). 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 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; done at Rome on 10 March 1988 (entered into force on 1 March 1992). 9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf; done at Rome on 10 March 1988 (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) and International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the UN General Assembly on 13 April 2005.

². A/RES/49/60

³. A/RES/51/210

Bombings, which later was adopted by the General Assembly at its 52nd Session on 15 December 1997⁴.

4. The matters concerning elaboration of an International Convention for the Suppression of Acts of Nuclear Terrorism have been discussed extensively in the subsequent meetings of the Ad Hoc Committee and its Working Group. The UN General Assembly adopted the Convention on 13 April 2005.

5. In the meantime, at its 53rd Session, the General Assembly initiated consideration of a draft Convention for the Suppression of Financing of Terrorism taking as a basis for discussion the draft text submitted by the delegation of France to the Sixth Committee. The Convention was adopted by the General Assembly on 9th December 1999⁵.

6. At that Session, the General Assembly decided that the negotiations on the draft of a 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 would also 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. Further meetings of the Working Group were held from 12 to 23 February 2001 and 15 to 26 October 2001.

7. During the deliberation on the draft Comprehensive Convention, consensus has emerged on certain issues notwithstanding differences of opinion on some crucial matters. Accordingly, subsequent discussions were focused on the outstanding issues to arrive at a common understanding on these issues.

II. Salient Features of the Draft Comprehensive Convention on international Terrorism Circulated by India

- a. The Preamble recognizes the responsibility of States for suppressing acts of international terrorism including those which are committed or supported by States, directly or indirectly.
- b. Article 2 defines the scope of the Convention. Under the Convention, a person commits an offence, if that person by any means, unlawfully and intentionally causes death or serious bodily injury or serious damage to property including State or infrastructure facilities, public transportation system or infrastructure facilities, when the purpose of such act is to intimidate a population, or to compel a government or an international organization to do or abstain from doing any act.

⁴. A/RES/52/164

⁵. A/RES/54/109

The offences covered by the draft Convention are not covered in any other Convention. The definition is comprehensive as it covers “any means” used in the commission of a terrorist offence. The expression “any means” would thus cover the entire range of devices or substances which could be used for committing terrorism. The definition also contains a threshold which separates a terrorist offence from a common street crime.

- c. Article 2 (3) of the draft Convention includes the principle of command responsibility which was already accepted by International Convention for the Suppression of Terrorist Bombing.
- d. Article 5 is the political exception clause under which the offences covered in the draft Convention can under no circumstances be justified by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature
- e. Article 7 lays down the duty on States to refuse grant of asylum to those involved in the commission of offences covered by the Convention.
- f. The responsibility of Contracting States to ensure that their respective territories are not used for the establishment of terrorist installations and training camps is reflected in Article 8. Under this Article the States are required to take effective measures to prohibit:
 - i) Establishment and operation of installations and training camps for commission, within or outside their territories, of offences covered by the draft Convention; and
 - ii) Illegal activities of persons, groups and organizations that encourage, organize, knowingly finance or engage in the commission of offences covered by the draft Convention.
- g. Article 14 reinforces political exception clause and states that extradition and mutual legal assistance may not be refused solely on the grounds that it concerns a political offence or an offence inspired by political motives.
- h. The draft Convention also lays down the duty to prosecute or extradite the fugitive offenders.

III. Discussion on the Draft Comprehensive Convention on International Terrorism at the Ninth Session of the Ad Hoc Committee

8. The Ninth Session of the Ad Hoc Committee established by General Assembly Resolution 51/210 of 17 December 1996 was convened in accordance with paragraph 19 of General Assembly Resolution 59/46 of 2 December 2004. The Committee met at Headquarters from 28 March to 1 April 2005. At the 35th meeting, the Ad Hoc Committee, bearing in mind General Assembly Resolution 59/46 of 2 December 2004,

decided to recommend that the Sixth Committee, at the Sixtieth Session of the Assembly, establish a working group with a view to finalizing the draft Comprehensive Convention on International Terrorism and keep in 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 against terrorism in all its forms and manifestations.

9. At the plenary meeting held on 28 March 2005, delegations expressed their support for the early adoption by consensus of a comprehensive convention against terrorism. Some delegations stressed the importance of establishing a comprehensive international legal framework for the fight against terrorism, and of filling the lacunae in the existing counter-terrorism regime. In this regard, concern was expressed over the lack of progress in the negotiation of the Comprehensive Convention.

10. Some delegations pointed out that the Comprehensive Convention should bring added value to the existing sectoral conventions, while at the same time preserving their *acquis*. In order to achieve that goal, the Ad Hoc Committee was urged to clarify the relationship between the draft Comprehensive Convention and the sectoral conventions.

11. With respect to the main outstanding issues, some delegations expressed their support for draft Articles 2, 2 bis and 18, as prepared by the Coordinator.⁶ A point was also made that the concerns of all delegations, including those articulated by the States members of the Organization of the Islamic Conference, should be taken into account.

12. Some delegations stressed the importance of arriving at a clear and precise legal definition of terrorism. Reference was made to the elements of the definition suggested in the Report of the High-level Panel on Threats, Challenges and Change (A/59/565) and in the Report of the Secretary-General (A/59/2005), as well as in Security Council Resolution 1566 (2004) of 8 October 2004. Some delegations characterized the proposed elements as encouraging and constituting a good basis for further in-depth discussions with a view to arriving at a consensus definition. It was pointed out that the definition of terrorism offered in the Report of the High-level Panel took into consideration the relevant provisions of paragraph 3 of Resolution 1566 (2004). That definition also took into account the definitions of terrorist acts contained in the existing counter-terrorism instruments, where such acts were defined according to their objective and purpose.

13. In order to reach an agreement on a universal definition of terrorism, a strong preference was expressed for focusing on the purpose and objective of terrorist acts rather than on the description of perpetrators. The view was expressed that acts of terrorism differed from other crimes because of their intention, in particular, to provoke and keep a state of terror in the general public or to compel a government or an international organization to do or abstain from doing any act. Some delegations were of the view that the existing draft Article 2 fulfilled the purpose of such a broad definition. The point was also made that an agreed definition of terrorism would be possible only as an outcome of

⁶. For the texts, see *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* and corrigendum (A/57/37 and Corr.1), annexes II and IV.

a process where the general membership of the United Nations was fully involved in its formulation.

14. Other delegations reiterated that a legal definition of terrorism must make an unequivocal distinction between acts of terrorism and the legitimate struggle of peoples for self-determination. In this connection, it was observed that the Charter of the United Nations, relevant Resolutions of the General Assembly and the Security Council, international instruments on human rights, the jurisprudence of the International Court of Justice, as well as the relevant practices by the organs and members of the organization confirmed the legally binding character of the right to self-determination. According to that view, the fight against terrorism should not undermine the right to self-determination or lead to violation of human rights.

15. While some delegations were in favour of reflecting in the draft Convention the concept of “State terrorism”, a point was made that, in the light of the view expressed in the Report of the Secretary-General (A/59/2005), debates on “State terrorism” should be set aside.

16. The view was expressed that no exception should be provided for acts of military forces that were not in conformity with the Charter of the United Nations and international law. Furthermore, the point was made that activities of armed forces that were not covered by international humanitarian law should not be excluded from the scope of the comprehensive convention.

IV. Report of the Coordinator on the Results of the Informal Consultations on the Draft Comprehensive Convention on International Terrorism, Held From 25 to 29 July 2005⁷

17. Pursuant to a request made by interested delegations, the Chairman of the Sixth Committee convened informal consultations to address the outstanding issues relating to the draft comprehensive convention on international terrorism. The Vice Chairman of the Sixth Committee Carlos Fernando Díaz Paniagua (Costa Rica), as coordinator for the convention, chaired the consultations, open to all delegations, from 25 to 29 July 2005. He also held informal contacts with interested delegations and discussed the following issues during that period.

a. Preamble

18. Following bilateral consultations, at the second meeting, the Coordinator suggested the addition of a paragraph based on operative paragraph 15 of General Assembly resolution 46/51 of 9 December 1991, to the preamble. Delegations welcomed the new text as a basis for further discussions. It was pointed out that, while the language was based on previously agreed texts, it should be re-examined in light of its proposed inclusion in a legally binding instrument. It was also suggested to redraft the text as a positive restatement of the right to self-determination, instead of as a saving clause.

⁷. A/59/894

Several delegations indicated their preference for using new language in the preamble to facilitate a consensus on the convention and, in particular, on article 18 as proposed by the previous coordinator. Other delegations, while welcoming the gist of the proposed preambular paragraph, were of the view that such an important provision should rather be included in the operative part of the draft convention.

19. On the last day of the consultations, 29 July 2005, after further bilateral contacts and taking fully into account the comments made during the informal consultations, The Coordinator suggested the following revised text for the preamble:

“Reaffirming that, in accordance with the Charter of the United Nations, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, all peoples have the right to self-determination, freedom and independence; and that those peoples that have been forcibly deprived of its exercise have the right to struggle to that end, in conformity with the relevant principles of the Charter and of the above-mentioned Declaration.”

b. Article 18

20. During our third meeting, the delegation of Jordan made the following suggestion for paragraph 2 of article 18:

“Except for an offence under article 2, paragraph 1 (a), of this Convention committed against a protected civilian to which this Convention shall be applicable, the activities 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.”

21. The delegation of Jordan explained that its text sought to resolve the outstanding issues relating to article 18 of the Convention. It was stressed that this proposal would reflect the general consensus that attacks against civilians should be considered terrorist offences under any circumstance. It also further reflects the current stage of development of international humanitarian law regarding the actions of non-State actors during armed conflict. In its view, the proposed text would also create a clear delimitation between acts governed by international humanitarian law and acts covered by the comprehensive convention.

22. Some delegations welcomed the focus of the text proposed by Jordan. Other delegations expressed their strong preference not to change the text of article 18 as proposed by the former coordinator and indicated their willingness to consider additional language in the preamble.

c. Consolidated text

23. Several delegations noted that the lack of a consolidated text of the Convention created practical difficulties for decision making. They recalled that the introduction of a consolidated text, in the context of the negotiations on the International Convention for the Suppression of Acts of Nuclear Terrorism, had proved to be constructive.

Consequently, in order to facilitate future negotiations, the Coordinator prepared a draft consolidated text of the whole Comprehensive Convention on International Terrorism.⁸

V. Deliberations on the Comprehensive Convention on International Terrorism at the Sixth Committee of UN General Assembly at its 60th Session (2005)⁹

24. The Sixth Committee at its first meeting on 3 October 2005 established as Working a Group with a view to finalizing the draft Comprehensive Convention on International Terrorism and elects Mr. Rohan Perera (Sri Lanka) as Chairman of the Working Group. The Working Group held three plenary meetings.

25. The Working Group held three plenary meetings. It had before it the reports of the Ad Hoc Committee on its sixth¹⁰ and ninth¹¹ sessions as well as the reports of the Working Group of the Sixth Committee convened during the fifty-third¹² and the fifty-fifth to fifty-ninth¹³ sessions of the General Assembly. It also had before it (a) the letter dated 3 August 2005 from the Chairman of the Sixth Committee addressed to the President of the General Assembly¹⁴, containing the report of the Coordinator on the results of the informal consultations on the draft Comprehensive Convention on International Terrorism, held from 25 to 29 July 2005; (b) the letter dated 1 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General¹⁵; (c) the letter dated 30 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Chairman of the Sixth Committee¹⁶; and (d) the letter dated 5 October 2005 from the Chairman of the Organization of the Islamic Conferences addressed to the Chairman of the Sixth Committee.¹⁷

26. The Chairman of the Working Group held discussions in informal consultations. The Chairman, together with the Friends of the Chairman, also held wide-ranging bilateral contacts with interested delegations from 11 to 13 October. Discussions focused on the outstanding issues concerning the draft Comprehensive Convention on International Terrorism and on 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 focus of the consultations was on a proposal regarding the preamble, the outstanding proposals regarding article 18 and the proposal made by Cuba to article 2, paragraph 4.

⁸. For the draft consolidated text, see, A/59/894.

⁹. A/c.6/60/L.6

¹⁰. Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37 (A/57/37 and Corr.1).

¹¹. Ibid., Sixtieth Session, Supplement No. 37 (A/60/37).

¹². A/C.6/53/L.4.

¹³. A/C.6/55/L.2, A/C.6/56/L.9, A/C.6/57/L.9, A/C.6/58/L.10 and A/C.6/59/L.10.

¹⁴. A/59/894

¹⁵. A/60/329

¹⁶. A/C.6/60/2

¹⁷. A/C.6/60/3

a. New preambular paragraph

27. In introducing a non-paper for discussion on a new preambular paragraph, the Chairman indicated that it had emerged from the informal consultations, in the context of the Sixth Committee, held from 25 to 29 July 2005. The new preambular paragraph read as follows:

“Reaffirming that in accordance with the Charter of the United Nations, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, all peoples have the right to self-determination, freedom and independence, and that those peoples that have been forcibly deprived of its exercise have the right to struggle to that end, in conformity with the relevant principles of the Charter and of the above-mentioned Declaration,”

28. While some delegations saw no difficulty in reaffirming the right to self-determination in a preambular paragraph, they stated that such a paragraph should be seen as part of a package, which should include the former Coordinator’s text of draft article 18, without any change. Some other delegations, while welcoming the idea of reaffirming the right to self-determination in the preamble, observed that such an approach did not add any value and would not address their concerns relating to draft article 18. It was stressed that the debate should focus on the outstanding issues which should be resolved in the context of that draft article and in that regard they reiterated their support for the text proposed by the Organization of the Islamic Conference (OIC) for draft article 18.

29. Other delegations suggested moving it to the operative part of the draft convention. Several delegations pointed out that while the right to self-determination existed under international law, any formulation in the draft convention in that regard should refrain from creating new rights. It was suggested that a shorter preambular paragraph could limit itself to “*reaffirming the right to self-determination of peoples in accordance with the Charter of the United Nations and the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*”.

30. Some other delegations stressed the need to reflect properly the distinction between internal and external self-determination in the proposal. Furthermore, concern was also expressed that the reference to “all peoples” was too broad and that the word “all” should be replaced by “those”. It was also suggested that the proposal should refer to General Assembly resolution 1514 (XV).¹⁸ Some other delegations expressed concern over the reference to the right to struggle in the exercise of the right to self-determination in that it

¹⁸. “Declaration on the Granting of Independence to Colonial Countries and Peoples”, adopted by General Assembly resolution 1514 (XV) of 14 December 1960

might be construed as condoning certain terrorist acts. In response, however, it was pointed out that the right to self-determination was intertwined with the right to exercise it and that, therefore, the latter element was relevant to the discussion.

b. Draft article 18

31. Some delegations stressed that a solution to draft article 18 was crucial to resolving outstanding issues concerning the draft convention. Delegations reiterated their positions with regard to the text circulated by the former Coordinator and the text proposed by OIC, respectively. These texts read as follows:

Text circulated by the Coordinator for discussion.

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.

Text proposed by the Member States of the Organization of the Islamic Conference.

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 the parties during an armed conflict, including in situations of foreign occupation, 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 in conformity with 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.

32. Delegations expressing support for the text circulated by the former Coordinator pointed out that it was a compromise text which represented significant concessions. In particular, reference was made to the fact that the word “peoples” had been included in paragraph 1, to recognize the right to self-determination. Some other delegations reiterated their support for the OIC proposal and stressed that it constituted a compromise

text which intended to create a balance between the different parties to an armed conflict and to properly distinguish activities in time of war and in time of peace.

33. Some delegations expressed concern that the term “parties” used in the OIC text was ambiguous and would exclude a broad range of non-State actors from the scope of the draft convention. Such broad exemption carved out the possibility for providing a legal basis for certain terrorist acts, such as suicide bombings. Some other delegations observed that the term “parties” was already used and recognized as such in the Geneva Conventions, in particular, in Additional Protocol I of 1977. Accordingly, it was suggested that, if necessary, the term “parties” could be defined in the draft convention. It was also emphasized that armed forces should not be given preferential treatment as compared with other subjects whose activities during armed conflict are governed by international humanitarian law. Furthermore, these delegations also clarified that the OIC text did not exempt, and should not be interpreted as exempting acts targeting civilians from the scope of the draft convention, including suicide bombings.

34. With regard to the reference to foreign occupation in the OIC text, it was observed that, pursuant to article 1, paragraph 4, of the 1977 Additional Protocol I to the Geneva Conventions of 12 August 1949, acts of armed forces during an armed conflict included situations of foreign occupation and that, therefore, such reference in the OIC text was superfluous. On the other hand, some delegations noted that since situations of foreign occupation were already governed by international humanitarian law, the OIC text presented the correct legal position. In that regard, it was suggested to clearly demarcate the two situations, namely situations in which the convention would apply and in which international humanitarian law would apply.

35. In response to a concern that the former Coordinator’s text would exclude all activities of armed forces from the draft convention, it was clarified that only those activities already governed by international humanitarian law were exempted. In an effort to bridge the difference between the two positions, a suggestion was also made to delete paragraphs 2 and 3 entirely. Some delegations expressed willingness to reach agreement either by replacing particular paragraphs of draft article 18 or by adding additional paragraphs to clarify further the relationship between the present draft convention and international humanitarian law.

c. Proposal relating to draft article 2, paragraph 4

36. With respect to the proposal by Cuba for the inclusion of a new paragraph 4 (d) in draft article 2, the sponsor delegation noted that it was intended to cover acts by those in a position of control of the armed forces of a State. It was important for the international community to stress that such persons did not have a blank cheque to commit terrorist acts. The text, read as follows:

“Being in a position to control or direct effectively the actions of troops belonging to the armed forces of the State, orders, permits, or actively participates in the planning, preparation, initiation or execution of any of the offences set forth in paragraphs 1, 2 or 3

of the present article, in a manner incompatible with international law, including the Charter of the United Nations.”

37. Some delegations expressed their support for the proposal, noting that it would fill a gap in the current text of draft article 2. Some other delegations indicated that they had difficulty with the inclusion of the new paragraph 4 (d) as proposed by Cuba. In the first place, the proposal was already covered by the provisions of the draft articles 2 and 18, paragraph 4. Moreover, according to the delegations the provision seemed to go in the direction of establishing a concept of State criminality, and covered issues already regulated by other fields of international law, including international humanitarian law. It was further pointed out that, as drafted, the proposal created an ambiguity by specifying that it applied to terrorist offences perpetrated “in a manner inconsistent with international law”, thereby conveying the impression that certain offences covered under the convention would not otherwise be inconsistent with international law. In reply, the sponsor delegation explained that its proposal was not aimed at criminalizing acts of States, but those of individuals who were in charge of armed forces of States. Several delegations expressed reservations regarding the possibility of reopening the consideration of draft article 2.

d. Question of the convening of a high-level conference

38. The Working Group considered the question of the convening of 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, as mandated by the General Assembly in resolution 59/46, against the background of the proposal for the convening of a special session of the General Assembly to examine and adopt an action plan for cooperation against terrorism at its 2nd meeting, on 12 October 2005.

39. Some delegations expressed support for the proposal. The working paper submitted by Egypt was considered to be a good basis for discussion. The view was expressed that the convening of such a conference was timely, as it was called for in the 2005 World Summit Outcome. Concerning the mandate of the conference, a number of additional ideas were offered, including on the need for a definition of terrorism in all its forms and manifestations, the importance of implementing existing international agreements against international terrorism, and the need to tackle other crimes that were linked with terrorism, such as drug trafficking and money-laundering. Some other delegations, on the other hand, expressed their doubts about the convening of such a conference and sought clarifications on its timing, agenda and outcome. It was further observed that the convening of the proposed conference should be addressed after the completion of the work on the draft comprehensive convention.

40. In response to the queries, the sponsor delegation, Egypt stated that it had originally proposed the convening of a high-level conference, but considering the recent developments his delegation was inclined to opt for the convening of a high-level special session of the General Assembly since it was a more practical way of addressing the matter. Concerning the timing, the sponsor delegation agreed that priority should be

given to the finalization of the draft comprehensive convention. However, there should not be a linkage between the conclusion of the draft comprehensive convention and the convening of such a conference. Nevertheless, the preparatory work on the conference could start alongside such negotiations.

VI. Counter Terrorism Committee

41. The United Nations Security Council created the Counter Terrorism Committee (CTC)¹⁹, to monitor implementation of its antiterrorism mandates and it is made up of all 15 members of the Security Council. The Committee monitors the implementation of resolution 1373 (2001) by all States and tries to increase the capability of States to fight terrorism. The CTC is charged with ensuring every state's compliance with Council requirements to halt terrorist activity, and with identifying weaknesses in state's capabilities to do so. For states with deficiencies in legislation, funds, or personnel, the CTC is supposed to help them remedy their deficiencies and upgrade their capacity. However, where the Committee concludes the deficiencies are in political will, it will leave it to the Security Council to decide what measures to take to bring such determinedly noncompliant states into compliance with the 1373 mandates.

a. Reports from member states.

42. States are to report periodically on their progress in conforming their laws and practice to the Council's requirements. By 30 September 2005, the Committee had received 622 reports from Member States and others. This figure includes first reports from 191 Member States, second reports from 169 Member States, third reports from 130 Member States, fourth reports from 101 Member States and fifth reports from 22 Member States. Also, the Committee had in all received 9 reports from others. The Counter Terrorism Committee hired six experts to help the Committee with critical analysis of states reports. The committee's experts responded to these reports by requesting clarifications and additional information, which led to additional rounds of reporting. It is the Committee's priority to clear the backlog by the end of 2005 and the Committee aims to ensure timely review and response to reports. The CTC also called on every state to designate specific individuals as official contact points for reporting and coordination of implementation measures, one in its UN mission in New York and the other in the foreign ministry in their respective countries. 172 states have designated coordinating officials.

b. Regional and Sub-Regional Co-operation

43. As a consequence of the action plan agreed at the special meeting of the Counter-Terrorism Committee held on 6 March 2003, the Committee has been expanding its contacts and cooperation with international, regional and sub-regional organizations. Follow-Up Meeting to the United Nations Counter-Terrorism Committee Special Meeting of 6 March 2003 on Strengthening Practical Cooperation against International Terrorism between Regional and International Organizations was held in Vienna, Austria

¹⁹. Security Council Resolution 1373 (2001)

from 11-12 March 2004. They agreed to seek ways to enhance the effectiveness of their efforts against terrorism within mandates and competences and to coordinate and exchange information with the CTC, with one another, as well as with other relevant international actors in an effort to meet the capacity building needs of members in order to assist them to implement fully their obligations under Resolution 1373 (2001). They also agreed to improve cooperation and coordination, by conducting joint technical assistance programs or joint visits to States with the consent of the States concerned, to intensify efforts to encourage States to become parties to and implement in domestic law the anti-terrorism international conventions and protocols and to assist States in this regard.

44. On 8 October 2004 Security Council directed the CTC, *as a matter of priority* and, when appropriate, in close cooperation with relevant international, regional and sub-regional organizations to start visits to States, with the consent of the States concerned, in order to enhance the monitoring of the implementation of Resolution 1373 (2001) and facilitate the provision of technical and other assistance for such implementation.²⁰

45. Fourth special meeting of the Counter-Terrorism Committee with international, regional and sub-regional organizations was held in Almaty, Kazakhstan, from 26 to 28 January 2005. The Committee will continue to work through implementation of the declaration and the Follow-up Action Plan adopted in Almaty. On 3 February 2005, the Counter-Terrorism Committee has asked all relevant international, regional and sub-regional organizations to contribute a summary of their activities and experiences in the area of counter-terrorism and any developments in their work since the Committee's first special meeting with international, regional and sub-regional organizations, held in New York on 6 March 2003. International organizations have also been asked to provide information on their assistance programmes concerning counter-terrorism work.²¹

c. Counter Terrorism Committee Executive Directorate (CTED)

46. The Security Council Resolution 1535 (2004) of 26 March 2004, endorsed the report of the Counter-Terrorism Committee (CTC) on its revitalization,²² and established the Counter-Terrorism Committee Executive Directorate (CTED) to enhance the Committee's ability to monitor the implementation of resolution 1373 (2001) and effectively continue the capacity-building work in which it is engaged. Through the unanimous adoption of resolution 1535 (2004), the Council decided that the revitalized Counter-Terrorism Committee would consist of the Plenary, composed of the Security Council's member States and the Bureau, assisted by the CTED. The Executive Directorate was established as a special political mission for an initial period ending 31 December 2007, subject to a comprehensive review by the Council by the end of 2005,

²⁰. S/RES/1566(2004), 8 October 2004

²¹. Letter dated 3 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

²². S/2004/124

and is headed by an Executive Director²³. The Executive Directorate was established with a view to strengthening the activities of the CTC in implementing Resolution 1373 (2001), facilitating technical assistance to Member States and promoting closer cooperation and coordination with International, Regional and Sub-regional organizations.

VII. United Nations General Assembly adopts the International Convention for the Suppression of Acts of Nuclear Terrorism

47. The UN General Assembly by its Resolution 59/290 of 13 April 2005 adopted the International Convention for the Suppression of Acts of Nuclear Terrorism. The UN Ad Hoc Committee on Terrorism finalized the Convention at its 35th Meeting, on 1 April 2005. The Convention was opened for signature on 14 September 2005 and will enter into force after the ratification by 22 States. It strengthens the global legal framework to combat the scourge, requires the extradition or prosecution of those implicated and encourages the exchange of information and inter-state cooperation. The Convention aims to deal with both crisis situations by assisting States in thwarting terrorist groups possessing nuclear material, and post-crisis situations by rendering the nuclear material safe in accordance with safeguards provided by the International Atomic Energy Agency

48. United Nations Secretary-General Kofi Annan hailed the adoption of the Convention as "a vital step forward" in multilateral efforts to prevent terrorists from gaining access to "the most lethal weapons known to humanity." Mr. Annan called on all States to become Parties to the Convention without delay, noting that it was one of the key recommendations contained in his recent report on overall UN reform called "In Larger Freedom

VIII. Deliberations at the Forty-Fourth Session of AALCO held at Nairobi, Kenya (27 June-1 July 2005)

49. At the 44th Session of AALCO, all delegates stressed the need for an international regime to effectively combat terrorism.

50. One Delegate pointed out that one of the most difficult tasks would be the definition of terrorism itself. He underlined the growing demand for the inclusion of the phenomenon of state terrorism under the definition of terrorism and to distinguish it from the right to self-determination. Another Delegate stressed the importance of a balanced and inclusive approach in the elaboration of a comprehensive convention on terrorism. He reiterated concern that the fight against terrorism should abide by established norms of international law especially the principles respecting state sovereignty, territorial integrity and non-interference in the internal affairs of states and the principle of self-determination while ensuring that perpetrators are not allowed to carry on their activities with impunity.

²³. The CTED is headed by its Executive Director, Mr Javier Rupérez at the Assistant Secretary-General level.

51. Another Delegate pointed out that the United Nations is an appropriate forum to mobilize such political will and to lead the global campaign against the menace. The legality and legitimacy of any action against terrorism should be measured by the principles and rules envisaged in the United Nations Charter. Another Delegate underlined that the UN was urged in the Report of the Secretary General's High Level Panel on Threats, Challenges and Changes, 2004 to forge a strategy of counter-terrorism, which would be respectful of human rights and the rule of law.

52. The Resolution (RES/44/S 8, 1 July 2005) adopted at the Session requested the Secretary-General of AALCO to hold an Expert Group Meeting to draft a comprehensive and acceptable definition on "Terrorism" which could, once adopted by all Member States, be presented to the UN Ad Hoc Working Group in charge to finalize a draft Agreement on International Cooperation for Combating Terrorism.

IX. General Comments

53. Addressing the phenomenon of terrorism is a complex and challenging task. Condemnation of terrorist activities by the international community has been unanimous and unequivocal but the efforts to regulate this phenomenon have been marred by difference of approaches and opinions.

54. Terrorist activities by any individuals, groups, non-state entities or states have to be checked by all possible means. International law is one of the tools to prevent and punish terrorist activities. It is a positive step that a draft Comprehensive Convention on International Terrorism is being discussed by Member States of the United Nations which may reflect the views of the whole international community. However, it should be pointed out that counter-terrorism initiatives should not be used as a pretext for interfering in the domestic affairs of other countries. Each country's sovereignty and territorial integrity should be respected and not to be violated under any circumstances. The United Nations has an indispensable role to play in any action against terrorism. Cooperation of international community is vital to win the fight against terrorism.

55. Defining terrorism itself is a major task. Although it has diverse versions there is a growing demand that it needs a universally acceptable definition to solve the problem. The definition may be drafted in such a manner that the root causes and underlying factors of terrorism should be taken into account as well as protection of human rights and fundamental freedoms. The definition of terrorism may be possible on the basis of expert's views and with the support of various countries.