

**Seventy-third session**

**Sixth Committee**

Agenda item 111

**Measures to eliminate international terrorism**

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**Oral report of the Chair of the Working Group**

*Chair:* Ambassador Rohan Perera (Sri Lanka)

**I. Introduction**

1. Pursuant to General Assembly resolution 72/123 of 7 December 2017, on 3 October 2018, at its 1st meeting, the Sixth Committee decided to establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussing the item included in its agenda by General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations.
2. At the same meeting, the Sixth Committee elected Ambassador Rohan Perera (Sri Lanka) as Chair of the Working Group. Pursuant to paragraph 9 of General Assembly resolution 51/210 and consistent with past practice, the Working Group was open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.
3. In keeping with its established practice, the Working Group decided that members of the Bureau of the Ad Hoc Committee, to the extent of their availability, would continue to act as Friends of the Chair during the meetings of the Working Group.
4. The Working Group had before it the report of the Ad Hoc Committee on its sixteenth session (A/68/37), which contains the preamble and articles 1, 2, and 4 to 27 of the draft comprehensive convention on international terrorism (hereinafter the “draft comprehensive convention”), prepared by the Bureau, incorporating the various provisions contained in A/C.6/65/L.10, annex I, for discussion; written proposals relating to the outstanding issues surrounding the draft comprehensive convention (annex II). The Working Group also had before it the letter from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General, dated 1 September 2005 (A/60/329), and the letter dated 30 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Chair of the Sixth Committee (A/C.6/60/2).

## II. Proceedings of the Working Group

5. The Working Group held three meetings, on 16 and 19 October and on 1<sup>st</sup> November 2018. At its 1<sup>st</sup> meeting, on 16 October, the Working Group adopted its work programme and decided to hold its discussions in the framework of informal consultations. At that meeting, the Working Group discussed outstanding issues relating to the draft comprehensive convention and Mr. Angel Horna (Peru), in his capacity as Coordinator of the outstanding issues on the draft comprehensive convention, reported on discussions that had taken place intersessionally. Informal consultations on the draft comprehensive convention were also held on 16 and 19 October and on 1<sup>st</sup> November, including on the way forward. The Coordinator held further informal consultations with delegations on 16, 18 and 19 October 2018. At its 2<sup>nd</sup> meeting, on 19 October, the Working Group considered the question of convening a high-level conference under the auspices of the United Nations. At its 3<sup>rd</sup> meeting, on 1 November 2018, the Working Group considered proposed recommendations of the Working Group to the Sixth Committee.

6. The Working Group recommended that the Sixth Committee, in the resolution for this year, includes the following text:

*“Decides to recommend that the Sixth Committee, at the seventy-fourth 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;*

*Recognizes the valuable dialogue and efforts of Member States towards resolving any outstanding issues, and encourages all Member States to redouble their efforts during the intersessional period;”*

7. The recommendation was made by the Working Group on the understanding that in their intersessional efforts, Member States will, as in the past, work closely with the Coordinator on outstanding issues on the draft comprehensive convention, with assistance by the Secretariat.

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8. The following section of the oral report constitutes an informal summary of the exchange of views. It is for reference purpose only and is not an official record of the proceedings.

**Informal summaries prepared by the Chair of the Working Group on the results of the informal consultations on the draft comprehensive convention and on the question of the convening of a high-level conference**

**A. Draft comprehensive convention on international terrorism**

9. Delegations commented on the outstanding issues concerning the draft comprehensive convention during the informal consultations held on 16 and 19 October and on 1st November 2018.

10. At the outset of the informal consultations on 16 October, the Chair of the Working Group, who also chaired the informal consultations, provided a detailed overview of the work that had been undertaken over the years in the context of the Working Group and the Ad Hoc Committee established pursuant to resolution 51/210. He also provided an update on the status of the negotiations regarding the outstanding issues surrounding the draft comprehensive convention, including the attempts made to overcome the differences among delegations. (Attention is also drawn to previous clarifications made by the Chair (A/C.6/70/SR.27) and the Coordinator at the time, in particular as most recently contained in documents A/68/37, annex III, paras. 10 to 18; A/C.6/69/SR.28, A/C.6/67/SR.23, paras. 42 to 47; A/66/37, annex I, paras. 16 to 20 and annex II, paras. 1 to 10; and A/C.6/66/SR.28, paras. 81 to 103<sup>1</sup>). Work proceeded on the general understanding that further consideration would be given to all written amendments and proposals that are on the table, together with all other written and oral proposals, in future discussions, including on outstanding issues. Indeed, some delegations reiterated the continuing relevance of their proposals. The view was expressed that a new procedural impetus was necessary to create the political momentum which was imperative to a swift conclusion of the negotiations on the draft comprehensive convention, including by the convening of a high-level conference to that effect.

11. At the same meeting, the Coordinator on outstanding issues, Mr. Angel Horna, presented an account of the intersessional efforts that occurred since the previous session, including on the circulation of a non-paper presented by the Coordinator on article 3 of the draft comprehensive convention aimed at furthering discussions, taking into account some concerns raised by delegations at previous sessions. In that regard, the Coordinator underscored that such non-paper was without prejudice to the common

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<sup>1</sup> See also: A/C.6/65/L.10, annex III, paras. 16-24; A/C.6/64/SR.14, paras. 12-24; A/C.6/63/SR.14, paras. 41-51; A/65/37, annex I, paras 16-17 and annex II, paras. 1-17; A/64/37, annex II, paras. 1-11; A/63/37, annex II, paras. 1-12; and A/62/37, annex II, paras. 6-23.

understanding that all proposals continued to be on the table and that nothing was agreed until everything was agreed. The Coordinator also presented the rationale underlying his proposal, in particular on the added value of differentiating between “without prejudice clauses” and exclusions per se.

12. The informal consultations were then adjourned to proceed to informal informal consultations convened by the Coordinator and aimed at addressing the outstanding issues. These consultations took place on 16 and 18 October, as well as on 19 October after adjournment of the informal consultations.

13. A number of delegations engaged in the specifics of the non-paper circulated. Among the issues considered were the issue of whether to include the term “armed forces” or not, the question of different legal regimes applying during armed conflict and in peacetime, the question of how the draft Comprehensive Convention would apply to entities such as ISIS when engaged in armed conflict, and the meaning of some of the terms employed, such as the meaning of the phrase “inasmuch as”. Moreover, in the view of a number of delegations it was considered premature to discuss the specifics of a possible textual solution in the absence of political agreement on the goals to be achieved through the draft comprehensive convention. In this regard, it was noted that consideration needed to be given to questions concerning the link between the draft comprehensive convention and international humanitarian law, including in relation to foreign occupation, as well as an understanding of notions such as “State terrorism”. Several delegations also took the floor to ask questions, including about the status of the non-paper.

14. While there was general agreement on the need for Member States to conduct inter-sessional consultations, delegations held different views on whether the current language as adopted in the annual resolution on measures to eliminate international terrorism was sufficient for that purpose. In this connection, several delegations took the floor to explore different avenues to revitalize inter-sessional discussions on the outstanding issues of the draft comprehensive convention. The available options ranged from those who advocated the reconvening of the Ad Hoc Committee to those considering that the current language in the resolution was sufficient to allow for meaningful inter-sessional consultations by Member States to take place. Accordingly, the Working Group considered proposals aimed at encouraging further efforts by Member States in the coming intersessional period. It was generally agreed that it was important that such intersessional efforts continue to take place, so that a substantive discussion on the outstanding issues may be taken forward, especially in light of the difficulty of reaching consensus in the short time devoted to annual working group sessions. After in-depth consideration of the proposals received, the Working Group reached consensus on a recommendation based on paragraphs 25 and 26 of General Assembly resolution 72/123.

## **B. Question concerning convening a high-level conference**

15. During the informal consultations held on 19 October, delegations commented 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 sponsor delegation of Egypt recalled that its proposal to convene an international conference was no longer merely a proposal of Egypt but a common proposal of a number of Member States, including those of the Non-Aligned Movement, the Organization of Islamic Cooperation, and the African Group. It reiterated its view that the differences in opinion concerning the draft comprehensive convention on terrorism were of a political nature, and they could thus be resolved only at such level. The conference would thus help to advance the process.

16. A number of delegations reiterated their support for the convening of a high-level conference. However, other delegations expressed the view that the convening of such a conference, before agreement was reached on the draft comprehensive convention at the technical level, would be premature.

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17. At the outset of the session of the Working Group, the Chair of the Working Group called upon delegations to employ the time at the disposal of the Working Group for a discussion of the substance of the outstanding issues, rather than focusing solely on the procedural way forward. While the work of this year was primarily focused on addressing the negotiating process, the Chair of the Working Group, the Friends of the Chair and the Coordinator are encouraged by the renewed intention expressed by delegations to negotiate in the inter-sessional period. The non-paper circulated by the Coordinator achieved its purpose of encouraging States to further explore the means to achieve concrete discussions on difficult issues on which progress has remained elusive. The Chair and the Friends of the Chair look forward to continued efforts on the part of delegations to engage on these issues, including particularly during the intersessional period. The Chair notes that the agreement on the recommendation on the way forward expressed the general appreciation of the usefulness of intersessional efforts, including in informal settings where the process may be advanced. Indeed, it is crucial for Member States, working together with the Coordinator, to redouble efforts during such time. For more than 18 years we have been discussing these outstanding issues. It is my sincere hope that it is possible for a renewed intersessional effort to foster the ability and the will to overcome the differences that exist. It is now imperative to complete our work.