

62ND SESSION OF THE GENERAL ASSEMBLY, SIXTH COMMITTEE

ITEM 108

MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

STATEMENT

BY

**MR. STEFAN BARRIGA
COUNSELLOR (LEGAL AFFAIRS)
PERMANENT MISSION
OF THE PRINCIPALITY OF LIECHTENSTEIN
TO THE UNITED NATIONS**

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CHECK AGAINST DELIVERY

Mr. Chairman

Liechtenstein strongly condemns all acts of terrorism, irrespective of their motivation, wherever and by whomever committed. We also reaffirm our commitment to contribute to the fullest extent to the international fight against terrorism in all its aspects, including through cooperation with the relevant UN bodies. In this respect, Liechtenstein commends the adoption of the United Nations Counter-terrorism Strategy, launched in September 2006. The UN Secretariat, in particular the Counter-terrorism Implementation Task Force, has achieved much progress in implementing those parts of the Strategy which are addressed to the Organization as a whole. Furthermore, the General Assembly will review the Strategy and its implementation towards the end of this session at the plenary level. In our view, the Sixth Committee, in considering the item "Measures to eliminate international terrorism", must take these developments into account. The Sixth Committee should not duplicate this plenary process, and thus reduce its resolution under this item to the minimum necessary. We should focus our attention on the main outstanding task, the conclusion of the negotiations on the draft Comprehensive Convention against Terrorism.

Mr. Chairman

We commend the efforts of our Coordinator, Mrs. Maria Telalian (Greece), during and since the session of the Ad Hoc Committee earlier this year. We are convinced that only such efforts aimed at bridging the gap between the different views around the table can bring us closer to success. As for the substance of the proposal she submitted for the consideration of delegations, Liechtenstein considers it to be a viable basis for a compromise, which all delegations should take very seriously. We should finally engage in real negotiations and address the substance of the outstanding issues. This concerns mainly the question of article 18 of the draft Convention, which deals with exceptions from the Convention regime. In doing so, we must however not lose sight of the other provisions of the Convention, as these must be taken into consideration when interpreting any proposals relating to article 18. Furthermore, we must also look at the wider framework of

international conventions in this area which have a bearing on the significance and interpretation of this Convention.

In order to further a meaningful discussion of the text in front of us, we would like to address a number of substantive issues, some of which we already presented at the last session.

The Convention will not give us the final, overarching legal definition of terrorism. The existing international conventions in this area cover a wide range of terrorist acts, so that the draft Convention will have little to add in terms of scope. The draft Convention would mainly fill the gaps between existing conventions, since these are based on the description of specific acts. In addition, the Comprehensive Convention would be relevant in cases which relate to States which are not Parties to an otherwise applicable sectoral Convention, but which are Parties to the Comprehensive Convention. Nevertheless, it is clear that the terms of the Convention would soon be generally accepted as the most authoritative standard in defining the phenomenon of terrorism.

The Convention will not affect the right to self-determination, and it will not make a “distinction” between terrorism and the right to self-determination: We would like to reiterate that the reference to a *“distinction” between terrorism and the right to self-determination* is very easy to misunderstand and should be avoided. In fact, neither the Coordinator’s text nor any of the proposals on the table use this phrase. Instead, draft Article 18 paragraph 1 states that nothing in the Convention “shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law”. It should be noted that the OIC proposal on Article 18 uses the same language to express the idea that the Convention does not interfere with the right to self-determination. In the exercise of the right to self-determination, however, all actors must still abide by the rules governing such actions, in particular international humanitarian law. Even in such a situation, civilians and non-combatants may not be targeted, and other rules of the laws of armed conflict must be respected. We are confident that there is consensus in this room

around this issue. Such a consensus would not have been possible only a few years back, and having achieved it constitutes real progress.

With respect to the interface of the draft Convention and international humanitarian law, my delegation supports efforts aimed at clarifying the **relationship between the Convention and international humanitarian law**. This stems from the conviction that the Convention should not interfere with the rules of armed conflict by criminalizing conduct which would otherwise not be prohibited under international humanitarian law. In other words, those who play by the rules of armed conflict should not be prosecuted as terrorists at the international level. This is clearly within the spirit of the current draft text, as evidenced by draft article 2: according to this article, only acts committed “unlawfully” can qualify as a terrorist offence, thus excluding those activities which are not unlawful.

Two clarifications are, however, necessary in this respect: First, excluding combatants in an armed conflict, be they State or non-State actors, from the application of this Convention at the international level is without prejudice to their status under **domestic law**. They may still be prosecuted under national criminal law.

Second, carving out those acts which are “lawful” under the laws of armed conflict does not imply that future States Parties to the Convention will import through the backdoor standards of international humanitarian law by which they were not bound before. All references to International humanitarian law in the Convention have to be understood as referring to “applicable” rules of IHL. This draft Convention is certainly neither the right tool to impose IHL rules on States against their will, nor to supersede such rules as they exist now. We are satisfied that the new proposal presented at the last Ad Hoc Committee session aims to respect this important principle.

The Convention will not explicitly address the concept of “State terrorism”, but it will also not exclude it. We have heard many times that the draft Convention does not solve the issue of State terrorism. It should be noted, however, that Article 2 of the draft includes

“any person” in the scope of the Convention, whereas Article 18 paragraphs 2 and 3 exclude only military personnel in specific situations. In addition, Article 2 paragraph 4 also brings those who participate as accomplices, or who organize or direct terrorist offences under the scope of the Convention. There is thus much room for acts committed by State agents to be covered under the regime of the Convention. This is consistent with a number of sectoral Conventions, which either do not exclude State actors from their scope, or do so only to a limited extent.

The Convention will not be comprehensive. As stated before, the Convention will merely complement the extensive existing regime of international instruments in this area, and not supersede them. The Convention would thus more accurately be described as “general” instead of “comprehensive”. This would reflect the fact that the scope of the Convention in Article 2 is defined in a more general manner than in the existing sectoral Conventions.

Mr. Chairman,

My delegation hopes that all interested delegations will engage in a substantive and constructive discussion on the outstanding issues, in order to bring us closer to an agreement on the draft Convention. We stand ready to participate constructively in the work ahead.

I thank you.