



## **UNITED NATIONS AND COUNTER-TERRORISM**

(Discussion of Chapter 24 of The Oxford Handbook on the United Nations, Terrorism, led by Mr. Alfonso Miranda, UNA Workshop V, 10 January 2009)

### **INTRODUCTION**

Counter-Terrorism was not provided for in the Charter of the United Nation (1945); the UN, through the General Assembly, the Security Council and the Secretary General, has had to introduce measures in response to terrorist acts, often using provisions used in the Charter.

### **ROLE OF THE GENERAL ASSEMBLY**

- Began in 1972 because of the attacks on Israeli athletes at Munich Olympics; originally associated as political, not terrorist, acts by the permanent members of the Security Council.
- Led to debate to define terrorism and years of resolutions condemning terrorism.
- Until a precise definition of terrorism could be agreed, 13 international legal conventions were negotiated prohibiting hijackings, crimes against internationally protected persons, taking of hostages, terrorist bombings, use of nuclear material. See Appendix 1.

### **ROLE OF THE SECURITY COUNCIL**

- First mention of terrorism of the UN came in 1948 when a "criminal group of terrorists" assassinated the UN mediator in Palestine.
- Stalemate until the cold war ended in 1991.
- In 1990's, the council reacted to events like the bombing of PanAm Flt 103 over Lockerbie and UTA Flt 772 over Niger on a case-by-case basis.
- Responses to various events were reactive and punitive with sanctions: Libya, Sudan, Al Queda, Taliban
- 1999, 1267 Committee was established pursuant to Security Council Resolution to monitor the implementation of sanctions, especially the effectiveness of the travel ban, and to ensure fair procedures for placing and removing individuals and entities on its lists, and granting humanitarian exceptions.
- Resolution 1269 condemned all acts, methods, and practices of terrorism as criminal and unjustifiable, regardless of their motivation, in all forms and manifestations, wherever and by whomever committed.
- Resolution 1273 established the Counter-Terrorism Committee, assisted by an Executive Directorate, that became operational in Sep 2005, to make policy, conduct assessments and provide technical assistance where needed; it was not required to introduce specific punitive or other measures.
- 2001, Resolution 1368, passed immediately after 9/11, established right to self-defense. Chapter VII of the UN Charter, which sets the UN Security Council's power to maintain peace and to restore international peace and security with military or non-military action, was invoked to:
  - mandate all states to prevent and suppress financing of terrorist acts.
  - prevent use of their territory by terrorists or those assisting them

- exchange information and cooperation
- to report progress
- Resolution 1540 obligated nations to provide laws, accounts and controls relating to nuclear, chemical and biological weapons and the means of delivery.
- Resolution 1566 established a working group to provide recommendations on practical measures that could be imposed on those linked to terrorism and to compensate victims.
- Resolution 1624 added more measures to prohibit incitement to commit terrorism, prevent such conduct and deny safe haven to guilty ones.

#### ROLE OF THE SECRETARY GENERAL

- 2001, former Secretary General, 2001-7, Kofi Annan created a Policy Working Group, 2001, to look at long-term implications and broad policy, and to look down the road raising warning flags over potential problems, with three elements:
  - dissuade disaffected groups from embracing terrorism
  - deny groups or individuals the means to carry out terrorism
  - sustain cooperation in countering terrorism
- 2003, Kofi Annan formed High-Level Panel on Threats, Challenges and Change, 2003, to examine the main threats to international peace and security; established because of the failure of Council to agree on resolution authorizing use of force in Iraq; the Panel stepped into the debate to define terrorism as,

"Any action, in addition to actions already specified by the existing conventions, that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such actions is to intimidate population, or to compel a government or an international organization to do so or to abstain from doing any act."

- Attacks specifically targeting of civilians and non-combatants must be condemned.
- The strategy for combating terrorism should include:
  - dissuasion
  - denial of means
  - deterring state support of terrorism
  - developing state capacity for prevention
  - defending human rights

#### PLAN OF ACTION

The UN Global Counter-Terrorism Strategy was adopted in September 2006 to enhance national, regional and international efforts to counter terrorism; it requires nations to condemn terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, by international cooperation, and to prevent and combat terrorism under the obligations of international law, the UN Charter, international conventions and protocols, while still preserving human rights; it includes denying terrorist access to the means to carry out their attacks; it recommends the establishment of:

- I. Measures to address the conditions conducive to the spread of terrorism
- II. Measures to prevent and combat terrorism
- III. Measures to build nations' capacity to prevent and to combat terrorism and to strengthen the role of the UN system in this regard
- IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism

### I. Measures to address the conditions conducive to the spread of terrorism

- Strengthen the capacities of the UN through conflict prevention, negotiation, mediation, rule of law, judicial settlement, peace-building and peace-keeping.
- Promote dialogue, tolerance and understanding among civilizations, cultures, peoples and religions
- Promote education and public awareness programs
- Adopt measures to prohibit by law incitement to commit terrorist acts
- Commit to eradicate poverty and promote economic growth and prosperity for all.
- Develop social agendas, like addressing youth unemployment (a hotbed for recruitment of terrorists)
- Placing on a voluntary basis, national systems of assistance to victims of terrorism

### II. Measures to prevent and combat terrorism

- Refrain from organizing, instigating, facilitating, participating in, financing, encouraging or tolerating terrorist activities
  - Cooperate in fighting terrorism to find, deny safe haven and bring to justice persons who attempt to perpetrate terrorism
  - Ensure apprehension, prosecution, and extradition of perpetrators
  - Intensify cooperation in exchanging timely and accurate information
  - Strengthen coordination and cooperation in combating crimes connected to terrorism
  - Support the UN Convention against Transnational Organized Crime
  - Take appropriate measures, before granting asylum, to ensure seeker has not engaged in terrorist activities
    - Encourage creation or strengthening counter-terrorism mechanisms
    - Implement the Financial Action Task Force's (40) Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing: 1) Ratification and Implementation of UN instruments, 2) Criminalization the financing of terrorism and associated money laundering, 3) Freezing and confiscating terrorist assets, 4) Reporting suspicious transactions related to terrorism, 5) International cooperation, 6) Alternative remittance, 7) Wire transfers, 8) Non-profit organizations, 9) Cash couriers.
      - Invite development with UN system, a single comprehensive database on biological incidents
      - Work with UN, with due regard for confidentiality rights, to use Internet to prevent or counter spread of terrorism
    - Improve border and customs controls
    - Encourage UN Counter Terrorism Committee to help facilitate legislation and measures to implement the terrorist travel-related obligations
    - Encourage the 1267 Committee to continue working the travel sanctions against Al-Qaida and the Taliban and associated individuals in a fair manner
    - Improve security on manufacturing and issuing identification and travel documents against alteration and fraudulent use
    - Invite UN to improve coordination in planning a response to terrorist's use of weapons of mass destruction
    - Improve the security and protection of vulnerable targets from terrorist attacks and other disasters

### III. Measures to build capacity to prevent and combat terrorism and to strengthen the role of the UN system in this regard

- Consider making voluntary contributions to UN's counter-terrorism cooperation and technical assistance projects
  - Share best practices in counter-terrorism capacity-building
  - Establish mechanisms to eliminate duplication of reporting requests
  - Encourage measures to develop State's capacities to implement UN resolutions
  - Encourage the UN Counter-Terrorism Committee to improve technical assistance
  - Encourage UN Office on Drugs and Crime to consult very closely with UN Counter-Terrorism Committee
- Encourage the International Monetary Fund, the World Bank, the UN Office on Drugs and Crime and the International Criminal Police Organization to enhance cooperation in combating money-laundering and financing of terrorism
  - Encourage International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons to help prevent terrorist from accessing nuclear, chemical or radiological materials
  - Encourage the World Health Organization to step up assistance to improve public health systems and prepare for biological attacks
  - Encourage the International Maritime Organization, the World Customs Organization and the International Civil Aviation Organization to identify shortfalls in transport security
  - Recognize the importance of developing public-private partnerships in the area of preventing terrorist attacks on vulnerable targets

#### IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism

- Reaffirm the fundamental framework for the "Protection of human rights and fundamental freedoms while countering terrorism"
  - Reaffirm that States comply with human rights law, refugee law and international humanitarian law
  - Accept the competence of international and regional human rights monitoring bodies
  - Develop rule of law based national criminal justice system that can ensure that any person supporting terrorist acts is brought to justice
  - Promote the rule of law, respect for human rights and effective criminal justice systems
  - Support the Human Rights Council
  - Support the Office of UN High Commissioner for Human Rights with emphasis on increasing field operations and presences
  - Support the role of the Special Rapporteurs on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

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## Appendix 1 Conventions of Terrorism\*:

14 September 1963, Tokyo, Japan - Convention on offences and certain of other acts committed onboard aircraft.

16 December 1970, Hague, Netherlands - Convention for the suppression of unlawful seizure of aircraft.

23 September 1971, Montreal, Canada - Convention for the suppression of unlawful acts against the safety of civil aviation.

14 December 1973, UN General Assembly - Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents.

17 December 1979, UN General Assembly - Convention against the taking of hostages.

3 Mar 1980, Vienna, Switzerland - Convention on the physical protection of nuclear material.

24 February 1988, Montreal, Canada - Protocol on the suppression of unlawful acts of violence at airports serving international civil aviation, supplementary to the conventions for the suppression of unlawful acts against the safety of civil aviation.

10 March 1988, Rome, Italy - Convention for the suppression of unlawful acts against the safety of maritime navigation.

10 March 1988, Rome, Italy - Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf.

1 March 1991, Montreal, Canada - Convention on the marking of plastic explosives for the purpose of detection.

15 December 1997, UN General Assembly - International convention for the suppression of terrorist bombings.

9 December 1999, UN General Assembly - International convention for the suppression of the financing of terrorism.

13 April 2005, New York, USA, International convention for the suppression of acts on nuclear terrorism.

\*Conventions become treaties as part of international law when ratified by nations.