

Working Group of Sixth Committee on International Terrorism

Statement by Dr. P.S. Rao, Joint Secretary and The Legal Adviser,

Ministry of External Affairs on September 25, 2000

Mr. Chairman,

It gives me great pleasure to extend to you our warmest greetings and best wishes for every success in your capacity as Chairman of this important UN Working Group on International Terrorism. We are greatly privileged to work under your leadership and have high expectations from your vast experience and rich expertise in providing leadership to deal with various issues that arise in connection with the conclusion of a Comprehensive Convention on International Terrorism which is our mandate. We offer you our sincere co-operation and are ready to assist you and other delegations in any manner to help realise our objective with speed and efficiency.

Terrorism is a global menace of our age. As His Excellency Mr. Jaswant Singh, the External Affairs Minister of India stated in his address to the General Assembly this year, it is an assault on human decency, a violation of the basic precepts of democracy and the very anti-thesis of what the United Nations represents and stands for. Terrorism knows no boundaries and it has no concern for fundamental human values. It is a crime against humanity in every sense of the word for it endangers the lives of innocent and unsuspecting human beings. The phenomenon of terrorism poses serious threat to human rights and affects the right to life and other freedoms of the individual. We welcome and support in this connection the efforts being made in the Sub-Commission on the Promotion and Protection of Human Rights to study the impact of terrorism on the enjoyment of human rights.

Terrorism is also a threat to international peace and security, especially when terrorists are armed, financed and backed, directly or indirectly, by governments or their agencies. The Millennium Declaration which was adopted by nearly 150 Heads of State and Government on 8 September this year, reflects the urgency the international community attaches to this problem when it resolved at the highest level to strengthen respect for the rule of law and to take concerted action against international terrorism. The general debate of the General Assembly over the last two weeks repeatedly re-endorsed this priority and underlined the linkages between terrorism and the illegal trade in narcotics, small arms and organised crime, and the need for effective international co-operation to limit, control and eradicate it.

The Millennium Declaration also urged Member States to accede as soon as possible to the relevant international conventions on international terrorism and thereby strengthen the effectiveness of the international legal regime against terrorism. On our part, India is a party to all the multilateral conventions on international terrorism. As regards the conventions finalised by this working group, India ratified the International Convention for the Suppression of Terrorist Bombings, 1997 on 22 September 1999. During the Millennium Summit, the Prime Minister of India signed the International Convention for the

Suppression of the Financing of Terrorism. We hope that both these conventions would receive the required number of ratifications and enter into force at an early date.

These two conventions represent important steps in the global fight against terrorism and supplement the existing international legal regime for the prevention and suppression of acts of terrorism. Most of the provisions of the draft Convention against Nuclear Terrorism have also been agreed on the basis of a draft text proposed by the Russian Federation. We favour the adoption of the Convention and urge early resolution of the outstanding issues in the overall interest of realising the ultimate goal of elimination of terrorism. We also support Egypt's proposal for convening a high level Conference under the aegis of the United Nations to formulate a joint organised response of the international community on terrorism.

India had presented a Draft Convention at the 51st session (A/C.6/51/6). Following the adoption of the terrorist bombings convention and the financing convention, we have revised the earlier draft to incorporate elements from both these conventions. We have also consulted with interested Member States on the revised drafts which were circulated informally to all delegations, and, taking in account their comments and suggestions, we have presented a further revised draft which has now been circulated as an official document of the General Assembly (document no.A/C.6/55/1), and is before the members of the working group for consideration.

Mr. Chairman, now permit me, given the limitations of time to highlight very briefly some aspects of the draft Comprehensive Convention which are a bit novel but based on consensus evolved elsewhere in related texts:

1. The scope of the convention is defined by Article 2, which is comprehensive in its scope as it covers "any means" used in the commission of a terrorist offence. The expression "any means" would cover the entire range of devices or substances, which could be used for committing an offence. The language is very similar to the language of Article 2(1) (b) used in the Convention for the Suppression of Terrorist Financing which describes terrorism as an "act intended to cause death or serious bodily injury". Further, the scope covers damage to property, including State or government facilities, public transportation system or infrastructure facilities. This element is drawn from Article 2 of the International Convention for the Suppression of Terrorist Bombings. Article 2 (3) covers the principle of command responsibility, which is now well accepted.

2. It may be recalled that the concept of state responsibility for suppression of terrorism was endorsed by the statement adopted by the Foreign Ministers of Permanent Members of the Security Council following their meeting with the UN Secretary General on 23 September 1999 and in Security Council resolution 1269 (1999), which calls upon States to prevent and suppress in their territories preparation and financing of any acts of terrorism and to deny them safe haven. Keeping this in view, paragraph 9 of the Preamble recognises responsibility of States for suppressing acts of international terrorism, including those which are committed or supported by States, directly or indirectly. Further, the responsibility of contracting States to ensure that their respective territories are not used for terrorist installations and training camps is reflected in Article 8 of the draft convention. This is based on agreed language of UNGA Declaration on "Measures to Eliminate International Terrorism."

3. Drawing upon the strength of the recently concluded Terrorist Bombings Convention and the Financing Convention, Article 5 of the draft Convention emphasises that a terrorist act cannot be justified under any circumstances, whatever be the political, philosophical, ideological, racial, ethnic, religious or other considerations of a similar nature.

4. Article 11 of the draft Convention incorporates the universally recognised principle, extradite or prosecute. In this connection, it entitles a State to exercise extra territorial jurisdiction under Article 6 (3) of the draft convention and submit the case to its authorities for prosecution. This, I must point out, is in addition to the jurisdiction a State may exercise in respect of offences connected with terrorism in several other cases which are noted under Article 6. In this connection, I would particularly like to draw your attention to Article 6 (1) (c). In this case, a State is entitled to exercise its jurisdiction when conduct occurred wholly or partially outside its territory, and the effect of the conduct or its intended effects constitute or result in the commission of an offence, within its territory, falling within the scope of the present convention. This provision is an important innovation but one that is already accepted in advanced anti-terrorism treaties agreed to between States bilaterally, and even in a recent multilateral convention. However, the exercise of such extra-territorial jurisdiction is distinct and quite different from the exercise of extra-territorial authority in violation of the sovereignty and territorial integrity of another State.

5. To facilitate extradition and mutual legal assistance in the absence of a relevant treaty between the parties concerned, the draft Convention elaborates in Annexures II and III optional procedures for extradition and mutual legal assistance that the Parties may use in such a situation.

6. In order to discourage terrorists from seeking safe haven through the regime of asylum, it is necessary to highlight under Article 7 of the convention the need for States to take appropriate measures before granting asylum to ensure that the person involved is not connected with terrorist activities.

Mr. Chairman,

The Indian initiative has received wide support. The 12th summit of the Non-aligned Movement at Durban, South Africa, from 2 - 3 September 1998 called for the urgent conclusion and the effective implementation of a comprehensive international convention for combating terrorism. The 13th Ministerial Conference of Non-aligned countries held at Cartagena on 8 and 9 April 2000 welcomed with satisfaction the UN General Assembly Resolution 54/110 which decided that the ad hoc committee on terrorism established by UNGA resolution 51/210, shall consider the elaboration of a comprehensive convention on international terrorism. The G-8 Foreign Ministers meeting held at Miyazaki on 13 July, 2000 supported the initiative of negotiating an effective comprehensive convention on terrorism. The India-EU Summit held at Lisbon on 29 June, 2000 agreed to strive for a comprehensive convention on terrorism. The Commonwealth Heads of Government at Durban in November 1999 welcomed the agreement on elaborating, on a priority basis, a comprehensive convention against international terrorism. Similarly, the 10th Summit of G-15 countries held at Cairo on 19 and 20 June, 2000 called for urgent conclusion and the effective implementation of a comprehensive convention on international terrorism.

We are gratified that the efforts we have been exerting over the last several years to identify specific and sectoral areas of relevance to strengthen our fight against international terrorism, resulted in some important international conventions. The time has now come to consolidate our efforts in this regard and to take the legal framework to a higher and comprehensive level which is truly integrated and holistic and one that complements the various existing conventions to fight international terrorism in all its forms and manifestations.

We hope that the draft Convention presented by India will be favourably received by Member States and would form the basis for fruitful discussion and that it would enable the Working Group to recommend at an early date a final text of the convention for adoption by the General Assembly.