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United Nations and measures to eliminate international terrorism

I.

The question of terrorism has been on the United Nations agenda since the 1960s when the spread of aircraft hijacking incidents drove states to draft conventions on international terrorism. The Convention on Offences and Certain Other Acts Committed On Board Aircraft (Tokyo, 1963), the Convention for the Suppression of Unlawful Seizure of Aircraft (Hague, 1970) and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, 1971) were the first treaties to deal with the problem of international terrorism.

In 1972 the General Assembly decided to establish an Ad Hoc Committee on International Terrorism which held its sessions in 1973, 1977 and 1979 and reported to the General Assembly. The Committee adopted a subject matter approach to the terrorist acts in its work because agreement seemed to be impossible to be reached on a comprehensive definition of international terrorism. The major Western powers sought to limit terrorism to individual and small group attacks, excluding police and military operation of states, irrespective of their legitimacy. Other states, especially the non-aligned states wished to include terror-acts of states, illegitimate state conduct and state sponsored violent activities, especially that of the armed forces, and sought to establish individual responsibility of the agents of states for the acts.

Between 1963 and 2002 the United Nations and the Specialised Agencies, such as the International Civil Aviation Organisation, the International Maritime Organisation and the International Atomic Energy Agency drafted several conventions to address terrorist attacks upon civil aviation, civil maritime navigation and sea based platforms, upon persons, including hostages, diplomats, UN personnel and other internationally protected persons, as well as to fight the financing of terrorism and the use of bombing and explosive devices against civilian installations and persons.¹

II.

In 1996 the General Assembly, in resolution 51/210 of 17 December, decided to establish an Ad Hoc Committee to elaborate an international convention for the suppression of terrorist bombings and, subsequently, an international convention for the suppression of acts of nuclear terrorism, in order to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism. This mandate continued to be renewed and revised on an annual basis by the General Assembly.

The General Assembly adopted two conventions on international terrorism which were elaborated by the Ad Hoc Committee, that is the International Convention for the Suppression of Terrorist Bombings, adopted on 15 December 1997 and the International Convention for the Suppression of the Financing of Terrorism, adopted on 9 December 1999.

The International Convention for the Suppression of Terrorist Bombings creates a regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place.

The International Convention for the Suppression of the Financing of Terrorism requires parties to take steps to prevent and counteract the financing of terrorists, whether direct or indirect, though groups claiming to have charitable, social or cultural goals or which also engage in such illicit activities as drug trafficking or gun running. It also obliges states to hold those who finance terrorism criminally, civilly or administratively liable for such acts, as well as to identify, freeze and seize funds allocated for terrorist activities. Bank secrecy is no longer be justification for refusing to cooperate.

In its resolution 55/158 adopted on 12 December 2000 the General Assembly requested the Ad Hoc Committee to continue to elaborate a comprehensive convention on international terrorism and continue its efforts to resolve the outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and keep on its agenda the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organised response of the international community to terrorism.

III.

Currently the member states are still negotiating the draft comprehensive convention on international terrorism on the basis of the text submitted by India in 1996 and the draft international convention for the suppression of acts of nuclear terrorism.

The aim of the comprehensive convention on international terrorism is to take effective measures against acts of terrorism and to ensure that perpetrators of terrorist acts will be prosecuted and punished. According to the draft convention it is an offence to cause unlawfully and intentionally death or serious bodily injury, serious damage to public or private property or damage to such property which results or likely to result in major economic loss, if the purpose of the conduct is to intimidate a population or compel a government or an international organisation to do or abstain from doing any act.
One of the most problematic issues concerning the elaboration of the comprehensive convention is the definition of terrorism. Some delegations (Cuba, Iraq, Iran, Lebanon, Libya, Pakistan, Syria and Sudan) are of the view that the definition should be extended to state-sponsored terrorism and acts of state terrorism. They consider state terrorism acts such as American strikes against Iraq and Sudan or Israeli activities in the occupied territories. Other delegations hold that certain acts of state-sponsored terrorism might be covered by the convention, however, other types of state conduct, referred to as state terrorism is beyond the scope of the convention and subject to other norms, such as the law governing state responsibility and the prohibition of the use of force under Article 2, paragraph 4 or Chapter VII of the UN Charter.

Malaysia, on behalf of the Organisation of the Islamic Conference Group, submitted a proposal aimed at including definitions of the terms "terrorism" and "terrorist crime" in Article 1 of the convention. Article 1 contains the definition of certain term used by the convention, such as state or government facility and military forces of a state, but not that of the terrorist acts themselves, which are defined by Article 2. Other delegations pointed out, however, that the definitions put forward by Malaysia were very politicised as well as vague from a legal point of view, and the convention should not contain two definition for terrorist crimes, a political and a legal one.

Some delegations stressed the need for a definition which differentiated between terrorism and the legitimate struggle in the exercise of the right to self-determination and independence of all peoples under foreign occupation. The above mentioned Malaysian paper proposed a new paragraph to Article 2 on the definition of terrorist acts, which would state that peoples' struggle including armed struggle against foreign occupation, aggression, colonialism and hegemony, aimed at liberation and self-determination in accordance with the principles of international law shall not be considered a terrorist crime. The delegations supporting the proposal argued that the legitimacy of the armed struggle had been reaffirmed by several General Assembly resolutions and the right to self-determination had reached the status of jus cogens in international law. Other delegations, expressing objection to this proposal, claimed that peoples' right to struggle was legitimate and accepted under international law but could not be carried out by any means, only within the confines of the rules of armed conflict. A legitimate armed struggle could not be an exception to the laws of armed conflict and peoples' struggle should be dealt within the context of international humanitarian law, not in the context of the comprehensive convention.

The radical states also wish to bring the activities of the armed forces under the scope of the convention. The members and associated states of the European Union, as well as Canada, China and Japan support the exclusion of the activities of the military forces of a state arguing that these activities undertaken in exercise of the official duties of the armed forces inasmuch as they are governed by other rules of international law, should be not covered by the convention.

The relationship between the comprehensive convention and the sectoral conventions on specific forms of terrorism is another highly debated issue. The aim of the comprehensive convention is to complement the existing conventions, to fill in the gaps by covering terrorist acts not yet covered by the other conventions and by providing a framework for cooperation with regard to acts already covered by the sectoral conventions if the states parties to the comprehensive convention are not all parties to the specific convention concerned.

The radical states made efforts to reshape the system of conventions on international terrorism by subordinating the sectoral conventions to the comprehensive convention. Several of these states
have not become parties to these conventions and by ratifying the comprehensive convention they would make up for their backlog in the field of combating international terrorism.

States opposing this attempt (Canada, China, EU, EU accession states, Japan, Russia, United States) did not wish to change the current system of international conventions on terrorism or to impose different obligations on the states which would lead to a double-regime in the field of combating terrorism. They held that having the same acts covered by both the comprehensive and the sectoral conventions would be a disincentive for states to ratify the sectoral treaties. The sectoral conventions also have the advantage of containing specific and more elaborate provisions on the terrorist acts than the comprehensive convention would. These states are parties to almost all specific conventions and had also adopted the necessary implementing legislation.

Finally, delegations seemed to reach agreement on this issue at the last session of the ad hoc committee in February 2002 and supported the inclusion of a new provision in the convention to determine the relationship of the comprehensive convention and the sectoral conventions. This new article would state that if the comprehensive convention and a sectoral treaty were applicable to the same act, the provisions of the sectoral convention would apply.

IV.

The aim of the draft international convention for the suppression of nuclear terrorism is to enhance international cooperation in adopting effective and practical measures for the prevention of acts of nuclear terrorism and for the prosecution of the perpetrators as the acts of nuclear terrorism might may result in grave consequences and pose a threat to international peace and security. Under the convention it is an offence to possess or use nuclear material with the intent to cause death or serious bodily injury, as well as substantial damage to property or the environment, or to compel a natural person, a legal person, an international organisation or a state to do or refrain from doing something.

Iraq, Lebanon, Libya, Syria and other Arab states regard the draft convention as legalising the possession and use of nuclear weapons by states and thereby giving way to state terrorism. They are also opposed to the provision of the draft convention which would exclude the activities of military forces of states from the scope of application of the convention. Members of the European Union, the United States, Russia and China clearly reject these views. In order to reconcile the different standpoints, Mexico submitted a compromise proposal to handle the problem of legality of nuclear weapons in convention. The proposal would insert a new provision stating that the convention does not address, nor can it be interpreted as addressing the legality of the use or threat of use of nuclear weapons by states. Although, this proposal obtained support from several delegation, the finalisation of the convention still seems to be remote.

The question of convening a high-level conference under the auspices of the United Nations to formulate a joint organised response of the international community to terrorism is also on the agenda of the working group based on an Egyptian proposal but so far no final action was taken by the Committee on it.

V.
In summing it up it should be emphasised that the General Assembly adopted several resolutions calling for the ratification of the conventions and for improvement on cooperation between states in combating terrorism, as well as condemning as criminal all acts, methods and practices of terrorism whenever and by whomever committed. The Security Council in resolution 579 (1985) condemned all acts of hostage-taking and kidnapping. In resolution 731 (1992) the Security Council held that acts of international terrorism constituted threat to international peace and security, which was later repeated by resolution 1269. After the terrorist attacks of 11 September 2001, the Security Council condemned terrorism in several resolutions, calling it one of the most serious threats to international peace and security.²

As to the formulation of the Hungarian position on international terrorism in the United Nations, we attach the statement delivered by Ambassador André Erdős, Permanent Representative of the Republic of Hungary to the United Nations, at the 56th Session of the General Assembly on 3rd October 2001.

² Resolutions 1368, 1373, 1377 (2001) and 1390 (2002).
Mr. President,

Taking the floor after so many speakers in this debate on terrorism, I fully recognise that the previous speakers have already covered the multiple aspects of both how we all felt and feel about what happened on September 11 in New York City and other places in the United States and how the international community should be waging an uncompromising struggle against this deadly phenomenon of our times. Here, at the United Nations, we have been speaking for years about the many global problems that transcend national borders and that affect each and everyone of us. Reference was made not once to international terrorism as one of those global problems. As time went by and events were happening, it became more and more obvious that no one could feel safe and secure in the face of the many difficult issues that were leaving their dramatic imprints on life in the four corners of our globalising world. The barbaric acts of September 11 have proven with elementary force that, in fact, terrorism knows no boundaries. Its horrifying consequences show as unambiguously as ever the interrelated nature of our societies, they demonstrate that terrorist acts in one country can have wide-ranging repercussions in many other parts of the world. As has already been said many times in the last three weeks, the terrorist strikes in this country are an attack against everything we all stand for, we believe in, against the very foundations of our civilisation. I wish to reiterate my government’s position that there can be no justification whatsoever for any kind of terrorist act.

Hungary fully supports the statement delivered by the European Union in this debate. Combating terrorism must become a priority objective of the international community. Since this struggle will be a multifaceted and complex undertaking, we need the strongest resolve, an unrelenting determination, an effective coordination to this effect within the community of nations. A global coalition is imperative, where all nations act in unison, in the same cohesive spirit of purpose, in order to prevent and to suppress the scourge of terrorism. This large coalition is emerging as we speak within the framework of the United Nations.

What happened in New York City and elsewhere in this country in early September was a wake-up call – perhaps the last wake-up call – for all of us at the national, regional and international levels. We all have been speaking about the threat of international terrorism, we were witnessing its rampaging across the globe, we were taking, no doubt about it, various steps to counter this threat, but yet, were caught unprepared as we watched the horrible outburst in our host city of this evil of our times. By now, the question is not so much choosing sides any more in this planetary fight against terrorists, but about the most effective ways to combat them.

The United Nations has not remained idle in the face of the September tragedy. The full solidarity of the world community, including my own country, with the government and people of the United States is on public record. In the immediate aftermath of the tragedy, our world organisation, through its Security Council and General Assembly, has reacted to the events with
no delay and in no uncertain terms. And the most recent Security Council resolution is an integral part of the emerging strategy to identify ways and means of how to take up the challenge of terrorism and, this time, with more determination and consistency, including ongoing monitoring activities. Part of this strategy should be the completion of the work on the two draft international conventions on nuclear terrorism and the suppression of international terrorism. And there might be many other ways of how to tackle this global enemy of humankind. The various other UN entities, like the UN Office for Drug Control and Crime Prevention in Vienna, multilateral organisations such as Interpol and many others, all need to have a second look at their strategies and action plans, which will have to be updated and better coordinated in order to achieve maximum efficiency. Simultaneously, and no less importantly, and as a reflection of the expected evolutions in the multilateral field, the development of a harmonized network of national legislative measures is also necessary.

Aware of the significance of regional and international co-operation, Hungary has concluded a set of bilateral treaties on terrorism with twenty-eight States, including most of its neighbours. In 1996, Hungary acceded to the European Convention on the Suppression of Terrorism in the framework of the Council of Europe. Hungarian efforts in this field have also been bolstered by an ever-increasing co-operation with the European Union. Equally, Hungary’s membership in the North Atlantic Treaty Organisation entails cooperation and the provision of concrete support in the collective fight against terrorism. Hungary is also party to ten of the twelve major international conventions pertaining to international terrorism. As regards the two remaining ones, on September 7, the Hungarian Parliament ratified the 1997 Convention on terrorist bombings. The 1999 Convention on the financing of terrorism will also be signed this year and ratified by our Parliament at an early date.

The Hungarian Parliament, in a resolution adopted in the wake of the terrorist attacks, called for the further development of international law in the struggle against global terrorism. Hungary believes that efforts in this direction must be intensified. Regarding the two yet unfinished international conventions related to terrorism, my country is looking forward to a constructive discussion on the text of the draft convention on nuclear terrorism, and believes that time has come for the speedy finalisation, on a priority basis, of the draft on a comprehensive convention for the suppression of international terrorism.

We have to recognize that this vast strategy of combating the terrorist threat contains several interdisciplinary elements. The struggle to defeat terrorism must be an overarching theme in the whole spectrum of human activities, in the fields of diplomacy, security, the judiciary, intelligence, in the areas of financial, social, humanitarian and economic endeavours. For this struggle to be effective, adequate solutions must be found to the many issues which create instability and conflict and which are the breeding ground for the phenomenon of terrorism. Each and every nation on Earth must feel, irrespective of its location on the map and the level of its development, that it is a genuine stakeholder in this fight, that this universal undertaking also responds to its national preoccupations and priorities.

A strong alliance against terrorists implies a much better coordination of our efforts to reach the goals laid down in the Millennium Declaration. It implies the most resolute rejection of suggestions of a clash among various religious beliefs and cultural traditions. It also implies an unequivocal refusal of cheap demagoguery, nationalist extremism and racism, at a time when tolerance, mutual understanding, human solidarity and openness must become, as importantly as ever, our guiding principles in our quest to create enlightened democratic and inclusive societies.