

**THE UNITED NATIONS AND INTERNATIONAL
TERRORISM: A CRITICAL STUDY OF
RESOLUTION 1373 (2001)**

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CERTIFICATE

This is to certify that the dissertation entitled "**The United Nations and International Terrorism: A Critical Study of Resolution 1373 (2001)**" submitted by Himmat Singh Deora in partial fulfilment of the requirements for the award of the degree of **Master of Philosophy**, has not been previously submitted for any degree of this or any other university and this is his own work.

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CHAPTER I

INTRODUCTION:

**UNITED NATIONS DIPLOMATIC RESPONSE TO
INTERNATIONAL TERRORISM**

The United Nations is an international organization, which came into existence on 24 October 1945. Its main objective is to maintain International Peace and Security. Since its inception, it is functioning in every field i.e. social, economic, legal and political. The International Terrorism is an obstacle in peace and security. To counter it, the United Nations General Assembly adopted two important human rights instruments in its first session in 1948. First instrument was the Universal Declaration of Human Rights and second was the convention for the Prevention and Punishment of the crime of Genocide. Once again the General Assembly in 1949, established the International Law Commission (I.L.C.) and it had mandated to draft a code of offences against peace and security of mankind and a statute for an International Criminal Court (I.C.C.).¹

Effective responses to combat hijacking and other acts of terrorism, protection of diplomats, condemning state involvement in terrorism were the General Assembly's main functions towards countering international terrorism in 1970s. The International Civil Aviation Organization (I.C.A.O.) adopted six International Conventions on Aviation Terrorism. Two

¹ Mani, V.S. "International Terrorism and the Quest for legal controls", International Studies 40, 1 (2003), New Delhi, pp. 43-44.

International Conventions adopted by the International Maritime Organization (I.M.O.). The International Atomic Energy Agency (IAEA) adopted a Convention For the Physical Protection of Nuclear Materials at Vienna in 1980. The General Assembly had taken this international terrorism, as a General issue in 1972, in this year eleven Israeli athletes at Munich Olympics were killed. The General Assembly included in its agenda the item on measures to prevent international terrorism. The General Assembly had adopted an Ad Hoc committee. But this committee could not succeed and became ineffective in dealing with international terrorism. It could not reached on definition of terrorism.

The General Assembly moved further to deal with this issue. It had adopted a resolution 39/159 on 17 December 1984 and it had condemned policies and practices of terrorism. Thus, General Assembly begun to deal with this menace and adopted resolutions and condemned the international terrorism. It adopted many resolutions time to time i.e. Resolution 44/29 of 4 December 1989, 1994 Declaration on measures to Eliminate International Terrorism and the 1996 Declaration to supplement the 1994 Declaration. It had also adopted conventions i.e. International convention for the suppression of terrorist bombings in 1996, convention for the suppression of the financing of terrorism in 1999. In this regard India also proposed a draft comprehensive treaty on terrorism in 1996. Russia also proposed a convention on nuclear terrorism.

The Security Council was not behind in countering terrorism; it had taken a step in 1988. The problem arisen after a Pan Am Boeing incident

was taken place on 21 December 1988 and two Libyan nationals were suspected for their hand behind this incident. The Security Council adopted resolution 748 on 31 March 1992 and this resolution was adopted by the Security Council acting under chapter VII of the charter. The United States embassies in Nairobi and Dar-es-Salaam were attacked by terrorists in 1998 and Osama bin Laden and his terrorist group Al-Qaida was found involved in this incident. The Security Council imposes a series of economic and other sanctions on the Taliban under chapter VII. Then September 11 terrorist attacks taken place in 2001 and both the General Assembly and the Security Council strongly condemned this heinous attack on the twin towers of the New York World Trade Centre. They have passed resolutions and condemned it. The Security Council adopted resolution 1373 on 28 September 2001 and asked all states to prevent and suppress the financing of terrorist acts; to ban collection of funds for terrorist acts; to freeze all financial assets of persons involved in the commission of terrorist acts; to prevent any person from helping terrorists.²

Following are the definitions of terrorism expressed by experts of terrorism. Terror or terrorism is based on the Latin verbs 'terrere' and 'deterre'. 'Terrere' means to cause to tremble. 'Deterre' means of frighten. These word forms are now quite adequate to describe the ubiquitous phenomenon of this generation as well. Terrorism, then, is a form of intimidation designed to influence politics and government behaviour. Terrorism, though, has a purpose beyond the immediate act. The terrorist

² The United Nations Security Council Resolution 1373 (2001), 28 September 2001, pp 2 to 5.

wants the enigma, he wants to create publicity. Terrorists create a worldwide, center-stage media event.³

It is possible to define terrorism objectively as long as we define it in terms of the quality of the act, and not in terms of the identity of the perpetrator nor the nature of the cause. This removes us from the dilemma of "one man's terrorist is another man's freedom-fighter". Of course, choosing to define terrorism in this way is itself a value judgment. It is backhanded way of saying that ends do not justify means. In an attempt to approach the subject objectively, our definition of a terrorist act must meet several criteria. A terrorist act is first of all an ordinary crime. As such it is defined by prohibition and proscription. All civilized societies, even primitive societies, have laws against murder, kidnapping, and the wilful destruction of property. Secondly, an organised group as we define it, carries out an act of terrorism. We mean actions claimed out by groups for political ends. Thirdly, terrorism refers to actions that are intended to produce fear and alarm. All acts of violence produce fear and alarm as a by-product, but in the case of terrorism, It is nor a by-product – it is the objective. A terrorist is interested in the psychological effects of his violence on the people watching the event.⁴

Terrorism is quite clearly not a synonym for violence in general; it is not a synonym for war; nor is it a synonym for insurgency. One can discern important differences between violence that takes place in conventional conflict, in criminal violence, in crimes of passion, and terrorism, whether of

³Quarles, Chester L. "Terrorism and Terrorists", in *Terrorism: Avoidance and Survival*, (Butterwrth- Heinemann (USA) Inc, 1991), pp.18-28

⁴Jenkins, Brian Michael. 'Terrorism: A cotemporary problem with age-old Dilemmas', in Lawrence Howard (eds.), *Terrorism: Roots, impact, Responses*, pp. 13-179 (Praeger Publishers, 1992).

groups or of states. It is, first of all, the systematic and premeditated use of violence to create a climate of extreme fear for political purposes. Second, it is violence directed at a wider audience- a wider target – than the immediate victim of the violence. Third, as a consequence of this wider targeting, it inevitably involves random and symbolic targets that include civilians. Fourth, it involves extra-normal means in a quite literal sense, which is to say, a deliberate violation of the norms of society regarding conflicts and disputes and political behaviour to create the impact of fear and the exploitation of that fear for the terrorists ends.⁵

Terrorism is the organised use of violence for political ends and is directed primarily at non-combatants. Organised by whom? We generally think of terrorist violence as being organised by non-state actors of various kinds– nationalists, anarchists, rightists, leftists, secessionists and so on. Terrorist violence is also an instrument of states or governments, often to combat non-state terrorists. Terrorism and state terrorism are not terribly different activities conceptually speaking. Terrorism uses force, or threatens to use force primarily against non-military targets, in order to frighten the other into capitulating. The word terrorism comes from the Latin 'terrere' to frighten. Terrorist organisations, their origins and workings, are unknowns. They are usually shadowy outfits. And they don't seem to care much about legitimacy and the regard of ordinary people.⁶

One of the major reasons why terrorism has become so ubiquitous in the contemporary international system is that it has proven a low-cost, low-

⁵ Wilkinson, Paul. "Observations on the Relationship of Freedom and Terrorism", in Lawrence Howard (ed), *Terrorism: Roots, Impact, Responses*, pp.155-166 (Praeger Publisher, 1992).

⁶ Bajpai, Kanti. "Roots of Terrorism", 2002, Penguin Books, p. 6-11.

risk, potentially high-yield method of struggle for all kinds of groups and regimes. And there is no sign that the ending of the cold war has eradicated the underlying ethnic, religious, political, ideological and strategic causes of conflicts, which spawn terrorism. On the other hand, twentieth century history shows terrorism is a faulty weapon that often misfires. It very rarely succeeds in delivering strategic goals, such as the overthrow of governments and their replacement by the terrorists.⁷

Terrorism as politically motivated violence directed against non-combatant or symbolic targets which is designed to communicate a message to a broader audience. The critical feature of terrorism is the deliberate targeting of innocents in an effort to convey a message to another party.⁸

"Terrorism is defined as the calculated employment or the threat of violence by individuals, sub national groups, and state actors to attain political, social, and economic objectives in the violation of law, intended to create an overwhelming fear in a target area larger than the victims attacked or threatened.⁹

After analysing the definitions and views expressed by eminent thinkers on terrorism, it can be said that terrorism is a global phenomenon and a serious threat to the world community. It had sociological, economic, legal and political dimensions. It directly influenced the politics and government of a country. Terrorist kill innocent civilians and they want

⁷ Wilkinson, Paul. "Politics, Diplomacy and Peace Process: Path ways out of Terrorism?" In Max Taylor and John Horgan (eds), *The Future of Terrorism* (Frank Cass London, 2000), pp. 66-82.

⁸ Louise Richardson. "Terrorists as Transactional Actors", in Max Taylor and John Horgan (eds.), *The Future of Terrorism* (Frank Cass, 2000), pp. 209-219.

⁹ Yonah Alexander. "Terrorism in the Twenty-First Century: An Overview", in Yonah Alexander and Stephen Prior (eds.), *Terrorism and Medical Responses: US Lessons and Policy Implications* (Transactional Publishers, Inc., USA, 2001), p. 10.

publicity. Terrorism is an organised violence for political ends. Terrorist activities are organised by non-state actors. Many states adopted these terrorist activities as instrument of foreign policy.

Terrorism has proven a low-cost, low-risk, potentially high-yield method of struggle for all kinds of groups and regions. This is an evolving phenomenon. Now, it is not merely a domestic phenomenon or threats only to national and regional security, but it has threatened the entire international peace and security. The main characteristics of terrorism are that these terrorist activities organised by states or by groups and made them more capable to use them properly.

The terrorist activities are increasing day by day and whole world community is suffering from this menace. World community is still making efforts to reach on definition of terrorism.

International Conventions and Protocols

The United Nations General Assembly had adopted its first convention on 14 September 1963 at Tokyo and it was entered into force on 4 December 1969. It was adopted against the offences and other acts committed on board aircraft and it allowed the commander of the aircraft to take necessary action to restrain the hijackers and established a system, which the commander may land in any state, which is a party to the contract, and turn the hijackers over to that state. The main purpose behind this convention was to protect the safety of the aircraft and of the persons and property thereon and to maintain good order and discipline on board.¹⁰

¹⁰ Till 1 May 2001, forty-one states had signed it and one hundred and seventy one states had ratified it. For details see, "Convention on Offences and Certain Other Acts Committed On Board Aircraft", in International Instruments Related to the Prevention and Suppression of International Terrorism, 2001, (United Nations, New York), p. 2.

The General Assembly had adopted its second convention on 16 December 1970 at the Hague and entered into force on 14 October 1971. The purpose of this convention was to suppress unlawful seizure of Aircraft. It had outlined that seizure of aircraft in flight, which jeopardize the safety of persons and property and erects the operation of air services is unlawful acts and it should be strongly condemned. All states parties of this convention considered that appropriate measures were required to punish offenders. As mentioned in Article 1 of this convention, a person who unlawfully, by force, by any other form of intimidation, seizes aircraft commits an offence. Article 2 states each contracting state undertakes to make the offence punishable by severe penalties.¹¹

The third convention, which General Assembly had adopted, was a Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. This convention was signed at Montreal on 23 September 1971 and entered into force on 26 January 1973. It came into existence for extradition of those persons who commits acts of sabotage or destroy aircraft or who jeopardize the safe flight of an aircraft by damaging its air navigational facilities. Article 1 explains the nature of offence, which a state commits and then becomes responsible for punishment. Article 3 says that states also commits such type of offences will be punishable by each counteracting state.¹²

¹¹ Till 1 May 2001, seventy-seven states had signed it and 173 states had ratified it. For details see, "Convention for the Suppression of Unlawful Seizure of Aircraft", in *International Instruments Related to the Prevention and Suppression of International Terrorism, 2001*, (United Nations, New York), pp. 13-14.

¹² Till 1 May 2001, 60 states had signed and 174 had ratified it. For details see, "Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation", in *International Instruments Related to the Prevention and Suppression of International Terrorism, 2001*, (United Nations, New York), pp. 21-23.

The United Nations General Assembly's Ad Hoc committee had adopted fourth convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including diplomatic agents on 14 December 1973 and it had entered into force on 20 February 1977. Article 1 of this convention mentioned the purposes of this convention. It makes clear of the meaning of internationally protected persons that a head of state, including any member of a collegial body performing the functions of a head of state under the constitution of the state concerned, a head of government or a minister for foreign affairs, whenever any such person is in a foreign state as well as members of his family who accompany him; any representative or official of a state or any official or other agent of an international organisation of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his persons, freedom or dignity, as well as members of his family forming part of his household.¹³

The United Nations General Assembly had adopted fifth convention against the taking of hostages on 17 December 1979 and entered into force on 3 June 1983. This convention says that the taking of hostages is an offence if any person found involved in this offence shall either be prosecuted or extradited. It has also convinced to develop international co-operation between states in devising and adopting affective measures for the prevention, prosecutorial and punishment of all acts of taking of

¹³ Till 13 June 2001, 25 states had signed and 107 states had ratified it. For details see, "Convention on the Prevention and Punishment of Crimes against International Protected Persons, Including Diplomatic Agents", in *International Instruments Related to the Prevention and Suppression of International Terrorism*, 2001, (United Nations, New York), pp. 30-31.

hostages.¹⁴ Next, the sixth international convention on the physical protection of nuclear material was signed at Vienna on 26 October 1979 and entered into force on 8 February 1987. This convention came into being for protecting nuclear material in which all states parties recognized the states have right to develop and apply nuclear energy for peaceful purposes and it convinced the need for facilitating international co-operation in the peaceful application for nuclear energy.¹⁵ The seventh international convention was signed at Montreal on 24 February 1988 and entered into force on 6 August 1989. This convention was read as Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.¹⁶

The United Nations General Assembly's Ad Hoc committee had adopted the eighth international convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation at Rome on 10 March 1988 and entered into force on 1 March 1992. It consisted of 22 articles related to safety of maritime navigation. States parties to this convention kept in their mind the purposes and principles of United Nations charter in which the maintenance of international peace and security, promotion of friendly relations and co-operation among states was its main concern. Unlawful acts

¹⁴ Till 13 June 2001, 39 states had signed and 95 states had ratified it. For details see, "Convention International Convention Against the Taking of Hostages", in International Instruments Related to the Prevention and Suppression of International Terrorism, 2001, (United Nations, New York), pp. 38-39.

¹⁵ Till 25 April 2001, 45 states had signed and 69 states had ratified it. For details see, "Convention on the Physical Protection of Nuclear Material", in International Instruments Related to the Prevention and Suppression of International Terrorism, 2001, (United Nations, New York), p. 48.

¹⁶ Till 1 May 2001, 69 states had signed and 107 states had ratified it. For details see, "Protocol for the Suppression of Unlawful Acts of Violence At Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971" in International Instruments Related to the prevention and Suppression of International Terrorism, 2001, (United Nations, New York), p. 63.

against the safety of maritime navigation, which seriously effect the safety of persons and property, the operation of maritime services, was the main concern of this convention.¹⁷

The ninth international convention for the Suppression of Unlawful Acts Against the Safety of Fixed Platform Located on the Continental Shelf was adopted at Rome on 10 March 1988 and entered into force on 1 March 1992. State parties to this protocol were being parties to the convention for the suppression of unlawful acts against the safety of maritime navigation.¹⁸

The tenth international convention on the Marking of Plastic Explosives for the Purpose of Detection was signed at Montreal on 1 March 1991 and entered into force on 21 June 1998. States parties to this convention were aware of the implications of acts of terrorism for international security and they expressed deep concern regarding terrorist acts to destroy aircraft and other means of transportation. They had deep concern of terrorist using plastic explosives to fulfil their aim. States parties also kept in their mind the United Nations Security Council's resolution 635 of 14 June 1989 and United Nations General Assembly's resolution 44/29 of 4 December 1989 urging the international civil aviation organization to intensify its work on devising an international regime for the marking of plastic or sheet explosives for the purpose of detection.¹⁹

¹⁷ Till 30 April 2001, 41 states had signed and 52 states had ratified it. For details see, "Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation", in *International Instruments Related to the Prevention and Suppression of International Terrorism, 2001*, (United Nations, New York), p. 68.

¹⁸ Till 30 April 2001, 39 states had signed and 48 states had ratified it. For details see, "Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf", in *International Instruments Related to the Prevention and Suppression of International Terrorism, 2001*, (United Nations, New York), p. 82.

¹⁹ Till 1 May 2001, 51 states had signed and 66 states had ratified it. For details see, "Convention on the Marking of Plastic Explosives for the Purpose of Detection", in *International Instruments Related to the Prevention and Suppression of International Terrorism, 2001*, (United Nations, New York), p. 88.

The United Nations General Assembly's Ad Hoc Committee had adopted eleventh international convention for the Suppression of Terrorist Bombings on 15 December 1997 and it came into force in accordance with article 22 United Nations. This convention recalled the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994. This resolution outlined that the states members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among states and peoples and threaten the territorial integrity and security of states. This international convention had also recalled the General Assembly resolution 51/210 of 17 December 1996. This resolution's main concern was the offence of the international and unlawful delivery, placement; discharge detonation of an explosive of other lethal device, whether attempted or actual against a place of public use in initial to cause death and demotion. Then state parties to require establishing jurisdiction and punished the guilty under their own domestic laws.²⁰

The General Assembly had adopted the twelfth International Convention for the Suppression of the Financing of Terrorism on 9 December 1999. This convention was open for signature from 10 January 2000 to 31 December 2001. It had recalled the United Nations General Assembly's resolution 50/6 of 24 October 1995, and resolution 49/60 of 9 December 1994. It had also called upon the General Assembly's resolution

²⁰ Till 13 June 2001, 59 states had signed and 24 states had ratified it. For details see, "International Convention for the Suppression of Terrorist Bombings", in *International Instruments Related to the Prevention and Suppression of International Terrorism*, 2001, (United Nations, New York), pp. 99-100.

51/210 of 17 December 1996, paragraph 3, sub paragraph (F) in which party states were asked to take steps towards preventing such crimes through their own appropriate domestic measures and also preventing and counteracting the financing of terrorists and terrorist organizations whether it is direct or indirect through organizations. It has also called General Assembly's resolution 52/165 of 15 December 1997 and resolution 53/108 of 8 December 1998. This convention was adopted for the purpose of stopping of financing of terrorism, which is a matter of grave concern to the international community. It has also expressed its concern that existing multilateral instruments do not have any provision towards stopping of financing of terrorism, which is the main reason, and base of every terrorist activity, which is taking place and international community, always suffers lot. It also feels that there is urgent need to enhance international cooperation among states in devising and adopting effective measures for the prevention of the financing terrorism.²¹

The United Nations General Assembly

The United Nations General Assembly had placed the issue of international terrorism in its agenda in its 27th session in 1972. Before this session, all efforts and activities were dealt with only on some specific issues. It had considered the international law commission's report and had approved its programmes. The General Assembly had adopted two resolutions 2926(XXVII) and 2927 (XXVII), unanimously, on the recommendation of the

²¹ Till 13 June 2001, 43 states had signed and 3 states had ratified it. For details see, "International Convention for the Suppression of the Financing of Terrorism", in International Instruments Related to the Prevention and Suppression of International Terrorism, 2001, (United Nations, New York), pp. 113-114.

sixth (legal) committee. The sixth committee unanimously approved these two drafts texts on 20 October 1972. The General Assembly had adopted a resolution A/RES/3034(XXVII) Measures to Prevent International Terrorism which endangers or takes innocent lives or jeopardizes fundamental freedoms, and study on the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes, on 18 December 1972. The General Assembly had adopted an international convention on the Prevention and Punishment of Crimes Against International Protected Persons, including Diplomatic Agents on 14 December 1973.²²

The General Assembly had held its twenty-ninth session on 21 September 1974 and included an item on international terrorism and the report of the Ad Hoc committee on international terrorism in its agenda.²³ In its next session (thirtieth session) of 1975 an item on the 1973 report of the Ad Hoc committee on international terrorism was included in its agenda. This item was allocated to the sixth (legal) committee. In its two previous sessions, the General Assembly decided on 15 December 1975, without a vote that owing to lack of time the item should be deferred to the following regular session.²⁴

The United Nations General Assembly in its 92nd meeting on 10 December 1981, had Adopted a resolution 36/109 Measures to prevent

²² Yearbook of the United Nations, 1973, vol. 27. p. 770.

²³ Yearbook of the United Nations, 1974, vol. 28. p. 866.

²⁴ Year book of the United Nations, 1975, vol. 29. p. 896.

international terrorism, which endangers or takes innocent human lives or jeopardizes fundamental freedoms and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes.²⁵ The General Assembly had adopted another resolution 38/130 19 December 1983 on the recommendation of the sixth (legal) committee on international terrorism unanimously.²⁶ The sixth committee had recommended a resolution, which the General Assembly had adopted this resolution 40/61 on 9 December 1985 on measures to prevent international terrorism unanimously.²⁷ On Middle East situation, the General Assembly had adopted another resolution 41/162 A on 4 December 1986. The General Assembly had strongly condemned all terrorist activities on December 1987 and urged all states to counter and suppress all causes underlying international terrorism. The General Assembly on the recommendation of the sixth (legal) committee had adopted a resolution 42/159 in December 1987, measures to prevent international terrorism.²⁸

The General Assembly on the recommendation of the sixth (legal) committee had adopted the resolution 44/29 on 4 December 1989, measures to prevent international terrorism. Another resolution 46/51 on measures to eliminate international terrorism was adopted by the General Assembly on 9 December 1991.

²⁵ Year book of the United Nations, 1981, vol. 35. pp. 1219-1222.

²⁶ Year book of the United Nations, 1983, vol. 37. pp. 1113-1114.

²⁷ Year book of the United Nations, 1985, vol. 39. pp. 1167-1168.

²⁸ Year book of the United Nations, 1987, vol. 41. pp. 1063-1065.

A resolution 48/122 on Human rights and terrorism was adopted by the General Assembly on 20 December 1993. The General Assembly on 9 December 1993, by decision 48/413, on the recommendation of the sixth committee, took note of the report of the working group and decided that consideration of the substantive issues should continue in the sixth committee during 1994 onwards the conclusion of a convention of jurisdictional immunities of states and their property through general agreement. The Assembly also decided that it would consider in 1994 international law commissioner's recommendation that an international conference of plenipotentiaries be convened to examine the draft articles and to conclude a convention on the subject. It further decided to include the item in the provisional agenda of that session. Another resolution 49/60 measures to eliminate international terrorism was adopted by the General Assembly on 9 December 1994 which was recommended by the sixth (legal) committee. The General Assembly had adopted a resolution 50/186 on 22 December 1995. Human rights and terrorism. The General Assembly adopted another resolution 50/53 was adopted by General Assembly on 11 December 1995 measures to eliminate international terrorism. The General Assembly had adopted a resolution 51/210 on 17 December 1996, measures to eliminate international terrorism.²⁹

On 15 December 1997, the General Assembly, on recommendation of the sixth committee (A/52/653), adopted resolution 52/165. "Measures to eliminate international terrorism", without vote.

²⁹ Year book of the United Nations, 1996, vol. 50. p. 1208.

On 15 December 1997, the General Assembly, on the recommendation of the sixth committee (A/52/653), adopted resolution 52/164. "International convention for the suppression of terrorist bombings", without vote.³⁰

On 8 December 1998, the General Assembly, on the recommendation of the sixth committee (A/53/636), adopted resolution 53/108. "Measures to eliminate international terrorism", without vote.³¹ On 8 December 1998, the General Assembly, on the recommendation of the sixth committee (A/53/627), adopted resolution 53/96 without vote. On 17 December 1999, the General Assembly, on the recommendation of the third committee (A/54/605/Add. 2), adopted resolution 54/164 "Human Rights and Terrorism", by recorded vote (106-0-58).

On 9 December 1999, the General Assembly adopted the International convention for the suppression of the financing of Terrorism, the draft text of which was prepared by the Ad Hoc committee established by Assembly resolution 51/210 and the working group of the sixth committee. The convention was to be open for signature from 10 January 2000 to 31 December 2001. The Ad Hoc committee, which was established to elaborate an international convention for the suppression of terrorist bombing and, subsequently, an international convention for the suppression of acts of nuclear terrorism, as well as to address means of further developing a comprehensive legal framework of convention's dealing with international terrorism, held its third session in New York from 15 to 26 March (A/54/37).

³⁰ Year book of the United Nations, 1997, vol. 51. pp. 1347-1348.

³¹ Year book of the United Nations, 1998, vol. 52. pp. 1217.

The assembly had adopted the International convention for the suppression of terrorist bombings by resolution 52/164. In March 1999, the Ad Hoc committee completed the first and second readings of the main provisions of the draft convention for the suppression of the financing of terrorism and a number of articles were revised. Work on the draft convention continued in the working group of the sixth committee, as decided by the assembly in resolution 53/108, which met between 27 September and 8 October 1999. It annexed the draft text of the convention to its report (A/C.6/54/L.2) and submitted it to the sixth committee for consideration. On 9 December 1999, the General Assembly, on the recommendation of the sixth committee (A/54/615), adopted resolution 54/109. "International convention for the suppression of the financing of terrorism", without vote.³²

In December 1999, the General Assembly, on the recommendation of the sixth committee (A/54/615), adopted resolution 54/110 "measures to eliminate international terrorism", by recorded vote (149-0-2). On 12 December 2000, the General Assembly, on the recommendation of the sixth committee (A/55/614), adopted resolution 55/158 "Measures to eliminate international terrorism", by recorded vote (151-0-2).

Role of Ad Hoc Committee on International Terrorism

The Ad Hoc committee is the important committee of the United Nations General Assembly. Its members are appointed by the president of the General Assembly. Its main function is to adopt conventions and

³² Year book of the United Nations, 1999, vol. 53. pp. 1232-1233.

recommended for adoption of the resolutions and considers observations of states under Paragraph 7 and to submit its report to the General Assembly with recommendations for possible co-operation for the speedy elimination of the problem. The General Assembly resolution 3034 (XXVII) had adopted the Ad Hoc committee in 18 December 1972.³³ The meeting of the Ad Hoc committee was held between 16 July and 11 August 1973. This committee was consisted of 35 Members: Algeria, Austria, Barbados, Canada, Congo, Czechoslovakia, Democratic Yemen, France, Greece, Guinea, Haiti, India, Iran, Turkey, Italy, Japan, Mauritania, Nicaragua, Hungary, Nigeria, Panama, Sweden, Syrian Arab Republic, Tunisia, Turkey, Ukrainian SSR, Union of Soviet Socialist Republic, United Kingdom, United Republic of Tanzania, United States, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire and Zambia. The Ad Hoc committee on 31 July 1973 had established three sub-committees. They had to perform given functions. First committee to study the definition of international terrorism, second committee to study the underlying causes of international terrorism and the third committee to study measures for prevention of international terrorism. The Ad Hoc committee had submitted its report in the session of the General Assembly in 1973.³⁴

In initial years of the adoption of the Ad Hoc committee, had to perform task of defining, finding the causes and measures to prevention international terrorism. But it could not achieved its goal because of it was tough job for Ad Hoc committee to solve this problem. During that period the use of terrorism was mostly confined to non-state actors – fighting for

³³ Year book of the United Nations, 1972, vol. 26. p. 858.

³⁴ Year book of the United Nations, 1973, vol. 27. pp. 777-778.

independence from colonial rule. For revolutionary, radical causes, for national liberation, for autonomy etc. But after some decades, international terrorism to be used as an instrument of state policy, both internal and external. Some countries, like France, felt that the first step should be to undertake a detailed study of the definition of international terrorism and others, including Canada, considered that an abstract definition of those notions was not necessary and that it would be preparing, for instance, the conventions concerning civil aviation.

The Ad Hoc committee could not consider its item and resolutions related to the item of international terrorism and it had submitted its report on international terrorism in General Assembly's 28th session (A/9028/1973) without having any definition of terrorism). Till 1976, the Ad Hoc committee had not met. The General Assembly had called the Ad Hoc committee on 15 December 1976 to resume its work in accordance with the mandate entrusted to it under General Assembly resolution 3034 (XXVII) of 18 December 1972.³⁵

The Ad Hoc committee had resumed its work. It had met at New York from 14 to 25 March 1977. it held a general debate on the subjects outlined in its mandate. Members had deep concern at the increasing international terrorism problem. The inalienable right to self-determination and independence fall peoples under colonial and racist regimes and other forms of alien domination was reaffirmed by many members, and the legitimacy of the struggle of those peoples was upheld, in particular the struggle of national liberation movements.³⁶

³⁵ Year book of the United Nations, 1976, vol. 30. p. 1060.

³⁶ Year book of the United Nations, 1977, vol. 31. p. 968-969.

The Ad Hoc committee held its session as New York from 1 to 19 August 1977 to draft an international convention against the taking of hostages. The Ad Hoc committee met at New York from 19 March to 6 April 1979 to continue the work entrusted to it by the General Assembly in 1972 and 1976. The Ad Hoc committee had task to perform including observation on international terrorism submitted by member states, the secretariat prepared on analytical study of the subject on the basis on these observations, and working papers submitted to it during its 1973 session. The causes of international terrorism and their elimination and measures to combat the problem and general approaches to problem of international terrorism were the question, which had debated in Ad Hoc committee's session.

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The Ad Hoc committee established a working group. Its main function was to deal with issues of finding causes, measures taken against international terrorism. Some countries like Algeria, Barbados, India, Iran, Nigeria, Panama, the Syrian Arab Republic, Tunisia, Venezuela, Yugoslavia, Zaire and Zambia had jointly submitted working paper. Sweden, United Kingdom, United States and Uruguay had submitted four working papers in connexion with practical measures to combat terrorism before the working group. During its meeting, the Ad Hoc committee recommended that the General Assembly condemn all acts of international terrorism which endangered or took human lives or jeopardized fundamental freedoms, take note of the study of its underlying causes as contained in the committee's report; urge all states to contribute to the progressive elimination of those causes; call upon all state to fulfil their obligations under international



regarding terrorist acts and preparations for such acts; appeal to states that had not done so to become parties to existing international conventions relating to various aspects of the problem of international terrorism within their respective spheres of responsibility; urge states to co-operate.

Between 1976 and 1996, the Ad Hoc committee did not meet. The United Nations General Assembly resolution 51/210 of 1996 established an Ad Hoc committee to elaborate an international convention for the suppression of terrorist bombings and an international convention for the suppression of nuclear terrorism. This Ad Hoc committee met at New York from 24 February – 7 March 1997. France on behalf of the Group of seven (G-7) major industrialised countries had submitted an international convention for the suppression of terrorist bombings and Russian federation also submitted a draft convention on the suppression of acts of nuclear terrorism. In its session the Ad Hoc committee considered both drafts.³⁷

The Ad Hoc committee held its second session in New York from 17 to 27 February 1998 (A/53/37). In this time the General Assembly resolution 52/164 had adopted the international convention for the suppression of terrorist bombings. In this meeting, the Ad Hoc committee had a text of a draft convention for the suppression of acts of nuclear terrorism. The Russian Federation had adopted this draft. Introducing the draft, the Russian Federation highlighted the potential threats posed by nuclear terrorism and the need to take effective countermeasures against them.³⁸

The Ad Hoc committee held its third session in New York from 15 to 26 March 1999 (A/54/37). In this session, the Ad Hoc committee's main

³⁷ Year book of the United Nations, 1997, vol. 51. p. 1347.

³⁸ Year book of the United Nations, 1998, vol. 52. p. 1216.

focus was on the text of international convention for the suppression of terrorist bombings, which the General Assembly had already adopted by its resolution 52/164 of 1997. The Ad Hoc committee had completed first and second readings of provisions of this draft convention and it had also revised some articles of this draft convention.³⁹

The Ad Hoc committee had held its fourth session in New York from 14 to 18 February 2000. The items in its agenda was to elaborate a draft international convention for the suppression of acts of nuclear terrorism and to address the question of convening a high level conference under United Nations auspices to formulate a joint organised response of the International Community to terrorism in all its forms and manifestations.⁴⁰

The Sixth (Legal) committee on International Terrorism

The Sixth (Legal) Committee of the General Assembly has some work to measure to eliminate international terrorism such as; it makes recommendation to adopt resolution. The General Assembly had adopted two resolutions 2926 (XXVII) and 2927 (XXVII) on recommendation of the Sixth Committee. The Sixth Committee had approved these resolutions on 20 October 1972.⁴¹

A terrorism problem related proposal was proposed by Canada and amended by Mauritania; sixth committee adopted it on 27 September 1972.

The Chairman of the Sixth Committee had presented a report on 9 November 1972. This report included three points on terrorism, the inclusion of the item in the provisional agenda of the 1973 Assembly session; a

³⁹ Year book of the United Nations, 1999, vol. 53. p. 1232.

⁴⁰ Year book of the United Nations, 2000, vol. 54. p. 1247.

⁴¹ Year book of the United Nations, 1972, vol. 26. p. 637.

request to states to adopt measures at the national level and on appeal to states to become parties to the various existing treaties or conventions covering certain acts of international terrorism. The secretariat had submitted a study report to sixth committee on terrorism problem. The sixth committee called a session between 9 November to 11 December 1972 and considered items on terrorist problem. The United States had submitted a working paper on draft convention for the prevention and punishment of certain acts of international terrorism. It was under the consideration of the sixth committee. This draft convention provided that each state party would be required to establish severe penalties for the offences of international significance set forth in the convention.⁴²

A convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents, was recommend and approved by the sixth committee on 6 December 1973. The sixth committee had to consider the draft articles of this convention, which had been approved by the international law commission at its twenty-fourth session in 1972. The sixth committee had completed its work on this item and presented to the general assembly on 6 December 1973.⁴³ The item on international terrorism had begun to discuss in the sixth committee from 1974. It had recommended the General Assembly that due to lack of time the item related to international terrorism should be deferred to the following regular session. Several countries criticised sixth committee for its decision.⁴⁴

⁴² Year book of the United Nations, 1972, vol. 26. pp. 641.

⁴³ Year book of the United Nations, 1973, vol. 27. pp. 770-771.

⁴⁴ Year book of the United Nations, 1974, vol. 28. p. 866.

The Sixth committee discussed the questions of measures to prevent international terrorism in General Assembly's session in 1977. On the recommendation of the sixth committee, the General Assembly adopted a resolution on this question on 16 December 1977 and expressed deep concern over increasing acts of international terrorism. The sixth committee approved the text of resolution 32/147 on 9 December 1977. This resolution was sponsored by Afghanistan, Algeria, Burundi, the Congo, Democratic Yemen, Egypt, Ethiopia, Ghana, Guinea, Kenya, the Leo peoples democratic republic, Lesotho, the Libyan Arab Jamahiriya, Mali, Morocco, the Niger, Nigeria, Somalia, the Sudan, Togo, Tunisia, Uganda, the United Republic of Tanzania, Yemen, Zaire and Zambia.⁴⁵

The Sixth (Legal) Committee held its regular session between 26 September and 4 December 1979. The committee had to consider some important items in this session. Including item recommended by General Assembly on the question of measures to prevent international terrorism and the Ad Hoc committee's report on international terrorism and several letters addressed to the Secretary General. Several countries Afghanistan, Algeria, Benin, Guinea, India, The Libyan Arab Jamahiriya, Morocco, Mozambique, the Niger, Tunisia, Uganda, the United Republic of Tanzania, Venezuela, Yugoslavia, Zaire and Zambia sponsored a draft resolution and submitted it to the sixth committee. Austria and Jordan amended this draft text and then the sixth committee approved the text on 4 December 1979. The General Assembly adopted it as resolution 34/145 on 17 December 1979. Cuba, Egypt, the Libya Jamahiriya, the Niger, Togo, Yugoslavia, Zaire, Zambia had

⁴⁵ Year book of the United Nations, 1977, vol. 31. pp. 968-969.

sponsored another draft and Zimbabwe and the sixth committee approved this draft on 4 December 1981.

Finding causes of terrorism and measures to prevent it, was the main issue before the sixth committee. In September 1979 the secretary-general made a report in response to a 1979 General Assembly resolution, continuing government observations, material on national legislation dealing with the combating of international terrorism, and information and other material submitted by international inter-governmental organizations. The sixth committee went through it.⁴⁶

The nine-nation draft was introduced in the Sixth Committee. In that draft, an operative paragraph on national liberation movements did not include, so that Yugoslavia said that it did not effect the sponsor's view that the struggle of such movements came within the purview of the 1949 Geneva conventions and the 1977 additional protocols thereto, and that the struggle could not be identified with terrorist acts.

A general approach to the question of international terrorism and its underlying causes and the prevention of this international terrorism were mainly focused in the discussion of the sixth committee. Member states wanted the United Nations to continue its work on the topic. The sixth committee was continued to recommend specific resolutions on the issue of international terrorism. It had recommended to the General Assembly to adopt a resolution and the General Assembly, after going through the Sixth Committee's recommendation, adopted a resolution 38/130 on 19 December 1983

⁴⁶ Year book of the United Nations, 1979, vol. 33. p. 1147-1149.

without any vote. Then Sixth Committee approved this text. Four more draft resolutions on the issue of international terrorism were submitted to the sixth committee in 1985. Regarding these four draft resolutions in which three drafts were submitted by delegations and one draft submitted by the sixth committee chairman and the Sixth Committee approved them. The sixth committee recommended to General Assembly and then General Assembly after consideration, recommendations, adopted a resolution 40/61 on 9 December 1985. The Sixth Committee recommended General Assembly to adopt a resolution. The General Assembly had gone through recommendation and adopted a resolution 42/159 on 7 December 1987 and the Sixth Committee had approved it. Once again the General Assembly had adopted another resolution 44/29 on 4 December 1989 on the recommendation and approved by the Sixth Committee.

The main function of the Sixth Committee was to recommend and approved the resolution passed by the General Assembly time to time. Resolutions 46/51 of 9 December 1991, 48/37 of 9 December of 1993, 48/411 of 9 December 1993, 49/60 of 9 December 1994, 50/53 of 11 December 1995, 51/210 of 17 December 1996, 52/165 of 15 December 1997, 52/164 of 15 December 1997, 53/108 of 8 December 1998, 54/109 of 9 December 1999, 54/110 of 9 December 1999, 55/158 of 12 December 2000 are on measures to eliminate terrorism.

The United Nations Security Council

The United Nations Security Council received a complaint by Lebanese government that an Israeli air force plane had violated Lebanon's air space and had hijacked a Lebanese civilian airliner on lease to Iraqi Airways. On this issue the Security Council met from 14 to 15 August 1973. After going through this complain, the Security Council had unanimously adopted a resolution 337 (1973) and condemned the government violating of Israel for Lebanon's airspace. The Security Council accused Israeli government of the provisions of international conventions safeguarding civil Aviation. It had also called on the International Civil Aviation Organization (ICAO) to take due account of this resolution.⁴⁷ The Security Council had condemned acts of international terrorism on three occasions in 1985, including hijacking and hostage – taking. The president of the Security Council, on behalf of its member states welcomed the news of the release of the passengers and the crew of the cruise-ship Achille Lauro on 9 October 1985. On the request of the United States on serious situation caused by hostage taking and abduction, the Security Council held a meeting on 18 December 1985 and adopted resolution 579 unanimously.

The president of the Security Council condemned the terrorist attacks on airports of Rome and Vienna on 30 December 1985. In his statement, the president said those responsible for these deliberate and indiscriminate killings be brought to trial in accordance with due process of law.⁴⁸

The Security Council on July 31, 1989 considered the question of hostage – taking and abduction. The President of the Security Council

⁴⁷ Year book of the United Nations, 1973, vol. 27. p. 779.

⁴⁸ Year book of the United Nations, 1985, vol. 39. pp. 1169-1170.

informed that the meeting of the Security Council took place concerning this event of hostage taking and abduction. The Security Council had adopted a resolution 638 on July 31, 1989 unanimously. It had reiterated its condemnation of all acts of hostage – taking and abduction and demanded the immediate safe release of all hostages and abducted persons whenever and by whomever they were being held.⁴⁹

The Security Council had condemned the terrorist attack on Buenos Aires in Argentina on 18 July 1994 and in London on 26 and 27 July 1994. The Security Council President had made a statement on behalf of the Security Council on 29 July 1994, that the members of the Security Council recalled the statement issued on the occasion of the Security Council summit of 31 January 1992, expressing deep concern over acts of international terrorism and emphasizing the need for the international community to deal effectively with all such acts.⁵⁰

Due to Libyan Arab Jamahiriya's decision to surrender for trial in the United Kingdom or the United States of two Libyan nationals suspects of involvement in the 1988 bombings of Pan Am flight 103 over Lockerbie, Scotland. The Security Council upheld sanctions in 1997, which were imposed on the Libyan Arab Jamahiriya under resolution 748 (1992) and resolution 883 (1993). The Secretary of the General Peoples Committee for foreign liaison and international cooperation of the Libyan Arab Jamahiriya addressed to the president of the Security Council through a letter on 17 January 1997 and announced that Libyan Arab Airways would resume

⁴⁹ Year book of the United Nations, 1989, vol. 43. p. 830.

⁵⁰ Year book of the United Nations, 1994, vol. 48. p. 1293.

international flights out of the Libyan Arab Jamahiriya immediately. The Security Council President made a statement on 29 January 1997 concerning this letter and said that the Security Council would consider any such flights to be a violation of the terms of resolution 748 (1992). Again, on 29 March 1997, a Libyan-registered aircraft flew from Tripoli, Jeddah and Saudi Arabia. The President of the Security Council expressed his concern on behalf of the Security Council that this was the clear violation of Security Council resolution 748 of 31 March 1992 and totally unacceptable and called on the Libyan Arab Jamahiriya to refrain from any further such violations.

The President of the Security Council on 20 May 1997 Says that the Security Council had deep concern of reports that Libyan –registered aircraft flew from the Libyan Arab Jamahiriya to the Niger on 8 My 1997 and returned to the Libyan Arab Jamaliriya from Nigeria on 10 May 1997 in violation of resolution 748 of 1992. The Security Council has requested the committee established pursuant to resolution 748 of 1992 to follow up this matter directly with representatives of the Libyan Arab Jamahiriya, the Niger and Nigeria. The Security Council calls upon all states o fulfil their obligations under resolution 748 of 1992 in the event that aircraft flight originating in the Libyan Arab Jamahiriya seek to land in their territory. The Sanctions Committee concerning the Libyan Arab Jamahiriya issued a report on 31 December 1997. This report had covered its activities since the beginning of 1997. The Sanctions Committee had held seven meetings and

handled over 100 incoming communications relating to the implementation of the sanctions.⁵¹

The Security Council had established a Sanctions Committee pursuant to resolution 985 (1995) to monitor sanctions against Liberia. This Sanction Committee had issued a report on 24 December 1998, covered its all activities in 1998. The Sanctions Committee concerning Libyan Arab Jamahiriya issued a report on 31 December 1998.

The Security Council considered the draft prepared by the United Kingdom and the United States in 1998. After study of this draft, the Security Council adopted a resolution 1192 on 27 August 1998 unanimously. Libya and Netherlands were invited to participate in the discussion. The President of the Security Council issued a statement on behalf of member states on 13 July 1998 on the Palestine, Sudan and the League of Arab states to the issue of Jerusalem. The Security Council had gone through all letters of these countries representatives in the United Nations. The Security Council unanimously adopted a resolution 1189 on 13 August 1998. This resolution was passed in concerning the terrorist bomb attacks on Kenya and Tanzania on 7 August 1998.

The United Nations Security Council had adopted a resolution 1267 on 15 October 1999. The main purpose of this resolution was to accuse Osama bin Laden for terrorist bombings of the United States Embassies in Nairobi and Dar-es-Salaam. Under that test, all states were required to Freeze funds and other financial resources, including funds derived or

⁵¹ Year book of the United Nations, 1997, vol. 51. pp. 155-159.

generated by any undertaking owned or controlled by the Taliban, and to ensure that those funds are not used by the group. The United Nations Security Council's Monitoring Sanctions Committee on Afghanistan had published a list of individual and groups connected with the Taliban or the Al-Qaida terrorist organisation.⁵²

The Security Council had adopted another resolution 1269 on 19 October 1999 on international cooperation on the fight against terrorism. This resolution had outlined a series of actions including denying safe haven to terrorist, apprehending them and cooperating in the fight against terrorism. This resolution was security councils first venture into the general problem of international terrorism. It had called on all states to take measures of cooperation and coordination against terrorism and condemned all acts, methods and practices of terrorism.⁵³

The United Nations Security Council had adopted a resolution 1333 on 19 December 2000, which had tightened the sanctions imposed by the Security Council against the Taliban after Osama bin Laden was accused in the United States for the bombings of the United States Embassies in Nairobi and Dar-es-Salaam. The text demanded the handover of Osama bin Laden to appropriate authorities in a country where he has been accused or to appropriate authorities in a country where he will be returned to such a country or to appropriate authorities is a country where he will be assisted and effectively brought to justice. The United Nations Security Council Committee on Monitoring Sanctions against Afghanistan provided a list including the names of individuals and groups subject to Security Council

⁵² Year book of the United Nations, 1999, vol. 53. pp. 265-266.

⁵³ Year book of the United Nations, 1999, vol. 53. pp. 1240-1241.

resolution 1333 of 2000. This list named 54 persons and 66 entities. The resolution 1333 of 2000 required all states to freeze funds and other financial assets of Osama bin Laden and his associates in the Al-Qaida organisation.⁵⁴

India's Sponsored draft convention on International Terrorism

India had made a draft convention on International Terrorism and tabled it in the United Nations General Assembly in 1996. This convention was revised in 2002. The main features of this draft are as follows: First, it proposed a comprehensive definition of an act of terrorism. Second, it seeks to impose on state parties an obligation to screen asylum-seekers in order to ensure that the asylum facility is not abused for terrorist purposes. Third, it proposed a wide range of preventive obligations including prohibition of installations and training camps for transboundary terrorist acts, prohibition of illegal activities by all persons, groups, etc. that commit those offences. Fourth, it provides that state shall have duty to exchange information on matters relating to terrorism with each other. Fifth, it had proposed for attribution of criminal liability to any legal entity engaged in terrorist or terrorist-related activities. Sixth, it is also saying that the states should investigate on receipt of information regarding terrorist activities. Seventh, states have to report to the United Nations Security Council about any proceedings under the convention. And Last, this convention consists of three annexes. Annex I eliminates the chances of non-extradition of persons on the ground of the

⁵⁴ Year book of the United Nations, 2000, Vol. 54. pp. 273-275.

traditional political offence exception. Annex ii lays down the procedure for mutual legal assistance regarding terrorist offences. Annex iii deals with the extradition procedure to fill the gap in international law by indicating how extradition requests could be made, entertained and complied with.

The sixth committee of the United Nations General Assembly adopted the resolution on measures to eliminate international terrorism in November 1999 during the General Assembly session. This resolution contains provision for initiating work on the Indian sponsored draft convention on international terrorism in September 2000.

Important aspects of the Indian sponsored convention are that they lay emphasis on responsibility of states and also covers terrorist acts in all its aspects. All previous international conventions on terrorism concentrated only on specific acts of terrorism e.g. terrorist bombing, hijacking etc.⁵⁵

At the 55th United Nations General Assembly, the working group of the sixth committee in pursuance of a decision taken at the 54th United Nations General Assembly, held its first round of detailed discussions on the draft comprehensive convention on international terrorism at the United Nations from September 25 to October 6, 2000.

The progress so far in the first round of discussions on the Draft comprehensive convention on international terrorism in the Working Group of the Sixth Committee from September 25 to October 6, 2000 reflected the seriousness with which the international community approached the issue. The considerable support received from a wide range of countries, including

⁵⁵ Ministry of External Affairs, Government of India, Annual Report 1999-2000, P. 74.

G-8, European Union, as also Asian, African and Latin American countries; on several of the issues of concern to India was a matter of satisfaction. These included the need for the convention to address the question of state responsibility to refrain from acts of terrorism and to ensure that their respective territories are not used for terrorist installations and training camps, along with a responsibility of states to either prosecute or extradite. Among the issues on which more work needed to be done in bridging differences included the questions of asylum, extradition exclusion of security forces from the purview of the convention political exception clause, and a definition of terrorism.⁵⁶

Two rounds of negotiations were held in January – February 2002 and then in mid October 2002, on India's initiative for a comprehensive convention on International Terrorism. Considerable progress was achieved, but a few divisive issues of political sensitivity remained. It was agreed to continue negotiations in 2003.⁵⁷

⁵⁶ Ministry of External Affairs, Government of India, Annual Report, 2000-2001, pp. 87-88.

⁵⁷ Ministry of External Affairs, Government of India, Annual Report, 2002-2003, p. 89.

CHAPTER – 2

UNITED NATIONS RESPONSE TO TERRORISM-9/11 AFTERMATH

United Nations Security Council's Action

Immediately after terrorist attack on the World Trade Center the United Nations Security Council made a statement and condemned the terrorist attack, and extended its profound sympathy to the victims and Government of the United States. "Terrorism is an international scourge which the United Nations has many times condemned. A terrorist attack on one country is an attack on humanity as a whole. All nations of the world must work together to identify the perpetrators and bring them to justice".¹

On the same day (12 Sept 2001) the Security Council had passed a resolution 1368 (2001). This resolution reaffirm principles and purposes of the UN Charter, determined to combat by all means threat to international peace and security caused by terrorist acts, recognized the inherent right of individual or collective self-defence in accordance with the charter, condemns the Sept 11 attack on the United States of America, expressed its deepest sympathy and condolences to the victims and Government of United States and called on all states to work together to justice perpetrates, organizes and sponsors of these terrorist attacks. It also called "on the international community to redouble their efforts to prevent and suppress terrorist acts including by increased cooperation and full implementation of the relevant

¹ UN News Letter, Volume 56, Number 37, 15-21 September, 2001, New Delhi, p 1.

international anti-terrorist conventions and Security Council resolution, in particular resolution 1269 of 19 Oct 1999".²

The UN Security Council President Ambassador Jean David Levitte of France made a statement on Afghanistan on 18 September 2001, and called for implementation of United Nations Security Council resolutions in (particularly resolution 1333), immediately and unconditionally, it was a message for Taliban government of Afghanistan. This resolution (1333) was adopted on 19 December 2000 and it has tightened the sanctions imposed by the Security Council against the Taliban government of Afghanistan after Osama Bin Laden was held responsible for bombing of US Embassies in Nairobi and Dar-es-Salaam in 1998. This resolution demanded the handover of Osama Bin Laden to appropriate authority.

On 21 September 2001, while briefing the journalists, Security Council president Jean-David Gritte of France asserted that the United Nations can and indeed, must be fully engaged in the fight against terrorism. He also said that the 15-member body is exploring its specific role in that effort. He recalled that in past experience, the Security Council had taken action against terrorism generally and had also specifically acted in response to the situation in Afghanistan. "The question is: is there room for action beyond resolution 1368 that we adopted unanimously a few days ago?" He asked referring to the text adopted by the council in 12 Sept. 2001.³

"The tragedy of the Afghan people has deep roots, more than two decades of conflict and three years of drought, but the fast deteriorating

² UN Newsletter, Volume 56, Number 38, 22-28 September 2001, P.2, New Delhi.

³ UN newsletter, volume 56, Number 39. 29 September – 5 October 2001, P.1, New Delhi.

situation today was basically the result of divisions taken by the Taliban”, said Ambassador Jean-David Levitte of France, President of the security council.⁴

The UN Security Council expressed its concern on worsening humanitarian crisis prevailed in Afghanistan. World Community was ready to provide support Afghanistan and its neighbouring states, which they separately required and also claimed that Taliban government was responsible for today's fast deteriorating situation. Security Council President Jean David Levitte of France on 27 September 2001 expressed his deep concern. Members of the UN Security Council also called on Taliban government to immediate removal of all restrictions as the supply of desperately needed humanitarian and including food supplies and humanitarian relief works.

The United Nations Security Council adopted a resolution 1373 on 28 September 2001. This resolution is an important landmark because of its clauses and it has established a counter terrorism committee (CTC) to monitor the resolution's implementation and called on all states to report on actions they had taken to that end no later than 90 days from September 28, 2001. The Security Council expressed its concern on the close connection between international terrorism and transnational organized crime, illicit drugs, money laundering and illegal movement of nuclear, chemical, biological and other deadly materials. Due to all these reasons the it called for enhancing the coordination of national, sub-regional, regional and international efforts to strengthen a global response to that threat to international security. The British diplomat at the United Nations Sir Jenery Greenstock became the chairman of the counter terrorism committee and security council president

⁴ UN Newsletter, Volume 56, Number 39, 29 September – 5 October, 2001, P.6, New Delhi.

Richard Ryan also named three diplomats chosen as vice chairmen of the counter terrorism committee, Ambassador Alfonso Valdivieso of Colombia, Ambassador Jugdish Koonjul of Mauritius and Ambassador Sergey Lavrov of the Russian federation.⁵

On 9 October 2001 members of the United Nations Security Council made their concerns on the prevailing humanitarian situation in Afghanistan and the plight of vulnerable women and children. "Council members stressed the need for the relief effort in the country and it also appealed to all states to cooperate with United Nations agencies and to help in creating the conditions for humanitarian agencies to operate effectively".⁶

On 12 November the United Nations Security Council had passed a resolution 1377 for elimination of international terrorism. In this resolution the security council declared that the terrorist acts is one of the serious threat to international peace and security of the 21st century and it called all states to intensify their efforts to eliminate the scourge of terrorism. This resolution was unanimously adopted during a foreign ministers level meeting under the Chairmanship of the Security Council President K.D. Knight. The Security Council appealed for countries to take urgent steps to put into action its resolution 1373. Under this resolution, member states had obligations "to deny financial and all other forms of support and safe haven to terrorist and those supporting terrorism".⁷ The Security Council's resolution 1377 welcomed the commitment expressed by states to fight "the scourge of international terrorism" and called on them to become parties as soon as

⁵ UN news Letter, volume 56, Number 40, 6 October – 12 October 2001. p.1, New Delhi.

⁶ UN News Letter, volume 56, Number 41, 13 October- 19 October 2001, p.3, New Delhi.

⁷ UN News Letter, volume 56, Number 46, 17 November - 23 November 2001, p.1, New Delhi.

possible to the relevant international conventions and protocols relating to international terrorism. The Security Council unanimously adopted a resolution 1378 on 14 November 2001 to support for transitional administrator in Afghanistan. It reaffirmed that the UN should play a central role for political solution in Afghanistan. The UN Security Councils members fully supported Secretary General's special representative for Afghanistan, Lakhdar Brahimi's efforts to reach on negotiation.

According to this resolution, the new Afghan institutions should be "broad-based, multi-ethnic and fully representative of all the Afghan people and committed to peace with Afghans people and committed to peace with Afghanis neighbours".⁸ Institutional structures should be based on multi-ethnic and all Afghan should be represented and institutions should be committed to peace with its neighbours. Human rights to all Afghan people and international obligations should be honoured and respected.

The Security Council committee monitoring United Nations sanctions against Afghanistan had prepared a list of individuals and groups connected with Taliban and published it. This list was consisted of peoples who were subject to Security Council resolution 1267(1999); this resolution was adopted after the terrorist bombings of United States embassies in Nairobi and Dar-es-Salaam in 1998. The whole purpose of this resolution was to nab Osama Bin Laden, and freezing funds and other financial resources received and controlled by the Taliban and to ensure that the group does not use these funds. This list also mentioned nine entities subject to the sanctions. In another sanctions, the list provides names of individuals and groups subject to

⁸ UN News Letter, Volume 56, Number 46, 17 November – 23 November 2001, p.9, New Delhi.

Security Council resolution (1333(2000)). This resolution 1333 requires all states to freeze funds and other financial assets of Osama Bin Laden and his associates.

After the end of the Taliban regime in Afghanistan, efforts begun to form new Government. 23 representatives of four Afghan groups assembled in Bonn (Germany). An important negotiation was held. They reached on an agreement and it was signed on 5 December 2001 at Bonn. UN Secretary General Mr. Kofi Annan had sent his representative Mr. Lakhdar Brahimi to Afghanistan to participate in that Bonn negotiation. He played an important role. The Security Council endorsed the Bonn agreement. On 6 Dec 2001, it had passed a resolution 1383, called upon all Afghan groups to implement the agreement in full and cooperate with the interim authority which was due to take office on December 22, 2001 under the Presidentship of Hamid Karzai.

The Security Council had unanimously adopted a resolution 1386 on 20 December 2001 for authorization of international security force for Afghanistan to assist the Afghan interim authority in Kabul and its surrounding areas. The main purpose of this resolution was to foster a secure environment for the political transition in Afghanistan. The Security Council called on all states to contribute personnel, equipment and other resources to the new force, which would establish for a six-month period. This resolution was passed under chapter VII of the UN charter that provides for the use of force, also authorized participating countries to take all necessary measures in carrying out their responsibilities.⁹

⁹ UN Newsletter, Volume 56, Number 51, 22-28 December 2001, p.2, New Delhi.

On 6 January 2002 after the demise of Taliban regime in Afghanistan, it needed development and progress in restructuring of all systems. On 11 January 2002 the Security Council had decided to adjust imposed sanctions against the Taliban to conform the new realities. The security council president Ambassador Jagdish Koonjul of Mauritius told that all members of the Security Council welcomed the positive changes in the country due to end of the Taliban regime. " They reiterated their support to the Interim authority of Afghanistan in its efforts to return the country to peace, stability and normally and move forward the political process in accordance with the Bonn agreement".¹⁰

On 6 January 2002 the Security Council had lifted sanctioned against Afghanistan to check or target the Al-Qaida led network and its supporters in Afghanistan. The council also had adopted a resolution for updating the previous set of measures is freeze financial assets of individual, groups or organization on a list of complying by sanctions committee. This resolution also refers to continue ban on arms embargo and travel ban on renaming elements of Taliban and its network. All nations were asked to submit their reports to the councils sanctions committee to fulfil purpose of this unanimously adopted resolutions. The Security Council expressed that it would revise its activities within 12 months.

After one year from its establishment, the United Nations Security Council's Counter Terrorism Committee Chairman submitted a report to the Security Council. Chairman Sir Jeremy Greenstock outlined its course of

¹⁰ UN News Letter, Volume 57, Number 3, 19-25 January, 2002, P.4, New Delhi.

action. He also made it clear that this Panel would not serve as a tribunal to judge terrorists. During his address to a public meeting on 18 January 2002, he said that main aim of the resolution 1373(2001) was to raise the average level of government performance against terrorism across the globe. He also said that in its first 90-day period the committee guided the member states on the submission of reports and also had published a directory of contact points to promote global cooperation. A group of six experts had selected to advise the committee. To date 122 reports from member states had submitted to the committee. He said that CTC would respond confidentially to each government on its respective report offering comments, which would include a request for more information or for classification. He also pointed out that committee were not a tribunal for judging states. The committee would not define terrorism in a legal sense nor did the committee plan to issue lists of terrorist organizations. If it could not settle politically controversial issues, the CTC would refer them back to the council.

The United Nations Security Council held its 4453rd meeting (SC/7276) on 18 January 2002. Over 40 countries expressed their views in this meeting. This meeting was called on to discuss the work of the committee James Cunningham of the United States said "the goal of the fight against terrorism should be to build and maintain the strongest consensus possible. The international community should complete the United Nations convention against terrorism at once. The task, the committee had undertaken was best done collectively, and it was being done that way. Some countries would need assistance, and the United States offered a broad range in such areas as

customs, extradition, police science and law enforcement. He helped other governments would report soon on assistance they were able to provide, since many states needed help in implementing resolution 1373.

Jean-David Levitte of France had expressed his views that "over 120 states had sent the committee a national report an implantation of resolution 1373 (2001), a remarkable success. He urged states that had not done so to send in their reports as soon as possible. The consideration of the reports would enable the council to take stock of national means available, and to identify needs for assistance for states not having the capacity to combat terrorism. France was determined to contribute every assistance possible to states that needed it".¹¹

Fayssal Mekdad of Syria said his country submitted specific proposals to the General Assembly through the Ad Hoc committee on terrorism. In 1986, Syria's president had called for the conversing of a global conference to discuss terrorism ad define and distinguish it from the just struggle of people to rid them of foreign occupation. He said that all states must strive to understand the current reality and synchronize the criteria of deal with it. It was also necessary to analyze the causes of terrorism ad not only deal with its results.

Bernard Niehaus of Costa Rica had spoken on behalf of the Rio Group. He "categorically condemned terrorism in all its forms, saying there was no political, philosophical, racial, ethnic or religious justification for such crimes. The Rio group endorsed the Security Council's resolution 1373 (2001) as a

¹¹ The United Nations Security Council Official Record SC/7276, 18 January 2002.

sound, necessary and innovative response to the tragic events of 11 September 2001. As a legal experts' meeting in November 2001 in Santiago, Chile, to discuss the prevention of terrorism and the implementation of the Security Council's strategy, the Rio Group member countries stressed the need for strengthening judicial cooperation and the critical importance of elaborating a legal definition of terrorism. Only multilateral action could combat the transnational nature of terrorism, he said. He also said, the Rio Group was well aware that political expression, extreme poverty and violations of human rights fed the extremist feelings that led to terrorist acts".¹²

Spain's representative Inocencio Arias had spoken on the behalf of the European Union and associated states, said the attack against the United States on 11 September and the events of the past few months had demonstrated that the capacity of terrorists to act on the international scene was growing. He said, some states might need assistance in fulfilling their obligations under the resolution. The European Union was already providing assistance in such areas as capacity building, border management and combating economic crimes and money laundering. The European Union had taken specific measures to combat the terrorist threat. One of those was the European arrest warrant, which would ensure that warrants link to terrorist acts were valid in the entire Union. Another was the framework decision on combating terrorism, which defined several types of terrorist acts and imposed severe criminal punishments for the perpetrators.

¹² Ibid.

Paul Heinbecker of Canada said, "Canada had strengthened its legislation against terrorism. In the near future It would ratify several international conventions against terrorism, thereby completing ratification of all 12 conventions. Since its Hallifax summit in1995, the G-8 had taken numerous and specific counter-terrorist measures. Resolution 1373 (2001) provided a sound framework for national, regional and international action. He said his country believed that international cooperation was the key to implement the resolution. It recognized that some states did not have the capacity to implement the resolution. Capacity building assistance was directly related to security for everybody. Canada would do its part in that regard".¹³

Richard Ryan of Ireland said the "Resolution 1373 (2001) had placed the United Nations where it belonged – at the centre of the international struggle to combat terrorism. The text was an agenda for action that imposed clear and explicit obligations on all states to combat and suppress international terrorism and prevent its operation. He agreed that the resolution was an agenda for action, but that must no ever be at the price of any state violating the human rights of its citizens or of any human being. Implementation of the resolution must respect the wider human rights requirements whose elaboration were a signal achievement of the United Nations over many years.

Stefan Tafrov of Bulgaria said, "on 24 December 2001, Bulgaria submitted its national report on implementation, which had faithfully reflected

¹³ Ibid.

the coordinated efforts being made to combat terrorism. The impressive accumulation of national reports had illustrated the value of several lessons, but related efforts would only be meaningful and effective if framed in the context of regional action. He asked Ambassador Greenstock for his views about how the committee could ensure such coordination of the regional and subregional levels. Another lesson flowed from the linkage between organized crime and terrorism, he said. That should be borne in mind when evolving ways of combating that scourge. His country was alert to the human rights abuses by certain governments in connection with their struggle against terrorism. It had agreed, however, that the committee had not mandated reporting on the human rights dimensions; its function was to oversee implementation of resolution 1373 (2001).¹⁴

Shen Guofang of China said the global fight against terrorism required more effective efforts on the national level in order to be successful. The efforts of regional and subregional organizations in the fight against terrorism should also be highlighted. The meeting of the Shanghai Group, consisting of the Russian Federation, Kyrgyzstan, Tajikistan, Uzbekistan, Kazakhstan and China, had issued a joint statement that a counter – terrorism mechanism would be established in the near future. The Security Council should support regional efforts to combat terrorism, and he hoped the committee would make relevant efforts in that regard.

Kamlesh Sharma of India said, "that terrorism threatened hopes for a civil, peaceful, equitable, democratic and cooperative global order. Indeed,

¹⁴ Ibid.

terrorism was the disorder, which undermined that search. He said that without universal ownerships of the fight against terror and shared resolve, its creeping tentacles could not be blunted and destroyed. The world community had responded to the collective challenge through resolutions of both the General Assembly and Security Council. Adoption of resolution 1373 (2001) had sent an unambiguous signal that the world community would admit no space for terrorists or their sponsors; It conveyed the resolve that, henceforth, there would be zero tolerance for the perpetrators and instigators. He said his country had been a victim of state sponsored, cross-border terrorism for two decades now, with a horrendous toll in tens of thousands. I had fought that terror and would continue to do so with unflinching determination and resolve. He shared some suggestions, based on its lessons from that tragic period. More information could be sought from affected countries, and use could be made of the list of terrorist groups and their supporters, which had been drawn up by the sanctions committee established pursuant to resolution 1267. Specifically, reports that accounts were being frozen after allowing the terrorist organizations to withdraw or transfer funds should be looked into critically".¹⁵

Oswaldo De Rivero of Peru Said "his country having suffered the barbarism of terrorism for nearly 20 years, had already sent information on its experience in the struggle against terrorism to the committee. He emphasized that the same energy and decisiveness that must be applied to the measures of the international community in the struggle against terrorism must also be

¹⁵ Ibid.

applied in respecting the civil and political rights of the population. He also said the Security Council and General Assembly must clearly indicate that terrorist groups were human rights violators, as had been indicated by the commission on human rights in General.

Representative of Morocco, Mohamed Bennouna had spoken on the behalf of the Arab Group of States, said the actions of the council and the creation of the counter terrorism committee would help uproot terrorism. As soon as resolution 1373 of 2001 had been adopted, the Arab countries set up the necessary mechanisms, both nationally and regionally, to secure implementation of the texts' provisions. The Arab States had also updated their legislation, in order to act effectively against terrorism, through the adoption of preventive and deterrent measures, including controls on suspicious sources of financing.

Singapore's representative Kishore mahbubani said that the counter terrorism committee is a subsidiary organ of the Security Council; he continued that, while the committee could not directly prevent terrorist attacks, It was its job to ensure that all states would implement the necessary legislations, regulations and frameworks to prevent another 11 September. He also said that the counter-terrorism committee remained crucial in coordinating global action against terrorism. Each and every member state and regional organization, however, had an important role to play to root out and destroy the driving forces of intentional terrorism.¹⁶

¹⁶ Ibid.

Diplomacy at The United Nations General Assembly

After the terrorist attack on the United States World Trade Centre, the United Nations General Assembly passed a resolution and made a statement on 12 September 2001 in its first meeting of 56th session and has condemned terrorism that terrorism acts are never justified, no matter what considerations may be invoked. All states were asked to adopt measures in accordance with Charter and other relevant provisions of international law, to prevent terrorism.

‘We all are struggling to find words to express our sense of grief and outrage, our profound sympathy for the untold numbers of injured and bereaved and our solidarity with the people and government of the United States in this hour of trial’.¹⁷

On 19 Sept 2001, after adopting a 176- item agenda for its annual session, the general assembly decided to move rapidly into a plenary debate on combating terrorism. This item was debated in the plenary; the assembly’s legal (sixth) committee takes over consideration of the matter. The legal committee was still workings on a treaty for the suppression of acts of nuclear terrorism and a comprehensive convention on the elimination of terrorism, and this debate session was postponed till 10 November 2002.¹⁸

The General Assembly began its weeklong debate¹⁹ on measures to combat intentional terrorism on 10 October 2001. Participating countries strongly condemned the menace. These countries advocated adventure to existing United Nations anti-terrorism treaties as well as the elaborated of new legal instruments to fight the menace. More than 20 speakers supported the recently adopted Security Council resolution, which lays out wide-ranging

¹⁷ UN News Letter volume 56, Number 37, 15-21 September 2001 P. 1, New Delhi.

¹⁸ UN News Letter volume 56, Number 38, 22-28 September 2001 P.1, New Delhi.

¹⁹ UN News Letter volume 56, Number 40, 6 October – 12 October 2001, PP. 3-4, New Delhi.

strategies to consult international terrorism. The General Assembly President Mr. Han Seung Soo of the Republic of Korea said the fight against terrorism transcended cultural and religions differences. The United States Ambassador Johan D. Negropente expressed his views that the struggle against terrorism would be lengthy and its progress would be erratic. He also said that the United States did not feel alone in this effort because in this great house of nations, United States of America has many friends. European Union's Jean de Ruyt expressed European Union's efforts to step up action against terrorism through a coordinated and interdisciplinary approach. He said stopping the flow of funds for terrorism was a decisive aspect of the European policy. He claimed the European Union's full support for all measures to combat any financing of terrorist activities.

Egyptian Ambassador Mr. Ahmed Aboul Gheit said using Islam to justify crimes against innocent people was a cause for deep sorrow. Mr. Ahmed also reiterated a proposal by Egyptian President Hosni Mubarak to convene an international conference on terrorism, emphasizing that this would be a great contribution to combating the scourge and calling on the Assembly to adopt a resolution setting in motion preparations for the event.

Yemen Ambassador, Abdalla Saleh Al-Ashtal has supported the Security Council resolution on fighting terrorism but he said its implantation would be affected by the fact that there was no agreed definition of terrorism.²⁰

Same lines were told by the Ambassador of Malaysia Hasmy Agam that without a clear definition, it would be difficult to enforce international agreements to combat the menace. Libyan Ambassador Abuzed Omar Dorda was speaking in General Assembly in behalf of the Arab Group. He said that

²⁰ Ibid.

States, which harboured terrorists of Arab nationalities, should surrender them to their countries so that these elements may be brought to justice. The Arab Group also advocated convincing an international conference to arrive at a definition of terrorism.

Iran's vice -minister for Foreign Affairs, Javed Zarif also supported the call for an antiterrorism conference. He said the forum should elaborate objective criteria that would allow the international community to identify and combat terrorism. Pakistan's Ambassador Shamshad Ahmad has also participated in General Assembly's debate on terrorism while addressing the Assembly. He said the need to tackle the root causes of that peril, noting that Stability and mutual prosperity were critical to that effort. He said the roots of terrorism lie in the inequality of societies, in the exploitation of downtrodden, in the denial of fundamental rights and in the sense of injustice. He warned that this menace will continue to haunt us if the roots of terrorism are not addressed. Sudanese Ambassador Elfatih Mohamed Almed Erwa denied of having terrorist groups in his country and he promised to fully cooperate in efforts to combat terrorism. He said Sudan would support international laws and General Assembly resolutions aimed at combating terrorism.

While speaking in the General Assembly, Guatemalan Ambassador Gert Rosenthal said fighting crime; drug trafficking and money laundering are the main requirements of the battle against terrorism. He also supported views of Secretary-General that the United Nations "Constitutes the natural Forum" for this effort. Other speakers in the United Nations General Assembly also shared Kofi Annan's Voice.

The Ambassador of the Republic of Korea, Mr. Sun Joun-Yung said that the tragedy of 11 Sept 2001 Presented the United Nations with the solemn tasks of tackling terrorism issues.

Ireland's foreign minister, Brian Cowen expressed his sympathy and paid tribute to the New York City Police and fire fighters who had lost their lives in trying to save victims during the terrorist attack against the World Trade Centre.

Jagdish Koonjul, the Ambassador of Mauritius had expressed his regret and put question mark on the General Assembly's effort to counter terrorism and said that the UN General Assembly has numerous international conventions on terrorism. But these were either not comprehensive enough or it has failed in implementing them. He also said that many countries might not have experts, which were needed to incorporate the provision of international conventions on terrorism into their domestic laws.²¹

Brazilian Ambassador Gelson Fonseca Jr. appealed to the international community to ensure the universal adoption and full implementation of the existing counter terrorism conventions and redouble its efforts to conclude negotiations on the draft comprehensive terrorism convention.

The Ambassador of Syria Mikhail Wehbe said Arab countries had made tireless efforts to combat the scourge at the regional level. He also claimed that his country had been among the first to adopt domestic legislation to fight terrorism.

Kazakhstan Ambassador Ms. Madina B. Jarbussynova highlighted the need to protect civilians. She talks about the conditions of women and girls during Taliban regime and war against terrorism. She said the lives of these

²¹ Ibid.

civilians were saved and finally gains their freedom and full rights and get the access to education and health care.

The Ambassador of Portugal, Francisco Seixas Da Costa, while expressing his views on terrorist attacks on the United States of America. He said this is a moment for action as well as reflection. He said examination of all aspects of the problem was needed and priority should be given to achieving a comprehensive solution to the problem.

Clifford S. Mamba, the Ambassador of Swaziland has requested for convening a high- level conference under the auspices of the United Nations to formulate a joint organized response to the international community to terrorism in all its forms and manifestations. He claimed that such a forum would facilitate consensus. Ambassador of Ghana, Nana Effah Apenteng also supported Mr. Clifford S. Mamba's views.

Canadian Ambassador Paul Heinbecker had made proposal to strengthen the present anti-Terrorism instruments. While speaking on this proposed topic he raised some questions in the United Nations General Assembly that why not consider new bodies with strong and specific counter – terrorism mandates and adequate resources to lead and coordinate our efforts? Why not a high commissioner or a special representative of the Secretary-General for terrorism?²²

Iraq's Ambassador, Mohammed Aldouri said his country had been suffering and still suffering from acts of terrorism including state terrorism. He also said that countering terrorism requires an agreed definition of the scourge.

²² Ibid.

Mr. Mokhtar Lamani addressed the United Nations General Assembly on behalf of the organization of the Islamic conference (OIC) he strongly make his point that extremism, violence and terrorism were international phenomenon and they are not restricted to a specific people, race or religion. He also said that Islam was innocent of all forms of terrorism and it condemns strongly the perpetrators of these horrendous crimes under the name of Islam or any other justification. He also supported convening an international conference to define terrorism.

On 5 October 2001 the United Nations General Assembly had concluded its debate on measures to combat international terrorism, which attracted a record level of participation. In concluded movement, the United Nations General Assembly President Han Seung-Soo summarized this debate. He that said terrorism attack on World Trade Centre was condemned and declared it as a threat to international peace and security as well as a crime against humanity. Participants also expressed their views that the fight against terrorism should be deal with as a phenomenon separate from any religion or ethnic group. Some participants suggested convening a high level conference on international terrorism, and others called for addressing the root causes of the threat. Mr. Han said member states concurred in the view that a primary task facing the international community at present is to ensure that an effective legal framework for the prevention and elimination of terrorism is in place. He called on countries to adhere to United Nations anti – terrorism treaties and urging member states to accelerate work on pending conventions on international terrorism. Mr. Han asked the General Assembly's legal committee, which is handling this matter, to report on its work by 15 November 2001.

"I think what is important is the whole international community has come together to fight the scourge of terrorism,"²³ he told these words on his comment on this debate. He said that it should mark an initial step in combating the scourge. He also expressed hope that a draft comprehensive treaty banning terrorism would finalize and added to other 12 conventions and protocols, which have already been passed the General Assembly.

Dr. Rohan Perera, Chairman of the Ad Hoc Committee on terrorism – a General Assembly body which has already successfully negotiated other anti-terrorism pacts, attended a news conference in New York on 15 October 2001, he told that it was pleased to report that progress of drafting of two new United Nations anti-terrorism treaties were proceeding well and extremely encouraging and all delegations were approaching the negotiations with a sense of compromise and in a spirit of flexibility. He also said that the events of 11 Sept 2001 have had an impact on these negotiations.

While commenting on Russian proposed conventions, he said that the work on a new Russian proposed treaty against nuclear terrorism has largely been completed. He said that there is one outstanding matter on the scope of the convention, which requires resolution as a policy level.

He also described negotiations on a comprehensive convention for the suppression of terrorism, which was first proposed by India. Mr. Perera said this convention would strengthen the existing legal anti-terrorism framework. It included a "dipoliticalization clause, namely that an act of terrorism involving innocent civilians and civilian targets cannot be considered political offence".²⁴

²³ UN News Letter Volume 56, Number 41, 13 October- 19 October 2001, P.1, New Delhi.

²⁴ UN News Letter volume 56, Number 42, 20 October – 26 October 2001, P.2, New Delhi.

The 56th session of the United Nations General Assembly was scheduled to be held on 24 Sept to 5 October but it was postponed.²⁵ General Assembly's high-level debate session was started on 10 November 2001 with the campaign against terrorism and the humanitarian crisis in Afghanistan at the forefront of concern.

In opening the 'General debate' the General Assembly President Han Seung – Soo of the Republic of Korea noted that it was postponed from its traditional September schedule after the terror attacks against the United States. The actions of the United Nations in the past two months "give proof of our united response to the challenge (of terrorism)", he said, "Beginning with the unanimous resolution by the General Assembly on 12 Sept 2001 and the two important resolutions (1368 of 12 Sept 2001 and 1373 of 28 Sept 2001) of the Security Council, we have moved quickly and decisively to address the overriding issue of terrorism". Many participants' countries had supported the fight against terrorism, but they often disagreed on where to look for its root causes.

Participants expressed their government's condemnation of the violent attacks on the United States on 11 Sept 2001, but they have different views on appropriate response to that aggression, and to terrorism as a whole. Muslim countries leaders warned against the current tendency to associate terrorism with Islam as western countries behaved like that. These Muslim leaders defending their faith as peaceful and compassionate. Absence of an exact definition of terrorism was an issue in this debate. Many countries were

²⁵ UN News Letter Volume 56, Number 46, 17 November- 23 November 2001, P.3-8, New Delhi.

speaking on the need to differentiate between criminal terrorism and legitimate struggle against oppression, and the need for the international community to define what it means by the term "terrorism". Some of the European countries stressed the importance of enforcing existing legal instrument in the struggle against terrorism. President Fernando Henrique Cardoso of Brazil said that issues of international security should be given high priority after 11 Sept 2001. The president of the United States George W. Bush said that providing response to aggression and terror is our task and there is no other choice, because there is no other peace. So, time for action had arrived.

South African president Thabo Mbeki said those who were responsible for the heinous actions of 11 Sept 2001 should brought to justice. Terrorism has shown in a very graphic, tragic and painful manner, as it did also in Kenya and Tanzania in 1998.

"Hamad Bin Khalifa Al-Thani said the word "terrorism" must define in order to distinguish it from legitimate struggles to end illegitimate occupation and subjugation. Terrorism has taken root not only because of our inability to tackle world tension hotspots but also because we have tolerated for too long those who pursue policies of repression."²⁶

Mohammed Khatami, President of the Islamic Republic of Iran expressed his views in General Assembly that a definition of terrorism was required, in order to differentiate between "blind criminal terrorism and the legitimate defence" against violence and occupation. He recommended that a

²⁶ Ibid.

global summit be convened to articulate practical and serious policies to eradicate the menace of terrorism. Indian prime Minister Atal Behari Vajpayee said that his country extended support to fight against terrorism in Afghanistan. He requested international community to work towards establishing a broad-based, representative and neutral government in Afghanistan, so that a political vacuum could be avoided at the end of the Military campaign.

Louis Michael, the president of the Council of Europe and Vice Prime Minister of Belgium had applauded the role, which UN is playing in creating a coordinated strategy. He also welcomed and supported the UN Security Council's resolution 1373 (2001) and said the European Union and its members had already begun implementing its recommendations.

Pakistan president General Pervez Musharraf condemned terrorist attack on the United States on 11 Sept 2001, but he said that now it was the time for introspection. He said that for the Pakistan leaders, the unresolved Political disputes such as in Bosnia, Kosovo, Palestine, Kashmir and other places were the root causes for terrorism. He said "The frustration get worse when such disputes like Kashmir and Palestine remain unsettled for decades despite the United Nations Security Council resolutions. He also expressed views that his country had not been the first to initiate nuclear test and would not be the first to resume them.

Foreign Minister John Manley of Canada said only national governments must take responsibility and be held accountable for their actions and decisions for fighting Terrorism.

Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabha, the acting Prime Minister and Minister for foreign affairs of Kuwait said an international conference on terrorism should be called in order to agree on a definition of the terrorism. Kiichi Miyazawa, a member of Parliament of Japan conveyed his Government's message that it was ready to cooperate with developing countries in controlling the financing of terrorism, and on a wide range of issues, including immigration control, aviation and maritime security, and biological and chemical weapons.²⁷

Jan Peterson, Minister of Foreign Affairs of Norway, had expressed his support to the United Nations and strongly put his words that the United Nations was the foremost tool for solving global problems and we must not let the cruelty of terrorists divert attention from the ambitious goals set during the millennium summit.

Abdelaziz Belkhadem, minister of foreign affairs of Algeria said the main focus of anti-terrorism should be on the dismantling of terrorist bases and the freezing of finances linked to such acts, as well as on international cooperation in information sharing and the provisions of assistance to countries that fall Victim of terrorism. The struggle also requires an effort by the international community to tackle the causes of terrorism, which create the conditions favourable to extremism and intolerance.

Croatian President Stipe Mesic said the main reason of threat of terrorism was not a clash of cultures or religious but was a confrontation of civilization and non-civilization. He pointed out that there was no such thing as

²⁷ Ibid.

“our” and “their”, or “Justified” and “unjustified” terrorism. He argued that the nature of such acts – whether masked by an ideology, religion or a liberation war is to kill innocent people, and that is unacceptable.

Joseph Kabila, President of the Democratic Republic of the Congo said that the Congolese people themselves were innocent victims of an aggressive war by Rwanda, Uganda and Burundi. So, they understood the Pain of the 11 Sept 2001 events.

The Secretary of state for foreign and commonwealth Affairs of the United Kingdom, Mr. Jack Straw had applauded the General Assembly and the Security Council for their resolve in responding to terror. Mr. Straw told that the United Nations was the only Institution that could deliver a better future for the Afghanistan. He appealed that all nations should give Ambassador Brahimi every support in planning a future that leads to Afghanistan retaking its place as a fully fledged member of the international community, able to protect and promote the interests of all its people.²⁸

Finland's Foreign Affairs minister Erkki Tuomioja expressed his views that Sept 11, 2001 changed whole international arena and it also requires changed thinking within international organization. He said the United Nations' efforts from conflict prevention through crisis management to post-conflict peace building – needed a fresh approach. The minister of foreign affairs of Italy, Renato Ruggiero said the problem of the political future of Afghanistan should be solved only by the Afghani people and must remain a high priority on United Nations agenda.

²⁸ Ibid.

Kenyan president Daniel T. Arap Moi said that poverty is a fertile breeding ground for conflict and instability and even terrorism. So, there is the need to tackle the crippling poverty afflicting millions of people across the world.

The Foreign Minister of Turkey, Ismail Cem said that there are two dimensions of challenge of Afghanistan, first, was to combat the terrorist network and second, was to support the revival of Afghanistan by ensuring peace and stability. He also suggested that all countries involved in Afghanistan should be discouraged from relying on particular Afghan groups and refrain from pursuing their special interests through those groups.

German foreign minister Joschka Fischer called for a clear political and humanitarian perspective for Afghanistan. He said that the UN should be the coordinating agency for all peace efforts. Only a peace process under the auspices of the UN will succeed in excluding external involvement in the future and ensuring a peaceful future of the country. He also pledged Germany's support for the economic and social reconstruction of Afghanistan.

The minister of foreign affairs of Jordan, Abdel-Elah Khatib has warned that terrorism would exploit political, economic and social imbalances and the absence of justice to advance its goals. Addressing the main causes of despair, frustration and sense of injustice in a serious manner was perhaps the most effective way to confront terrorism and pre-empt its political appeal and support.

Poland's foreign minister, Włodzimierz Cimoszewicz recalled recent regional anti-terrorism conference hosted by his country. He said that this

forum's declaration indicated strong commitment to fight against that menace. He also called for increased vigilance about weapons of mass destruction.²⁹

Abdurrahman Mohamed Shalghem, Secretary of the General People's Committee for foreign liaison and international cooperation of Libya said international agreement on a definition of terrorism was needed. He also said that how can terrorism condemned and counter when it hits one country and turn a blind eye when it hits other countries and peoples.

The foreign minister of New Zealand, Phil Goff he said that the Sep 11 attack on the US had changed the situation that those countries which minimize the threat of chemical, biological or nuclear weapons could fall into the hands of extremist groups. He has also appealed to all countries to ratify treaties against biological and chemical weapons as well as the Comprehensive Nuclear Test Ban Treaty. Ireland's foreign minister, Brian Cowen was in favour of action against those who were responsible for terrorist attack on World Trade Center.

Joseph Pique, Minister for Foreign affairs of Spain made hope for finalization of the proposed comprehensive convention against terrorism. He also made attention towards Middle East situation and appealed for early returning to the negotiating table for the solution of blind cycle of violence.

Tanzanian foreign minister Jakaya M. Kikwete said that since his country was suffering from terrorist attack, so, he could understand the pain and anger of the American people and Government. He has also repeated his country's resolve to participate fully in the efforts to combat terrorism.

²⁹ Ibid.

Jozijs Van Aartsen, Minister of foreign affairs of the Netherlands expressed his views on Afghanistan's situation and said that in order to help post – Taliban Afghanistan the UN should play a central role as a catalyst and as an adviser, but not as a Governor, to ensure that the new movement was representative of the people.

The minister for foreign affairs of Cuba, Mr. Felipe Perez Roque expressed his regret on US led anti-Terrorist war on Afghanistan and emphasized that the war must be stopped and US must acknowledge that it has made a mistake. He argued that world could deal with terrorism only under the UN leadership. Mr. Roque has also made it clear that Cuba supported the adoption of a general convention on international terrorism, which would allow the international community to define terrorism.³⁰

Sri Lankan foreign minister Lakshman kadigamar had pointed out that a closer look at the phenomenon of terrorism, including its causes was needed. He also expressed his complain and anger that Sri Lanka had been a victim of terrorism for two decades, but received little more than expressions of condolences from the international community. Iraqi foreign minister Naji Sabri has also expressed his complain among the world community that Iraq has been a terrorist victim for a long time. He also mentioned 1991 event in which the UK and US used more than 300 tonnes of depleted uranium ammunitions against the people of Iraq.

Syrian foreign minister Farouk Al-Shara has blamed Israel for sowing seed of terrorism and fear in Palestine and outside it. He claimed that the

³⁰ Ibid.

Middle East had faced the terrorist problems after the creation of Israel in 1948. Therefore in order to target terrorism in the middle east, it was necessary to target Israeli terrorism first.

Eduard Kukan, minister of foreign affairs of the Slovak Republic applauded the United Nations effort to eliminate terrorism. He said the legal instruments devised in the UN were a basis for increasing the effectiveness of the fight against terrorism. He also said that all the good principles, which were already laid down, should be implemented.

The minister for foreign affairs of Uzbekistan, Abdul Aziz Kamilov told the General Assembly that world community should also not neglect equally dangerous threat, drug trafficking which was the main financial support for terrorist and extremist activities. He wanted to make it clear that world community should give equally weight this problem while in rallying the international coalition against terrorism.

The 56th annual session of the General Assembly³¹ was concluded on 16 November 2001. The wake of 11 Sept 2001 attacks against the US was dominated the whole session. Over the past seven days, 188 speakers including 31 heads of state, 11 heads of government, 9 Deputy Prime Ministers and 96 foreign ministers as well as Secretary General Kofi Annan and the president of the UN General Assembly, Han Seung – soo of the Republic of Korea participated in the high level debate. In this session, there were 550 bilateral meetings and more than 200 other meetings including 60 meetings of regional and other groupings. The international convention for the

³¹UN news Letter Volume 56, Number 47, 24 November – 30 November 2001, P.1, New Delhi.

suppression of the financing of Terrorism, in particular received 42 signatures, 6 ratifications and 1 accession. Now this convention has 114 signatures and 13 parties.

On 21 November 2001 a draft resolution strongly condemned all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed was approved by the UN General Assembly's legal committee. This resolution was approved without a vote. It will go to the General Assembly for adoption. It called such acts "unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them".³² This resolution recommended that the General Assembly urge all states to become parties to the relevant conventions and protocols, including the conventions for the suppression of terrorist bombings and the financing of terrorism.

This text also has a provision for the Assembly's Ad Hoc committee on terrorism to meet at the end of January 2002 to continue its work on a draft comprehensive convention on terrorism, allocating sufficient time to consider issues relating to a draft convention for the suppression of nuclear terrorism. If necessary, work on those draft instruments would continue in a working group of the legal committee during the General Assembly regular session in Sept 2002.

The legal committee discussed the latest report of its working group on Measures to Eliminate Terrorism. The working group's chairman, Rohan Perera of Sri Lanka, said they were close to reaching on an agreement on the

³²UN News Letter Volume 56, number 47, 24 November – 30 November 2001, P.1, New Delhi.

draft of a comprehensive convention on combating terrorism, which would fill in the gap left by sectoral anti- terrorism treaties.

On Dec 12, 2001 UN General Assembly³³ had decided that its own Ad Hoc committee on terrorism would continue work towards a comprehensive convention on Terrorism at a session to be held from 28 January to 1 February 2002 and also decided that the Ad Hoc committee would continue its work on a draft convention for the suppression of acts of nuclear terrorism.

The United Nations General Assembly's Ad Hoc committee on Terrorism is for harmonizing legal structures for combating international terrorism. The drafting of the convention is one of the duties of the Ad Hoc committee on terrorism. Since its establishment in 1996, two key treaties, on terrorist bombings and the suppression of financing of terrorism have successfully drafted.

The five-day session of the Ad Hoc committee was opened on 1 Feb 2002 under the chairmanship of Rohan Perera of Sri Lanka. In this session a comprehensive international anti – terrorism convention was debated. A diplomat charged that disagreement about exemptions was the key hold-up preventing completion of a comprehensive anti – terrorism convention. In last meeting of committee's session, Australian diplomat said that other outstanding issues would fall into place if states could find a consensus on the wording of article 18 of the draft on exemptions from the treaty's jurisdiction.

Prior to the session of the Ad Hoc committee state representatives had agreed on the wording of the majority of the draft treaty's 27 articles. But there were four areas were remained in remainders dispute. These areas were the

³³ UN News Letter volume 57, Number 6, 9-15 February 2002 P.2, UNIC, New Delhi.

preamble to the treaty, article, (on definitions of terms used in the treaty), article 2(defining terrorism) and article 18. According to Mr Rowe, in this five-day session, there was some progress on the first three disputed areas. But debate was continued about whether article 18 should refer to "Parties" or "armed forces", whether to include a reference to peoples under foreign occupation, and whether military forces acting in their official capacities should be described as "governed" by international law or called on to act in conformity with it. Ad Hoc committee chairman, Rohan perera asked all delegates to find innovative and creative approaches to the outstanding disagreements.

On 12 March 2002, the UN officials said Antigua and Barbuda ratified the international convention for the suppression of the financing of terrorism. Now this treaty has the requisite 22 ratifications for entry into force. This convention obligates states parties either to prosecute or extradite person's accused of funding terrorist activities, and requires banks to enact measures to identify suspicious transactions.

The terrorist attacks against the United States last year had heightened awareness of the treaty's value.³⁴

On 19 November 2002 some resolutions including texts on human cloning, terrorism and protection of personnel on United Nations peacekeeping missions were come into existence on the recommendation of the General Assembly's sixth (legal) committee.

"The General Assembly also strongly condemned terrorism as criminal and unjustifiable by a resolution that urged its Ad Hoc Committee to urgently

³⁴ UN News Letter Volume 57, Number 11, 16-22 March 2002, P.5, New Delhi.

continue elaborating a draft convention on international terrorism at its next meeting in March and April. The ad hoc committee was also urged to resolve outstanding issues impeding conclusion of an international treaty on nuclear terrorism. That committee has already successfully negotiated other anti-terror pacts".³⁵

United Nations Secretary General's diplomacy

"We are all traumatized this terrible tragedy. We do not know yet how many people have been killed or injured, but inevitably the number will be high. Our first thoughts and prayers must be for them and for their families."³⁶

On 11 September 2001 the United Nations Secretary General Kofi Annan had strongly condemned terrorist attack on the United States World Trade Center. He expressed his condolences to those who had killed in that attack and also to the people and government of the United States. He said that these acts were deliberate acts of terrorism, carefully planned and coordinated and terrorism must be fought resolutely whenever it appears and no just cause can be advanced by terror. He also had written a letter to the US President George W. Bush and said that all of us must renew our efforts to eradicate terrorism from the face of the earth.

On 20 September 2001 the Secretary General announced names of five experts to a monitoring group to ensure that United Nations sanctions against the Taliban are enforced. He had written a letter to the Security Council President that experts team would headed by Michael Chandler of the

³⁵ UN New letter Volume 57, Number 47, and 23-29 November 2002, P. 2, New Delhi.

³⁶ UN News Letter, volume 56, Number 37, 15-21 September 2001 P. 1, New Delhi.

United Kingdom followed by other members of the Security Council's monitoring group. Other four experts were Philippe Graver of France, Amod Gurung of Nepal, Ashraf Mohsen Mohamed Mohsen of Egypt and Daniel Yorks of the United States. This team would help those countries increase their capacity to implement the sanctions against the Taliban, which was imposed in 1999. Which will offer assistance to "states bordering the territory of Afghanistan under Taliban control and other states, as appropriate."³⁷

On 24 September, 2001, Secretary General had presented his annual report on the work of the United Nations and said that the terrorist attacks against the United States were a strike against everything the UN stood for: peace, freedom, tolerance and human rights. He also said that this terrorist attack had struck at our efforts to create a true international society, based on the rule of law.³⁸ A vigorous response to terrorism was needed. "Let us respond by reaffirming with all our strength, our common humanity and the values that we share" he said at the outset of the debate.

Terrorism will be defeated if the international community summons the will to unite in a broad coalition, or it will not be defeated at all. The United Nations is uniquely positioned to serve as the forum for this coalition, and for the development of those steps governments must now take – Separately and together to fight terrorism on a global scale."³⁹

On 1 October 2001 the United Nations General Assembly had opened its a weeklong meeting on measures to combat international terrorism. The

³⁷ UN News Letter, Volume 56, Number 38, 22-28 September, 2001, P.2, New Delhi.

³⁸ UN News Letter volume 56, Number 39, 29 September – 5 October 2001, P. 1, New Delhi.

³⁹ UN News Letter volume 56, Number 40, 6 October 2001, P.2, New Delhi.

Secretary General had addressed the General Assembly meeting and urged all nations to unite and join the international fight against terrorism and said this global action only be achieved if all the states would join this mission. It required a broad coalition and the United Nations is the forum for this coalition against terrorism. Secretary General welcomed and applauded the Security Council's resolution, 1373 (2001). Targeting terrorists and those who harbor, aid or support terrorist activities. He also reaffirmed the work of the UN General Assembly and said that assembly must give effect to the 12 UN treaties and protocols on international terrorism. He hoped that countries that participated in the General debate would sign all the conventions on terrorism. They would also agreed on the comprehensive convention against international terrorism.

On 3 October 2001 the Secretary General Kofi Annan had re-appointed Lakhder Brahimi as his special representative to Afghanistan. Mr. Brahimi had put as hold in 1999. But once again Kofi Annan realized that time has come for Mr. Brahimi to resume his role because of grave humanitarian and political situation affecting Afghanistan and the surrounding region. So that Mr. Kofi Annan has written to President of the UN Security Council for re-appointing Mr. Lakhdar Brahimi as his representative to Afghanistan and Mr. Brahimi became in-charge of the UN's overall humanitarian and political work in Afghanistan.

"He will also initiate preparations for the development of plans for the rehabilitation of that shattered country", the Secretary General said".⁴⁰

⁴⁰ UN News Letter Volume 56, Volume 40, 6 October – 12 October 2001, P. 6, New Delhi.

On 12 October 2001 the secretary general Kofi Annan expressed his hope that global anti-terrorism coalition would be a long-term struggle to defeat this menace. "You're going to get into other areas where there is information – sharing and intelligence; another group of countries will come together to do that". He said that effort to counter terrorism involved both Security Council and General Assembly's broad coalition with as well as narrower military coalition and also information sharing and intelligence.

"A long – term struggle in terms of making sure that terrorists are not given shelter, that their financial mechanisms are broken up, that they don't have the logistical support and its going to take quite a while to ensure that all governments are working on that basis".⁴¹

He also said that the war against terrorism would be a long-term struggle of not giving shelter, breaking up of financial mechanisms.

On 17 October 2001 Mr. Kofi Annan addressed the gathering of African leaders at a summit on the African Pact Against Terrorism at Dakar. Mr. Kofi Annan had urged these African leaders to adhere to all legal instruments designed to fight the terrorist menace. He also said that the global war against terrorism should not result in the neglect of other pressing issues, most notably efforts to eradicate poverty and disease.⁴²

On 6 November 2001 a conference of Heads of State from Central and Eastern Europe on combating Terrorism was held in Warsaw, Poland. The US Secretary General Kofi Annan had sent a message to the conference with saying that the global response to terrorism must be truly universal and not

⁴¹UN News Letter Volume 56, Number 42, 20 October – 26 October 2001, P. 2, New Delhi.

⁴² UN News Letter volume 56, Number 42,20 October - 26 October 2001 P. 2, New Delhi.

divisive. He also said that "It is essential that North, South, East and West must come together to forge a sense of human solidarity and unified purpose",⁴³ Mr. Annan said.

On 17 July 2002, the Secretary General Kofi Annan submitted a report to the General Assembly and Security Council. In this report he described the implementation of the Bonn Agreement, which has guided Afghanistan's political transition. Mr. Kofi Annan enumerated that Afghanistan and international community is facing many challenges. Mr. Annan had advocated a limited expansion of the international Security Assistance Force (ISAF), which has been deployed in Kabul. He also concerned security in Afghanistan as "cause of concern". "They may have significantly weakened, with those left being effectively contained by the anti-terrorist coalition headed by the United States", he observes.⁴⁴ And said that Taliban has not fully given up but it only weakened and still present they're along with remnants of Al-Quida. Presence of Taliban and armed factions were normally support the process caused instability and pose a threat to the consolidation of Peace and civil government in Afghanistan.

He also said that because of absence of functioning of Afghan Security Forces and an expansion of the ISAF, Afghanistan would stay hostage to prevailing insecurity. The United Nations General Assembly's 57th session was opened on 12 September 2002. The UN Secretary General Kofi Annan had addressed the Assembly and said that multilateral action was required in

⁴³ UN newsletter, volume 56, Number 45, 10 November – 16 November 2001. P. 1. New Delhi.

⁴⁴ UN News Letter Volume 57, Number 29, 20-26 July 2002, P. 3, New Delhi.

success of fighting terrorism. Even the most powerful countries knew that they needed to work with others to achieve their aims.

“Individual states may defend themselves, by striking back at terrorist groups and the countries that harbor or support them”, he said. But only concerted vigilance and cooperation among all states, with constant, systematic exchange of information, offers any real hope of denying terrorists their opportunities”.⁴⁵

In September 2002, the United Nations Secretary-General Kofi Annan had made an annual report on the United Nations work. He has written in the report about United Nations efforts to counter international terrorism. It has intensified its work regarding this menace. He recalled the Security Council’s effort to fight against terrorism of passing resolution obliging all states to suppress and prevent terrorism and setting up a committee to ensure their compliance. He also recalled United Nations other activities including efforts to promote the ratification and implementation of the 12 universal legal instruments against terrorist. While expressing his determination to suppress this terrorism problem, he also ensured that counter terrorist measures do not violate human rights.⁴⁶

On 4 October 2002, the United Nations Security Council’s Counter-Terrorism Committee had completed one year of existence. The Secretary-General Kofi Annan addressed the Security Council and outlined a three-pronged UN Strategy for combating the international terrorism. This proposal was based on the report of a policy-working group, which he convened, calls

⁴⁵ UN News Letter volume 57, Number 37, 14-20 September 2002, P. 1, New Delhi.

⁴⁶ UN News Letter Volume 57, Number 37, 14-20 September 2002, P.3, New Delhi.

for dissuading terrorists from carrying out attacks and fostering international cooperation in fighting the terrorism. In the area of denial, he advocated both political and financial support for the Counter Terrorism Committee.

To achieve effective dissuasion, it is essential to remember that the fight against terrorism is above all a fight to preserve fundamental rights and sustain the rule of law", he said. He also gave warning that "to pursue security at the expense of human rights is short-sighted, self-contradictory, and in the long run, self-defeating.

CHAPTER-III

A CRITICAL STUDY OF RESOLUTION 1373 (2001)

The terrorist organization Al-Qaida carried out an attack on the World Trade Centre in New York and the Pentagon in Washington D.C. on 11 September 2001. On these terrorist attacks the United Nations Secretary General Mr. Kofi Annan in a statement said that these attacks were deliberate acts of terrorism, carefully planned and coordinated. He condemned these terrorist attacks. The United Nations General Assembly in its first meeting of the 56th session on 12 September 2001 condemned these terrorist attacks and appealed that all nations of the world must be united in their solidarity with the victims of terrorism, and in their determination to take action both against the terrorist themselves and against all those who give them any kind of shelter, assistance or encouragement.¹

The General Assembly had adopted a resolution and strongly condemned the heinous acts of terrorism, which have caused enormous loss of human life, destruction and damage in the cities of New York. The Security Council adopted resolution 1368 on 12 September 2001 and condemning this terrorist act and said; terrorism is an international scourge, which the United Nations has many times condemned. A terrorist attack on one country is an attack on humanity as a whole. All nations of the world must work together to identify the perpetrators and bring them to justice. The

¹ United Nations News Letter, vol. 56, no. 37, 15-21 September 2001, P. 1.

Security Council expressed its readiness to take all necessary steps to respond to attacks, and to combat all forms of terrorism, in accordance with its responsibilities under the charter. The secretary General Kofi Annan on 13 September 2001 had sent condolences letters to president George W Bush of the United States. The Security Council President on 18 September 2001 make a statement that there was only one message the security council had for the Taliban was to implement United Nations security council resolutions, in particular resolution 1333, immediately and unconditionally.

The United Nations Secretary General Kofi Annan and French President Jacques Chirac addressed a joint news conference on 19 September 2001, they stressed the importance of building a broad international coalition in the fight against terrorism. Two leaders also agreed that the United Nations has a key role to play in the fight against the terrorist menace. The United States President George Bush on 20 September, 2001, in his address to the joint sitting of congress, announced the start of "a war on terror", and demanded of the Taliban leadership in Afghanistan that it turn over all the leaders of Al-Qaida terrorist group based in that country, close every terrorist training camp here, hand over all terrorists to appropriate authorities, and give the United States full access to terrorist training camps. The president said, these demands are not open to negotiation or discussion. The Taliban must act immediately. They will hand over the terrorists, or they will share in their fate. Our war on terror begins with Al-Qaida, but it does not end there. It will not end until every terrorist group of

global reach has been found, stopped, and defeated.² He also declared that the American response to terrorism is being fought at home and abroad through multiple operations, including diplomatic, military, financial, investigative, homeland security and humanitarian actions. He said that every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists.³

On September 23, 2001, the United States President George W Bush signed Executive order 13244, pursuant to the United States laws including the law on terrorism, blocking the assets of the terrorist organizations and others who support them, and prohibiting transactions by Americans with terrorists and those who support them. The order annexed a list of 27 terrorist organizations, including Al-Qaida (besides Harakat-ul Mujahidin and Jaish-e-Mohammad), targeted by it.⁴

The United Nations Security Council had unanimously adopted a resolution on 28 September 2001. It was a wide-ranging comprehensive resolution with steps and strategies to combat international terrorism. This resolution was adopted by the Security Council acting under chapter VII of the United Nations Charter (which empowers the security council to take enforcement action against a threat to the peace, breach of the peace or act of aggression). The charter provides, Article 25 read with Article 48, that

² Official Text, Public Affairs office of the United States Embassy, New Delhi, Dated September 21, 2001.

³ Mani, V.S., "The Fifth Afghan war and International law", in Economic and Political Weekly, January 26, 2002, p. 294.

⁴ Ibid.

'decisions' of the security council of this nature, taken in accordance with the charter, shall be binding on all member states of the United Nations.⁵

The United States of America sponsored this resolution. This resolution is important because of its clauses. This resolution asking all states to (a) prevent and suppress the financing of terrorist acts; (b) criminalize the wilful provision or collection by any means, of funds by their nationals or in their territories to be used for commission of terrorist acts; (c) Freeze without delay funds and other financial assets or attempt to commit, terrorist acts or participate in or facilitate the commission of such acts; and (d) Prohibit any persons within their territories from making any resources or services for the benefit of terrorists or those who abet them (e) The resolution also asked all states to refrain from giving any support to terrorist acts, to take necessary steps to prevent the commission of terrorist acts against other states; to deny safe haven to terrorists or their supporters, and to ensure them to be brought to justice. (f) It further provided for the constitution of a security council counter terrorism committee to monitor implementation of the resolution, calling upon all states to make reports within 90 days (g) Finally, the security council expressed its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the charter and decided to remain seized of this issue.⁶

⁵ Ibid.

⁶ Ibid.

This resolution is important for various reasons. First, it was adopted in the wake of US President's Executive Order, as if to give effect to it internationally. Second, the Resolution seeks to fill a normative gap in view of the fact that the Terrorist Financing Convention has not come into force which the US had not ratified. Third, although adopted in response to the 11 September terrorist attacks, it permanently places obligations on the UN members with respect to combating terrorism. Fourth, it also establishes a permanent monitoring agency of the Council which is obliged to report periodically. But the question is whether the Council is constitutionally competent to do this? Should the Terrorist Financing Convention come into force, what will be its normative impact on this Council Resolution? International lawyers will no doubt debate these issues ad infinitum, in terms of Article 103 of the Charter and the rights of states under general international law. It is submitted, however, that resolution 1373 was adopted by the Security Council under Chapter VII of the Charter. The normative value of the Resolution derives from Article 25 of the Charter, by virtue of which the member of the UN are bound by the decisions of the Council taken "in accordance with the Charter" and not because the Security Council is a "legislative body".⁷

The United Nations has been making efforts to counter terrorism since 1972. Unfortunately it could not reached on definition of terrorism. Many international multilateral legal treaties and resolution adopted but the United Nations still could not counter or eliminate the international terrorism. After the 11 September attack, the United Nations became active and begun

⁷ Mani, V.S. "International Terrorism and the quest for legal controls" , International studies 40, 1 (2003), (Sage Publications, New Delhi).

to take steps towards countering terrorism. The United Nations has unanimously adopted resolution 1373 on 28 September 2001. This resolution was meant for stopping safe haven to terrorists and to stop financing of international terrorism. The United States of America sponsored this resolution 1373.

This resolution asked all countries to send their national reports and make national legislation to counter terrorism. Since definition of international terrorism was still a daydream. So that this resolution asked all member states to make regional cooperation to eliminate terrorist problem. They have to report to the counter terrorism committee. The counter terrorism has given 90 days time to ask United Nations members to send their reports.⁸ Till date the CTC has make seven 90 days programme. But there are three countries Sao Tome and Principe, Swaziland and Vanuatu, which did not send their initial national reports. As we know that all countries have condemned terrorist acts but they have their own policy on this issue. All countries are acting according to their national interest. There are such types of countries, who really suffering from terrorist problem, but many are not. The five permanent members have different views and policies in countering terrorism. The United States of America has neglected this problem for a long time and was not ready to take immediate steps towards elimination of terrorism. Because it has its own interests. But after 11 September terrorist attacks; it had strongly condemned the terrorist acts and asked all countries to take proper steps to counter terrorism. It had

⁸ The United Nations Security Council Official Record S/RES/1373, 28 September 2001.

sponsored the resolution 1373. It had appealed all states to join either US or coalition to counter terrorism or to join terrorist. This resolution 1373 was not new act, before it many conventions and resolutions have already taken place. But this time, it was United States of America who became victim. United States of America was always hesitating to take a strong and clear stand towards Pakistan led cross border terrorism in Jammu and Kashmir. It has oil interest in gulf countries. The United States military attack on Afghanistan and Iraq make it clear that how serious United States is in countering terrorism.

The United States always moves and takes action keeping in mind the national interest. So far as the importance of the resolution 1373 is concerned, firstly it was adopted under the influence of United States and other western countries. Its main aim was to stop safe haven of terrorists and stop financing of terrorism. But question is that who is providing safe haven and giving finance to terrorists? Of course, those countries who tried to achieve their objective through these terrorist activities. As we know the United States of America gave assistance to gaurilla activities against Soviet army in Afghanistan and Osama bin Laden was the leader of that gauillas. But after 11 September terrorist attacks the United States of America became hostile to Osama and immediately military attack on Afghanistan to captured Osama bin Laden. This was the violation of human rights because of innocent civilians were killed mercilessly.

India has been facing this problem of transnational cross-border terrorism for a long period of time, but the world community, particularly the

United States, which is the sole superpower nation in the post-cold war period, had not recognized the intensity of the problem till such time that the United States itself had to face it. Some important international conventions such as convention for the suppression of terrorist bombings of 15 December 1997 and the suppression of the financing of terrorism of 9 December 1999 were already existed in the United Nations. That's why it was unfortunate for the United Nations, that these international conventions and resolutions were never seriously implemented and exercised properly. There was no need of establishing another conventions or resolutions, but need is to implement existing legal instruments properly. But it had never happened because the United Nations is always neglected and bypassed by super power and some western likeminded countries. The United States secretary of state Colin Powell said that states must now work together bilaterally and multilaterally.

The United States stood ready to provide technical assistance in areas ranging from aviation security to the tracking measures used by law enforcement. But why United States worried this time not before that? As we know the terrorist problem affected and spread in whole world and they always complained about it but they always neglected. How can United States of America will decide which act is terrorist act or which is freedom movement? How can it solve the Indo-Pakistan cross border terrorist problem, Israel-Palestine problem? Since the United Nations does not have a definition or terrorism, so, it is always under suspicion about anti-terrorist activities of these countries. That is why Syrian foreign minister said in the

Security Council session that if United States attacked on Iraq because of terrorist problem then what we call this Israel's attack on Palestine. He accused Israeli for attacking on Palestine territory, and claimed it was a terrorist act. Terrorist attack on United States is condemnable and anti-human and whole world condemned. To stop future terrorist attack anywhere in the world, resolution 1373 of 28 September 2001 was adopted. But it is not sure that this resolution would achieved its goal and properly implemented, because of lack of cooperation and financial problem the United Nations is always suffering.

The Peoples Republic of China also does not have a clear stand on countering terrorism. It has condemned recent terrorist attack on the United States territory and supported the Security Council's resolution 1373 of 28 September 2001. But on another side it is still supporting those countries who is providing funding and space to terrorist activities. India is victim of cross-border terrorism from Pakistan. But neither United States of America nor china declared Pakistan as a terrorist state or ask it to stop cross border terrorism in Jammu and Kashmir. All these three countries i.e. United States of America, China and Pakistan are following their national interests. Of course, the resolution 1373 of 2001 important for any country who is suffering from terrorist activities.; but if they do not having any criteria of fulfilling of their national interest, they can neglect it before adoption of resolution of 1373. Many conventions and resolutions were not implemented properly. China has taken steps according to its domestic and foreign policy.

Four factors played important role in its response to counter terrorism and implementation of Security Council resolution 1373 of 2001. These factors are as follows:⁹

- (1) China has taken steps according to favourable condition to its efforts to solve its domestic problem that is of Uighur's problem in the strategically important Xinjiang autonomous region. On this problem, China's stand to counter terrorism is critical.
- (2) China's link with the Taliban is another factor China has followed a double pronged policy to counter the growing threat of militancy in its territory. Ruthless suppression of the Uighur unrest and at the same time the opening of a channel with the Taliban in order to cut off the possible support to the Uighur militants. China offered economic and technical cooperation to the Taliban regime, but this paid limited dividends in terms of intelligence about the Uighur movement.
- (3) China did not wanted to alienate Islamic countries and begun to articulate it that it should not be a war against any particular country or religion or faith. China admitted that it is maintaining close contacts with Pakistan, and position of both countries on the fight against terrorism is in accordance with each other. China had supported the United States and British attack on Afghanistan but at the same time, China criticised it because of casualties among Afghan civilians. It seems China was attempting to play a balancing act. It adopted same policy during United States and British military attack on Iraq. China always tries to maintain good relations with Pakistan; China is worried about political stability of

⁹ Mishra, Keshav. "China's Response to 11 September", in *Strategic Analysis*, vol. XXV, no. 9, December 2001(IDSA), pp. 1075-1079.

its regional ally, Pakistan. After September 11 attack, Chinese leadership has seen an opportunity to maintain and improved good relationship with the United States and its allies. China is monitoring situation and reshaping of geopolitics of Central Asia and United States of America's presence in Afghanistan, Pakistan and Uzbekistan. China's main concern is its Xinjiang region. China is worried that United States may raise the question of persecution of religious minorities as an attack on their human rights.

Foreign minister of China, Tang Jiaxuan said that terrorism not only threatened the United States but many other members of the Security Council had also suffered deeply from the scourge, including China. The East Turkestan forces had long received training, financial aid and support from international terrorist groups. They had launched various kinds of terrorist activities in the Xinjiang region of China and other countries and brutally slaughtered innocent people. Russian Federation has its own domestic problem. It is facing Chechnya problem. Russia's neighbouring countries support to Chechnya. Taliban were providing assistance to Chechen rebels, that is main threat to Russian national security. Instability in Central Asia directly affected Russian border. The geo-strategic location and presence of rich natural resources are attracting foreign countries to this region. The west, the United States in particular, has substantially increases its influence over these states. It clearly endangers Russia's position in this strategically important region.¹⁰

¹⁰ Basu, Baidya Bikash. "Russian National Security Thinking" in Strategic analysis, vol. XXIV, no. 7, October 2000, (IDSA), p. 1392-1294.

Keeping all these in mind, Russia has supported the United Nations effort to counter international terrorism. It has strongly condemned September 11 attack on the United States territory. Russian leadership believed that military means alone were not sufficient but a comprehensive approach to eradication of international terrorism should be adopted. It has also outlined that the counter terrorism committee must be an effective mechanism of international monitoring, but it must not function as a repressive body.

The most of South Asian states are suffering from terrorist activities. India has been suffering from cross-border terrorism. Terrorist camps are established in Pakistan occupied Kashmir and other parts of Pakistan. Pakistan is saying that these are the freedom fighter. Many times Pakistan was accused to providing safe haven to Taliban terrorists and other like-minded terrorists. But international community is still hesitating to ask Pakistan to stop these terrorist activities. Many times wars like situations have been merged. Indian government alleged those diplomats and representatives, especially from the United States, for playing duplicity. Terrorist activities are emerged in Nepal and Bangladesh also. Maoist terrorist activities affected Nepal's economic, social and political situation.

Like South Asia, Middle East also has faced terrorist or cross border terrorism. Israel- Palestine problem is increasing day-by-day. Both sides accusing each other for civilian killings. United States of America could not succeed in its mission to stop this dispute. United States of America is still mediating in this dispute. After analyzing all these terrorist activities and

Western and non-western countries' intention to counter-terrorism, it becomes clear that this resolution 1373 of 28 September 2001 does not have much pertinence, because of countries' intentions and their promoting of national interests. They do not make emphasis on the legal multilateral treaties of the United Nations and they always take steps according to their national interests. If these countries were to take proper steps and cooperate with the United Nations, then there would not have been any need for resolution 1373 (2001).

As we know that all countries are not equal in economic, political, social sphere. There are many challenges among the countries. These challenges are obstacles in combating terrorism. Many countries face extreme poverty, political repression, and violation of human rights. These problems led to terrorist acts. Many states lack the capacity to adopt effective counter-terrorist measures. They are in genuine need of technical and financial assistance if they were to fulfil their obligations. These states need assistance in such areas as capacity building, border management in such areas as capacity building, border management and combating economic crimes and money laundering. Although many states claimed in their national reports to the counter terrorism and in Security Council debate that they were ready to provide all this assistance whichever country needed it. Since we know the international scenario in which states are promoting their national interest. It is very difficult to achieve their assistance programme. So far as the definition of terrorism is concerned, the United Nations could not reach on its definition. This resolution is not saying anything about definition of terrorism. How to counter terrorism is the main goal of this resolution. It had explained mechanism to counter

international terrorism. Without having definition of terrorism, and adopting mechanisms to counter terrorism are not enough. The United Nations has to define terrorism first, and then go for countering it. As we know that in 1972, the United Nations General Assembly Ad Hoc committee tried to make consensus on definition of terrorism but did not get support and it had dropped this subject.¹¹ Then, it had begun to work on countering terrorism. Between 1972 to 1987, the United Nations did not have definition of terrorism. Then in 1987 it had made effort to define terrorism, but it could not succeed. Unfortunately, till today, the United Nations does not have any definition of terrorism. That is why it is facing difficulty in countering international terrorism. Hence, it is a well known fact that because of September 11, 2001 terrorist attack on United States territory, the United Nations had made this resolution 1373 of 2001 under United States pressure.

As world's largest economy and democracy. It wanted to destroy Taliban or other terrorist organizations. All clauses of resolution 1373 of 2001 were set up according to need of the United States to counter terrorism. This resolution is useful and fit in United States and its allies, as a strategy to counter terrorism.

National reports from member states of the United States on resolution 1373 of 2001:

Each country has to send a report to the counter terrorism committee for the implementation of the United Nations Security Council's resolution 1373 of 28 September 2001. The report will consist of all information of activities of a

¹¹ Rao, Mrs. B. Meena and Vijayalakshmi, Mrs. M. "United Nations and Terrorism", Third Concept, April-May, 1997, pp. 7-9.

country, including national legislation, government's stand on resolution 1373 of 2001. Each country has been given 90 days to send its national report to the counter terrorism committee. Till 31 March 2003, 188 countries and 5 others have sent their initial reports. But three countries i.e. Sao Tome and Principe, Swaziland and Vanuatu did not send their First reports. Here I have mentioned the reports from five permanent members of the United States of America, United Kingdom, France, China and Russian Federation. I have also included India's national report on resolution 1373 of 2001.

The United States is waging a broad-ranging campaign both at home and abroad against terrorism, including by taking military action in Afghanistan. As another way of combating terrorism internationally, the United States strongly supports United Nations Security Council Resolution 1373 and the Counter Terrorism Committee set up by the resolution, and wishes to see full implementation by all states.

On September 23, 2001, Executive order 13224 froze all the assets of 27 Foreign Individuals, groups and entities linked to terrorist acts or supporting terrorism and authorized the Freezing of assets of those who commit, or pose a significant threat of committing, act of terrorism. On September 28, 2001, the United States sponsored the United Nations Security Council Resolution 1373 of 2001, calling on all United Nations members to criminalize the provision of funds to all terrorists, effectively denying terrorists safe financial haven anywhere.

On October 5, 2001, the secretary of state, in consultation with the Attorney General and the Secretary of the Treasury, redesignated 25

terrorist organisations (including al-Qaida) as foreign terrorist organisations pursuant to the anti-terrorism and effective Death Penalty Act of 1996. Giving material support or resources to any of these foreign organisations is a felony under United States law.¹²

On October 29, 2001, the United States created a Foreign Terrorist Tracking Task force aimed at denying entry into the United States of persons suspected of being terrorists and locating, detaining, prosecuting and deporting terrorists already in the United States.

On October 26, 2001, the United States enacted the United States of America PATRIOT Act, which significantly expanded the ability of United States law enforcement to investigate and prosecute persons who engage in terrorist acts. The United States has met with numerous multilateral groups and regional organizations to accelerate the exchange of operational information laid out in United Nations Security Council Resolution 1373 of 2001.

The Federal Bureau of Investigation has created an interagency financial investigation group to examine the financial arrangement used to support terrorist attacks.¹³ The counter terrorism committee has received the attached report from the United Kingdom of Great Britain and Northern Ireland, submitted pursuant to paragraph 6 of resolution 1373 (2001) on December 24, 2001. Resolution 1373 (2001) was the first resolution to impose obligations on all states to respond to the global threat of terrorism.

¹² The United Nations Security Council Official Record S/2001/1220, December 21, 2001.

¹³ Ibid.

Before September 11 the United Kingdom had a wide range of legislative measures in place to counteract terrorist activity the centerpiece of this legislative framework was the United Kingdom Terrorism Act 2000. Following the events of September 11 it was decided to enhance the United Kingdom's existing Anti-Terrorism legislation. The Anti-Terrorism, Crime and Security Act 2001 came into being on 14 December 2001.

The Terrorism Act 2000, which came into force in February 2000, enacted the United Kingdom to ratify the international convention for the Suppression of terrorist bombing and the international convention for the suppression of terrorism. The Terrorism Act 2000 defines terrorism as the use or threat, for the purpose of advancing a political, religious or ideological cause of action, which involved serious violence against a person or serious damage to property, endangers a person's life, creates a serious risk to health or safety of the public or section of the public.¹⁴

The Terrorism Act 2000 describes four main offences in relation to terrorist funding- (1) Fund raising (2) Use and Possession of money or property for the purposes of terrorism (3) Fund arrangements (4) Money laundering. The Terrorism Act 2000 including powers to prescribe terrorist organization's concerned in international and domestic terrorism, in addition to those organizations concerned in terrorism connected with the affairs of Northern Ireland.

The United Kingdom has established an Inter-departmental group to oversee the implementation of Security Council Resolution 1373. The group consists of representatives of: (1) the Foreign and Commonwealth Office (2)

¹⁴ Ibid.

the Treasury (3) the Home Office (4) the Department of Trade and Industry (5) Customs and Excise (6) Department for Transport and the Regions (7) the Bank of England. The group has met on a number of occasions to discuss support for the work of the Counter Terrorism committee, the preparation of the United Kingdom's response to the Counter Terrorism committee and possible ways of providing assistance to other states.¹⁵

The United Kingdom supports the establishment of a Global Trust Fund to provide technical assistance to countries that need help in implementing Security Council Resolution 1373. This could cover advise on drafting relevant legislation; assessment of precise needs for training; advise on protective security measures; and training and advice for financial control authorities. The Counter Terrorism Committee has already done much valuable work in collecting information on what expertise, including from the United Kingdom, is already available in these areas.

The United Kingdom has signed and ratified all 12 international global conventions and protocols on terrorism. It is also a party to the European convention on the Suppression of Terrorism (1977), along with Security Council Resolutions 1269 and 1368.

France has been the victim of international terrorism in its own territory and abroad and, for many years, has shown its determination to combat terrorism in all its forms regardless of the identity of the terrorists. In the 1980s, in response to terrorist threat, France established or coordinated system of legislation and operational mechanisms and sought to enhance

¹⁵ United Nations Security Council Official Record S/2001/1232, December 24, 2001.

international cooperation. That determination was reaffirmed following the terrorist attacks of 11 September 2001 in the United States of America; preventive measures within France and international cooperation were strengthened pursuant to the provisions of Security Council resolution 1373 (2001), to whose implementation France attaches particular importance.¹⁶

France has specific anti-terrorist legislation which has been progressively built up, and whose cornerstone is the Act of 9 September 1986, providing for the prosecution of all terrorist acts. Such acts have been defined as independent offences, subject to heavy penalties.

French legislation contains provisions, which allow for compensation to the victims of terrorist acts. In November 2001, new provisions were enacted to facilitate the fight against terrorism.

France does not have a government department with sole responsibility for combating terrorism. The fight against terrorism involves the mobilization of all departments able to contribute to the prevention and suppression of terrorist acts.

Activities to combat the financing of terrorism are carried out mainly by the Central Directorate of the Judicial Police (DCPJ). In autumn 2001 a unit to combat the financing of terrorism was created within the Directorate, to provide liaison with other financial authorities involved in preventing the financing of terrorism.

In order to strengthen its activities to prevent the financing of terrorist acts, France took an active part in drafting the light special recommendations of the Financial Action Task Force on Money-Laundering (FATF) on

¹⁶ United Nations Security Council Official Record S/2001/1274, December 24, 2001.

combating the financing of terrorism and has undertaken to implement them by June 2002.¹⁷

Since 1986, French anti-terrorist legislation has provided for the prosecution of those involved in the financing of terrorism under the more severe offence of complicity in an act of terrorism. Indeed, the provision of funds is proof of complicity in the instigation of the offence or of aiding and abetting the offence by providing the means for it.

France is a member of the Police Working Group on Terrorism (PWGT), an informal working group where the heads of police counter-terrorist departments meet to discuss current cases under investigation in order to review concrete steps designed to enhance technical and operational cooperation with respect to the war on terrorism in Europe. The Police working Group on Terrorist have its own coded communications network.¹⁸

France is already party to 10 of the 12 conventions and protocols. On 29 November 2001 it completed the process of ratification of the international convention for the suppression of the financing of terrorism.

On 1 November 2001 the President of the Russian Federation signed Decree No. 1263 on the organ empowered to prevent the legalisation of funds obtained by criminal means (Money-laundering), which provides for the creation of the committee of the Russian Federation for Financial Monitoring, responsible to the Russian Ministry of Finance. Work is being done to devise an effective mechanism for identifying and freezing sources

¹⁷ Ibid.

¹⁸ Ibid.

of terrorism financing.¹⁹ An interdepartmental working group on measures to prevent the financing of terrorism has been set up in the ministry of finance of the Russian Federation. The committee of the Russian Federation on Financial Monitoring was being set up and starting its actual work, the following questions were referred to this working group: Interaction with overseas partners in the suppression of Financing of terrorism, coordination of the activities of law enforcement agencies and oversight organizations. Interaction with the federal counter-terrorist commission. In December 2001, the state Duma of the Russian Federation adopted Federal Act No. 95528-3 on the introduction of amendments and addition to legislation of the Russian Federation, which provided for the introduction of a number of additions to the criminal code of the Russian Federation, establishing increased liability for creation of terrorist organizations, management of such organisations, recruitment to terrorist groups, supply of weapons and training of persons to commit crimes of terrorist nature, as well as financing of terrorist organisations.

The Bank of Russia is working actively to implement Federal Act No. 115 of 7 August 2001 on the prevention of the Legalisation of funds obtained by criminal means (Money-laundering).

As immediate action to prevent the financing of terrorism, in October 2001 the Bank of Russia notified the Russian banking system of the measures adopted by the United States to prevent the financing of terrorism and brought to the attention of credit institutions the list published by the

¹⁹ United Nations Security Council Official Record S/2001/1284, December 27, 2001.

United States of organizations and persons suspected of being involved in the financing of terrorism.²⁰

In pursuance of security council resolution 1373 (2001), draft Federal Act No. 52289-3 has been submitted to the state Duma of the Russian Federation on the introduction of amendments and additions to the federal Act on measures to combat terrorism, concerning the issues of exchange of intelligence information, compensation for damage caused by terrorist acts and additional measures to combat illegal trade in weapons, explosives and ammunition.

In accordance with paragraph 2 of the security council resolution 1373 (2001) specifying that terrorists and terrorist groups should not be allowed to move freely in its territory, the federal border service of the Russian Federation has established effective border control in the case of persons who have been properly denied entry into the country. In order to prevent the commission of terrorist acts, the federal service of the Russian federation has instituted a regular exchange of information with neighbouring states under bilateral and multilateral agreements on mutual assistance in the protection of state borders.²¹

In accordance with paragraph 4 of security council resolution 1373 (2001), which notes the close connection between international terrorism and transactions crime, and in view of the need to improve the coordination of efforts in this connection at the national level, a federal Anti-Terrorist

²⁰ Ibid.

²¹ Ibid.

Commission has been established headed by the Prime Minister of the Russian Federation and consisting of the heads of the relevant departments. Similar commissions are being established in the various parts of the Russian Federation.

On 24 December 2001, the Government of China submitted to the Security Council a report on the implementation of Security Council resolution 1373 (2001), in which it was mentioned that China was considering amending its criminal law in order to more vigorously and effectively to combat criminal terrorist activities. On 29 December 2001, the ninth session of the standing committee of the national people's congress adopted draft amendments to the criminal law of the people's republic of China, the amendments entered into force the same day.²²

India has submitted its National Report on Measures taken to implement United Nations Security Council Resolution 1373. This has provided information on the measures already in place to tackle terrorism, encompassing both the criminalization and penalization of terrorist acts etc., and to suppress the financing of terrorism. It had also provided information on measures to strengthen international cooperation to combat terrorism. India has adopted a comprehensive piece of counter terrorism legislation—the prevention of terrorism Act – was adopted by parliament on 26 March 2002.

²² The United Nations Security Council Official Record S/2001/1270, December 27, 2001.

The Government of China firmly advocates combating terrorism in all its forms, and supports the strict implementation of Security Council resolutions. Immediately following the adoption of security council resolution 1373 (2001), the Ministry of Foreign Affairs of China requested all Government departments, the people's Governments of provinces, Municipalities and autonomous regions, and the Governments of the Hong Kong and Macao special Administrative Regions to carry out a comprehensive, earnest and rigorous implementation of all provisions of the resolution.²³ At presents, all departments, local governments and the governments of the Hong Kong and Macao Special Administrative Regions have taken appropriate measures to implement this resolution.

In September 2001, the people's Bank of China set up a special anti-money-laundering task force charged with the unified leadership and deployment of anti-money-laundering operations throughout the Chinese Banking System. Efforts are also being stepped up to revise regulations governing cash management and to set up a system to report suspicious cash transactions, a centre for overseeing financial transactions and payments to prevent money-laundering is under active development.

Hong Kong is currently chairing the Financial Action Task Force (FATF) on money laundering. In order to implement Security Council resolution 1373, the Task Force has recently expanded the scope of its anti-money-laundering operations to include combating the financing of terrorist activities. The Hong-Kong financial authorities have drafted regulations

²³ The United Nations Security Council Official Record S/2001/1270, December 27, 2001.

designed to stop the laundering of bribes and requested all relevant departments to undertake their strict implementation.

China has recently submitted to the United Nations the instruments of accession to the International Convention for the Suppression of Terrorist Bombings of 15 December 1997, and has also signed the international convention for the suppression of the financing of Terrorism of 9 December 1999. China has acceded to 10 of 12 international anti-terrorist conventions and is signatory to one; it will consider becoming a signatory to all anti-terrorism conventions as rapidly as possible. Moreover, China actively supported and participated in the work of the Ad Hoc committee established by General Assembly resolution 51/210 of December 1996 on drafting a convention on the suppression of acts of nuclear terrorism and a comprehensive convention on international terrorism.

For two decades India has waged a struggle against terrorism, particularly cross border terrorism. During this period a large number of civilians and security personnel have lost their lives apart from rendering hundreds of thousands homeless the terrorist attacks in United States of America on 11 September and attacks on Legislative Assembly of Jammu and Kashmir and the terrorist attack on the Indian Parliament on December 13, 2001 understood the fact that terrorism is a global phenomenon that transcends borders and regions. Linkages with illicit trafficking and small arms, narcotics and money laundering have enhanced the lethal reach and destructive potential of terrorism. A matter of further concern is the growing nexus between extremism of various types including religious

fundamentalism and terrorism. India has consistently pointed out to the international community that the fight against terrorism must be given the highest priority. India believes that to be effective, the fight against terrorism as to be long-term, comprehensive and sustained. It cannot be Ad Hoc, selective or compartmentalized in terms of regions, religions or organisations.

There can be no justification for terrorism on any grounds; religious, political, ideological or any other. It is also important to ensure that terrorists are denied support and that the international community acts to ensure that no country supports or provide safe havens for terrorists to act with impunity. To combat terrorism effectively, strong domestic measures need to be complemented by strengthened international cooperation to ensure that the fight against terrorism is not restricted only to the perpetrators but also encompassed the states that sponsor them.

India has been supportive of all international efforts, particularly in the United Nations, to combat terrorism. It is in this framework that India supports United Nations Security Council resolution 1373 and is fully committed to implementing it. India is also a signatory to all the 12 United Nations pectoral conventions on terrorism.²⁴

Debate of Security Council on Resolution 1373 of 2001

The United Nations Security Council held its ministerial meeting (4413th meeting) on 12 November 2001. The security council expressed its concern

²⁴ The United Nations Security Council Official Record S/2001/1278, December 27, 2001.

on international terrorism is a serious threats to international peace and security in the twenty-first century and it had called on all states to intensify their efforts to eliminate international terrorism.

The secretary general Kofi Annan said he was delighted that the determination shown by the council in resolution 1373 (2001) to carry the fight against terrorism forward was reflected at the most senior level of the governments of council members. He had recently established a working group to identify the long-term implications and broad policy dimensions of the issue of terrorism for the United Nations.

K.D. Knight of Jamaica said the fight would not be won by Single acts of the Security Council but by the determination of the international community to act together. He said that full implementation of the measures contained in resolution 1373 must be carried out if success was to be ensured. Not all states, however, had equal capacity to effectively implement the measures of resolution 1373. The international community was obliged to provide the necessary resources to those states, which did not have the capability.

Tang Jiaxuan of China, said terrorism was a brazen challenge to and the common enemy of all humanity. All countries should adopt political, economic and judicial measures to intensify the punishment of terrorism; seriously implement relevant Security Council resolutions; actively conduct international co -operation in counter-terrorism; and accede to all related international conventions at an early date.²⁵

²⁵ The United Nations Security Council Official Record SC/7207; Security council 4413th meeting (AM), November 12, 2001.

The priority for the next stage by the Security Council should be to give full play to the role of the counter-terrorism committee. It should also adopt timely measures to coordinate and promote the international counter-terrorism endeavour of the existing 12 international counter-terrorism conventions; his country had acceded to nine. Not long ago, China also completed the domestic legal procedures for joining the International convention for the suppression of terrorist bombings and would soon become a signatory to the international convention for the suppression of the financing of terrorism.²⁶

Guillermo Fernandez of Colombia said that since the Security Council had first addressed the problems following the terrorist acts of 11 September, Colombia had unhesitatingly supported the decisions taken by the Security Council. The fight against terrorism was the responsibility of all countries without exception. He said that his country had taken significant steps towards implementing resolution 1373 (2001). It had passed advanced criminal legislation to confront and punish acts of terrorism. It had subscribed to the international convention for the suppression of the financing of terrorism and hoped to accede to five more conventions, which would make Colombia a party to 12 of the conventions called for by the Secretary-General. Foreign Minister of France, Hubert Vedrine said that the attacks of 11 September were a major challenge to peace and democracy. He said that his country has fully supported United States response to Osama bin Laden and Taliban regime in Afghanistan. The United Nations had a major role to play. It must seek to deprive terrorists of all sources of finances and to

²⁶ Ibid.

provide no refuge to those who supported them. He favored the mobilization of the international community to facilitate the entry into force of the convention for the suppression of the financing of terrorism. But mobilization meant an increased cooperation among states.

Ireland's Foreign minister, Brian Cowen appealed that all states must now urgently ratify international conventions against terrorism. He added, early agreement must be reached on the draft comprehensive convention on International Terrorism. Further, the Security Council resolution 1373 offered a blueprint for action in how to remove permanently the capacity of international terrorism to operate by targeting, among other things, its funds and resources.

Mauritius Foreign Minister Anil Kumar Singh Gayan said that the recent terrorist acts in the United States were a challenge to the whole international community. African leaders had met in Dakar this year (2001) on terrorism, also confirming their resolve to address the issue. his country had put in place procedures for the implementation of the security council resolutions 1368 of 2001 and 1373 of 2001. It had also signed the convention on the suppression of terrorism on 11 November 2001 and would press to have it ratified as soon as possible.²⁷

Norway's foreign minister Jan Peterson said the immediate aim was to prevent further terrorist attacks, and to bring the guilty to justice. International terrorism was complex and Multi-faceted. It could only be

²⁷ Ibid.

defeated through a sustained and comprehensive approach. He said resolution 1373 was aimed at those who financed terrorism. In implementing the resolution, the international community had already taken a number of concrete steps to eliminate potential economic sources for the terrorists. Norway actively took part in the work being done in the Security Council counter terrorism committee. It was considering how it could support countries that needed assistance. Terrorism was a global threat to peace and security and had to be countered as such.

Foreign Minister Igor Ivanov of the Russian Federation said the security council, bearing the main responsibility for stability in the world should urge the United Nations General Assembly to adopt at its current session the first treaty in the history of the organisation aimed at combating terrorism that used weapons of mass destruction. A comprehensive approach to eradication of international terrorism presupposed the use of the whole range of measures of a political, economic, financial and humanitarian nature. Military means alone were not sufficient. After all it was poverty, illiteracy, unemployment and the absence of equal access to the benefits of science and technology that forced destitute people to join the ranks of extremists.²⁸

Foreign Minister of Singapore S. Jayakumar said countering the threat of terrorism was a central global priority. Only a determined, united, comprehensive and sustained global strategy would enable the containment of the terrorist forces. The Security Council had passed three landmark anti-

²⁸ Ibid.

terrorism resolutions, which established a basic foundation of international action against terrorism. They would also serve to strengthen the international legal framework. He also said there was still a long road to travel. He called for cooperation between professional law enforcement agencies in all countries. Some countries had passed new legislation, and that was a positive development but it made international cooperation all the more important. Various forums had called for an international conference to discuss the next step in the fight against international terrorism. An essential element in the preparatory meetings for such a conference would be to call together law enforcement agencies from different countries to meet to harmonize practices and suggest ways to create a new international mechanism dedicated to the fight against terrorism.

Tunisia's Foreign Minister Habib Ben Yahia said his country had drawn attention to the dangers of terrorism since the early 1990s and had called for the establishment of a legal framework to combat that phenomenon. On the national arena, Tunisia had found efficient solutions through the implementation of a comprehensive strategy in the political, economic, social, cultural and educational areas, as well as through strengthening the rule of law.

Ukraine's Foreign Minister Anatolii Zlenko said his country's stance was reaffirmed at the recent international conference of Warsaw, when Ukraine endorsed the plan of action adopted and considered it a powerful contribution to the worldwide struggle to eradicate terrorism.²⁹

²⁹ Ibid.

Foreign Secretary of the United Kingdom, Jack Straw said that almost two months have been completed since the attack on the United States. One third of the nations of the world had lost their own nationals in that one single attack. He said his government's simple message was that terrorism was criminal and there was no political, religious or ideological cause that could justify the use of such indiscriminate violence.

The United States Secretary of state, Colin Powell said the United States was taking the fight directly to the terrorists and their supporters. His country had declared war on all terrorist organisations with a global reach. It needed help of international police organizations and banking services around the world in the effort to root out the terrorists and their systems of support.

Foreign minister of Mali, Modibo Sidibe said his Government categorically condemned the acts of terrorism directed at the United States and conveyed its solidarity with that country. His country was also responding to the need to combat terrorism in all its forms decisively and comprehensively. He said all acts directed against innocent civilians were crimes because they undermined human rights and the values and principles of the United Nations.

Bangladesh's foreign minister, Reaz Rahaman said terrorism had posed a threat to international peace and security as well as to global economic stability. Following the events of 11 September 2001, it had become all the more necessary for the Security Council to play its role in a balanced, creative and proactive manner, in line with its charter obligations.³⁰

³⁰ Ibid.

Counter Terrorism Committee Established by The United Nations Security Council Resolution 1373 of 2001:

The United Nations Security Council 1373 of 28 September 2001 had established a counter terrorism committee to monitor the resolutions implementation. It called on all states to report on actions they had taken, no later than 90 days after the date of adoption of the resolution. The Security Council president Mr. Richard Ryan of Ireland had appointed the United Kingdom Ambassador at the United Nations, Sir Jeremy Greenstock as the Counter Terrorism Committee Chairman on October 2001. He had also appointed three diplomats as Vice-Chairmen of the Counter Terrorism Committee. These are: - Ambassador Alfonso Valdivieso of Colombia, Ambassador Jagdish Koonjul of Mauritius and Ambassador Sergey Lavrov of the Russian Federation. The CTC is mechanism of the United Nations Security Council to facilitate the international fight against terrorism. This is upto member state, the way through which they determine and cooperate the CTC to implement resolution 1373 fully. The member states have to give information to CTC on resolution 1373. CTC provides guidance and technical assistance to states for preparing their reports. The chairman of CTC had make a work plan of CTC on October 15, 2001. The CTC had decided that it would issue guidelines to states on the reporting in pursuant of paragraph 6 of resolution 1373 of 2001. It would publish a list of contact points and would advice the secretariat. To define terrorism is not the function of the CTC. Its function is to keep the world system to upgrade its capability to deny space, money support and to establish a network of

information showing and co-operative expectative action, including the international institutes such as Interpol, the financial action force, etc.

The first 90 days work programme of the CTC was formed from the adoption of resolution 1373 of 28 Sept 2001. "As a first step to facilitate cooperation, the committee intends to collate a list of contact points and publish it as a document of the Security Council. The CTC will therefore request states to supply, no later than 9 November 2001, a list of designated contact points who may be approached by the CTC or by other states for information or assistance in connection with matters arising under resolution 1373 (2001). These contact points will be identified by: the name and address of the office and a general description of its function; a telephone number; a fax number; an email address.

The committee will accordingly request the secretariat to take forward the work of identifying experts in the fields covered by Security Council resolution 1373 (2001) to act as advisers to the committee. To assist the secretariat in its work, the committee will invite states to submit to the secretariat proposals of individuals who would be available to be appointed to assist the committee. Individuals proposed should have expertise principally in the following fields in so far as they relate to counter-terrorism: legislative drafting, financial law and practice; customs law and practice, Extradition law and practice; police and law enforcement work; illegal arms trafficking.

The counter-terrorism committee will establish procedures to assist states in fulfilling their obligation under paragraph 6 of Security Council resolution 1373 (2001) to report to the committee on the steps they have taken to implement the resolution.

The counter-terrorism committee will explore ways in which states can be assisted in their implementation of the provisions of Security Council resolution 1373 (2001). This will include helping to develop and share best practices in relevant areas. It will also coordinate requests for and offers of assistance with implementation.

The counter-terrorism committees will regularly communicate information on its activities. The chairman and vice-chairman will remain in close contact with the Secretary-General and his senior staff on the work of the committee. They will also keep the president of the General Assembly informed. In accordance with the committee's rules of procedure, the chairman and, as appropriate, the vice-chairman, in consultation with the committee, will hold regular briefings of member states and of the media to explain and politicize the work of the committee.³¹

On 26 October 2001, the CTC chairman Mr. Jeremy Greenstock said that resolution 1373 (2001) asked all states to report to the CTC by 27 December 2001 on the measures taken to implement resolution 1373 (2001), these reports were properly guided by paragraph of resolution. A guidance note was prepared by the CTC, which would be helpful in setting the

³¹ United Nations Security Council Record S/2001/986, October 19, 2001.

issues, which states should seek to address in their reports. The chairman of the CTC had written to member states asking for submit names of experts in counter terrorism areas and could act as independent advisors to the CTC. The financial action task force plenary meeting had taken place on 29-30 October 2001 in Washington and CTC had briefed on the outcome of the FATF. The FATF had agreed on 8 special recommendations on terrorism financing.

The CTC had started to discuss its second 90 days work programme in December 2000. This whole work programme was outlined in United Nations Security Council official records S/2002/67, dated 15 January 2002. CTC has appointed two experts named as, Dr. Walter Gehr and M. Sivaraman, for advice on 90 days work. The CTC had three sub-committees and each would deal with one-third of the report split along alphabetical lines. Three vice-chairman of the CTC would chair these three sub-committees. The experts would consider each report and they would advise the sub-committees on the content of the report. The CTC would invite all member states to attend the sub-committee's discussion of the report. After discussing by sub-committees the reports would be submitted to the CTC. Then CTC would examine it and decided that whether each report needed to be followed up and whether the state concerned would need assistance in order to meet the required standards.³²

Then, chairman of the CTC would write to the state concerned setting out the committee's conclusions. It was expected that the CTC would review

³² Ibid.

half the reports by the end of February 2002, and to have dealt with all of them by the end of March 2002. Due to that it was important for member states to submit their reports on 27 December 2001, which is a decline for every member states. The directory of contact point was issued. The work programme for the second 90-day programme was finalized and it was to CTC to consider the programme. CTC had appointed six experts in the field of financing, national legislation, police work and enforcement. This six experts group had started its work from first week of January 2002. Following are the names of six experts: - Dr. Walter Gehr of Austria, Ms. Heidi Borekhuis of the Netherlands, col. Benedicto Jimenez Bacca of Peru, Mr. Mr. Sivaraman of India, M. Joel Sollier of France, and Mr. Jeremy Wain Wright of Austria. Till 9 January 2002, the CTC had received 117 reports from member states. President of Financial Action Task Force (FATF), Mr. Clarie LO, informed the CTC on 19 Feb 2002, that FATF had prepared a self-assessment questionnaire for states to report on compliance with FATF's right special recommendations on terrorist financing. So, that the CTC asked its member states to complete the self-assessment questionnaire because it would help them through the CTC process if they had FATF approval.³³

The CTC of resolution 1373 had prepared its third 90 days programme from 28 March to 25 June 2002. The CTC has taken steps to facilitate dialogue with states and relevant international, regional and sub-regional organisation and between states about the matters covered by resolution 1373 (2001) through the publication of a directory of contact

³³ Ibid.

points. The committee will continue to update the directory at regular intervals. It encourages all states to strengthen cooperation on the matters covered by resolution 1373 (2001); a group of independent experts has been appointed by the secretariat with the approval of the committee to advise it on its work. The committee will retain group of six experts to review the reports submitted by states pursuant to paragraph 6 of resolution 1373 (2001) during the coming work period. The committee and its subcommittees will continue to review the reports submitted by states pursuant to paragraph 6 of resolution 1373 (2001). The committee had by the end of the second 90-days period recovered 142 reports and had concluded its initial consideration of 42 reports. It will continue to review the reports as they are issued. The committee has established a directory of sources of advice and expertise in the areas covered by resolution 1373 (2001). It encourages all states and international, regional and sub regional organisations to submit information to the directory. The committee has taken steps to establish a dialogue with a number of international, regional and sub-regional organisations on the matters covered by resolution 1373 (2001). The committee intends to broaden its contacts to embrace international institutions and organizations that have or intend to have counter-terrorism programmes. The committee will continue to communicate regular information on its activities, including through briefings by the chairman.³⁴

The CTC chairman Mr. Jeremy Greenstock said CTC would make effort of focus on outside bodies. The CTC had appointed Ambassador Curtis word, an independent expert, to liaise with regional organization and international institutions in the area of assistance. The CTC chairman said

³⁴ United Nations Security Council Official Record S/2002/318/, March 27, 2002.

the counter-terrorism committee is not meant for defining terrorism as each member of the United Nations to apply its own laws against terrorism. This is up to member states to define terrorism according to their own jurisdiction. Because of subjective, political and regional difficulties, as over the middle East peace process, as between India and Pakistan, the counter terrorism committee turned down the concept of the definition of terrorism. The counter terrorism committee won't try and sort out what is freedom fighter, what is a terrorist, what is state terrorism. Reality is that these terms have no international legal definition or legal status as a concept. Political issues must be sorted out by member states in their own political context within their own diplomatic mechanism. Till 21 June 2002 the counter terrorism committee received 157 reports.

The counter terrorism committee had adopted its fourth 90-day period programme. This 90-day programme was highlighted in the United Nations Security Council official document S/2002/7000 in June 2002. The second round of reviewing reports of member states on resolution 1373 (2001) had begun in the counter terrorism committee and supplementary reports were also tabled. CTC had established an assistance action plan its main objectives were:- to facilitate self-help, respond to requests for assistance, respond to assistance needs identified by the committee, tackle regional shortcoming and strengthen the capacity of regional organization.³⁵

Till 26 July 2002, the CTC had received 164 first reports and 57 supplementary reports from member states. The chairman of the CTC Sir Greanstock said, for effective implementation of resolution 1373 of 2001, the

³⁵ Ibid.

member states should have right legislation in place, including the ratification of the 12 international conventions and government machinery for preventing and suppressing terrorist financing. He said till 24 September 2002 the CTC had received 172 first reports and 83 supplementary reports from member states. The sub-committees of the CTC begun to review the second round reports. The United Nations Security Council resumed its 4618th and 4619th meetings on October 8, 2002 and it had called on all states to submit their reports on steps taken against terrorism. The Security Council called on 17 member states, which had not yet submitted their reports to the CTC. A statement (S/PRST/2002/26) was read in the Security Council by its president Martin Belinga Eboutou of Cameroon, in which Security Council had expressed its satisfaction that 174 member states and five other had submitted their reports.

The Security Council had invited the counter terrorism committee to pursue the programme of its fifth 90-day phase of operations. Domestic legislation of the states was its main focus in which it said that it should cover all aspects of resolution 1373 of 2001 and satisfaction of all 12 international convention related to counter terrorism. The CTC received 175 first reports and 99 second reports on October 31, 2002. The CTC had outlined main focus of second round reports – (1) having legislation in place covering all aspects of resolution 1373 and a process in hand for ratifying as soon as possible the 12 international conventions and protocols (2)

effective executive machinery for presenting and suppressing terrorist financing.³⁶

The fifth 90 day work programme was started. This was outlined in the security council official record S/2002/1075. The Chairman of the CTC Sir Jercemy Greenstock said the CTC would continue to offer encouragement, active guidance to states on the implementation of resolution 1373 of 2001 and continue to coordinate and facilitate the provision of technical assistance, focusing on priority areas. He said the CTC had a web site, a comprehensive directory of information and sources of assistance in the field of counter-terrorism

"The fifth 90 day period work programme of the CTC was taken place from 28 September to 31 December 2002. In which it was mentioned that the CTC will by 31 October 2002, update the directory of contact points; improve the structure of its online directory of information on best practice, model laws and available assistance programmes on counter-terrorism issues; review one third of the second – round letters. Experts will meet representatives of all states requesting assistance. By December 31, 2002, complete its review of the second – round letters: collate information received from international, regional and sub regional organisations on their activities in the area of counter- terrorism".³⁷

The sixth 90-days period work programme of the counter terrorism committee was prepared which will take place from 1 January to 31 March

³⁶ Ibid.

³⁷ United Nations Security Council Official Record S/2002/1075, September 25, 2002.

2003. "The counter terrorism committee will (a) By 31 January 2002, have written to 100 states about the issues relating to "state A" of resolution 1373 (2001); have invited international, regional and sub regional organisations to contribute a summary of their activities in the areas covered by resolution 1373 of 2001 to a report to be published as a United Nations document. (b) By 28 February 2002, have written to all states that have submitted a report to the committee about the issues relating, "to stage A" of resolution 1373 (2001); have begun its third review of reports. (c) By 31 March 2002, have held a special meeting on March 7, 2002 with representatives of relevant international, regional and sub-regional organisations with a view to improving the flow of information on experiences, standard and best practice in the areas covered by resolution 1373 of 2001 and to coordinate ongoing activity".³⁸

The counter terrorism committee set up this seventh 90-day work programme from 1 April 2003 to 30 June 2003. "The committee encourage all states to and international regional and sub regional organisations to contribute to the development of a global information network by April 2004. The committee had by 31 March 2003, received 343 reports from states and others. This includes first reports from 187 member states and 5 others, second reports from 125 members states and one other, and third reports from 22 member states. Reports had not yet been submitted by four member states. A total of 55 member states and other were late in submitting a second report. The committee urges all states to submit reports on the

³⁸ United nations Security Council Official Record S/2003/72, January 17, 2003.

matters convened by resolution 1373 of 2001 according to the timetable set out by the counter terrorism committee and to respond to the comments and questions set out in the committee's letters as fully as possible. The CTC will bear in mind international best practices, codes and standards relevant to the implementation of resolution 1373 of 2001 when preparing and finalizing outgoing letters to the states. The committee will encourage international, regional and sub-regional organisations to share information on monitoring. As a first step, the CTC's experts will, by 31 May 2003, contact every organization involved in monitoring such codes and standards to explore avenues of cooperation and information exchange. The committee will host a meeting during the work period of technical agencies and organisations whose activities relate to the control of the use of or access to unclear, chemical, biological and other deadly materials to evaluate ways to enhance the effectiveness of global action against terrorism in this area. The CTC will create a "regional action" section on its web site. The committee and its experts stand ready to facilitate wherever possible the provision of assistance programmes to states furthering their implementation of resolution 1373 of 2001. The CTC has produced a "matrix of assistance needs" summarizing assistance needs and requests in the areas covered by resolution 1373 (2001)".³⁹

The counter terrorism committee chairman Sir Jeremy Greenstock sent a letter to the president of the Security Council on 31 March 2003. "In its resolution 1373 (2001) of the 28 September 2001, the security council called upon all states to report to the counter terrorism committee by 27 December 2001 on the steps taken to implement that resolution, and thereafter

³⁹ United nations Security Council Official Record S/2003/387, April 1, 2003.

according to a timetable set by the committee. In the declaration adopted by resolution 1456 of 20 January 2003, Security Council members called on all states to respond promptly and fully to the committee's requests for information, comments and questions, and to submit all outstanding first and subsequent reports by 31 March 2003 (Para. 4(1)). The committee had, by 31 March 2003, received 351 reports from 188 member states and 5 others, a measure of the global commitment to action against terrorism, and of the excellent cooperation established between the committee and the government of member states. Three states have failed to meet the 31 March 2003 deadline for the submission of a report. These three states are Sao Tome and Principe, Swaziland and Vanuatu. Unlike many other states, they have not taken up the committee's offer of guidance and advice on the preparation of a report. A further 41 states have failed to meet the 31 March 2003 deadline for the submission of all outstanding second reports of this group, 32 states are more than three months late in submitting a second report".⁴⁰

⁴⁰ United Nations Security Council Official Record S/2003/404, April 3, 2003.

CHAPTER-IV

CONCLUSION

After going through detailed study of the United Nations and international terrorism, and a critical study of the United Nations Security Council resolution 1373 of 28 September 2001, now it is clear that the United Nations does not have a consensual definition of terrorism, because of this lack of definition of terrorism, the phrase one man's terrorist is another man's freedom fighter is playing an important role. The United Nations has 12 international conventions and protocols and various resolutions adopted by the General Assembly and the Security Council but they are not still effective because of member states intentions. The United Nations depends on its member states to implement these legal documents and make them effective.

The United Nations is still suffering from non-cooperation from its member states. As we have seen in Afghanistan and Iraq, that the United States of America dominant the whole scenario. Whatever steps, the United States has taken, that was according to its national interest. The United Nations has faced criticism and put question marks on its existence and relevance. Why the United Nations has failed in most of cases? The United States and its allies bypassed the United Nations and completed their mission whatever they wanted. Although the United Nations is a legal regime and an international organization having all legal instruments to counter international terrorism but it cannot enforce it on its member states. The

United Nations is capable of fighting terrorism and it is well known fact that whenever and wherever and by whomever a terrorist event occurred, the United Nations immediately passed resolutions and condemn it. The need of hour is to implement them by its member states properly. It is upto member states, how they reacted and cooperate the United Nations as a whole. Financing of terrorists is the main problem regarding the spreading of terrorism worldwide. It requires checks and strong steps to stop it. For this purpose the United Nations General Assembly had adopted the International convention for suppression of the financing of terrorism in 1999. This international convention has not fully ratified by its member states. In another development, the United Nations Security Council has adopted a resolution 1373 on 28 September 2001. This resolution said that member states are asked to take additional measures to prevent and suppress, in their territories through all lawful means, the financing of terrorism.

Member states have to check and stop those who provide and collect funds for the purpose of terrorist activities. It is obligatory for countries to ratify the international conventions to expeditiously confiscate fund found to be intended for use in terrorist acts and to investigate such crimes committed in their territories. It is obligatory to all member states to cooperate each other whenever and by whomever it occurred. As about more than a dozen conventions and resolutions are still waiting for members states ratification. If they are not implemented and ratify sincerely how can United Nations fulfil its dream of fighting terrorism? United Nations does not has mandatory punishment like sanctions on those who ignore or violate the United Nations

decision, therefore, these member states act according to their national interests. As we know that terrorism is a global phenomenon and it does not have any religion, faith, civilisation and society and it should be counter globally and equally without keeping ideological or other factors in mind. United States is a rich and economically powerful country having enough resources to counter it but it was not untouched from this global phenomenon. Each country cannot fight this problem without help of the United Nations, so, that it requires a collective mechanism or collective response. Collective response is only possible under the umbrella of the United Nations. While combating international terrorism, each state should keep in mind that international terrorism can become a problem for any country. It is not a particular country's problem. Immediately after terrorist attack on the United States on 11 September 2001, the Indian parliament was attacked on 13 December 2001.

The United Nations has full of legal instruments including 12 international conventions and protocols, resolutions of the General Assembly and the Security Council. But they were only United Nations document papers and nothing else. Because member states never take care of these documents. These legal documents are waiting for member states signature. After "September 2001, the United Nations Security Council had unanimously adopted a resolution 1373 on 28 September 2001 and this resolution was sponsored by the United States of America. It had established a counter terrorism committee under the Chairmanship of Sir Jeremy Greenstock. Its main function is to encourage all states to strengthen

cooperation on the matters covered by resolution, to review the reports submitted by states pursuant to paragraph 6 of resolution 1373, to take steps to facilitate dialogue with states and relevant international, regional and sub -regional organisations and between states about the matters covered by resolution, asking all member states to implement this resolution and make their own legislation and send their national reports within 90 days period. It is talking on regional cooperation. This resolution 1373 of 2001 is all about countering terrorism. The main purpose of this resolution is to prevent and suppress the financing of terrorist acts. Providing assistance to those countries, which are not capable to handle the situation. To deny safe haven to those who finance, plan, support, commit terrorist acts, or provide safe havens. But this resolution cannot solve the international terrorism problem because of it missing active cooperation from member states, even 3 countries yet to send their initial reports to the counter-terrorism. Its 90-day programme is also not progressive.

Most important is lack of definition of terrorism clause in this resolution. As we read in resolution and have gone through its formative stage, we have found that this resolution was sponsored by the United States. The United States' main purpose was to destroy Al-Qaida network wherever it established and also to capture or kill Osama bin Laden. The United States president said that international terrorism is a global phenomenon and it should be counter globally. He appealed to all countries that every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorist. On 20 September 2001. The United

Sates president put across to the Taliban five demands: (1) deliver to the US authorities all Al-Qaida leaders (2) release all foreign nationals held hostage (3) protect journalists, diplomats and aid workers. (4) close immediately and permanently every terrorist training camp and (5) give the US full access to training camps to make sure that they ceased to operate. But the United States did not response from Taliban side, then, the United States begun to military attack on Afghanistan on 7 October 2001.

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APPENDIX 1

S/RES/1373 **Anti-terrorism measures**

Date: 28 September 2001

Meeting: 4385

Vote: Unanimous

The Security Council,

Reaffirming its resolutions 1269 (1999) of 19 October 1999 and 1368 (2001) of 12 September 2001,

Reaffirming also its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts,

Reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security,

Reaffirming the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368 (2001),

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Deeply concerned by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism,

Calling on states to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism,

Recognizing the need for States to complement international cooperation by taking additional measures to prevent and suppress, in their territories through all lawful means, the financing and preparation of any acts of terrorism,

Reaffirming the principle established by the General Assembly in its declaration of October 1970 (resolution 2625 (XXV)) and reiterated by the Security Council in its resolution 1189 (1998) of 13 August 1998, namely that every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,

Acting under Chapter VII of the Charter of the United Nations,

1. Decides that all States shall:

- a) Prevent and suppress the financing of terrorist acts:
- b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;
- c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities

owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

- d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons.

2. Decides also that all states shall:

- a) Refrain from providing any forms of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons of terrorists;
- b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other states by exchange of information;
- c) Deny safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens;

- d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other states or their citizens;
 - e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them. Such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;
 - f) Afford are another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;
 - g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;
3. Calls upon all states to:
- a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

- b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;
 - c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;
 - d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the international convention for the suppression of the financing of terrorism of 9 December 1999;
 - e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368(2001);
 - f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;
 - g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organisers or facilitators of terrorist acts, and that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists;
4. Notes with concern the close connection between international terrorism and transnational organised crime, illicit drugs, money-laundering, illegal

arms-trafficking and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security;

5. Declares that acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;
6. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a committee of the security council, consisting of all the members of the council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and calls upon all states to report to the committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the committee, on the steps they have taken to implement this resolution;
7. Directs the committee to delineate its tasks, submit a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the secretary General;
8. Expresses its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the charter;
9. Decides to remain seized of this matter.